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

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 236, 274a and 299

[INS No. 1823–96]

RIN 1115–AE72

Implementation of Hernandez v. Reno Settlement Agreement; Certain Aliens Eligible for Family Unity Benefits After Sponsoring Family Member's Naturalization; Additional Class of Aliens Ineligible for Family Unity Benefits

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the Immigration and Naturalization Service (Service) regulations to provide changes that are necessary to implement that portion of the settlement agreement in *Hernandez* v. *Reno,* C.A. No. 9:93 CV 63 (E.D. Tex., filed Dec. 30, 1997), requiring the development and implementation of a single application form to be used in connection with the adjudication of requests for benefits under the Family Unity Program, including voluntary departure and an employment authorization document. This interim rule also clarifies the regulations to provide that certain aliens will not lose their eligibility for the Family Unity Program simply because their sponsoring family member has become a naturalized United States citizen. In addition, this interim rule adds a class of aliens who are ineligible for Family Unity benefits. Individuals who, as juveniles, committed an act of juvenile delinquency which, if committed by an adult would be classified as a felony ''crime of violence against another individual,'' are ineligible for benefits under the Family Unity Program. Finally, this rule deletes as matter of agency procedure the category for Family Unity Program-based employment authorization set forth at 8 CFR 274a.12(c)(12). The Service recognizes that this category is redundant in light of the existence of a virtually identical category set forth at 8 CFR 274a.12(a)(13).

DATES: *Effective date:* This interim rule is effective July 14, 2000.

Comment date: Written comments must be submitted on or before September 12, 2000.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW, Room 5307, Washington DC 20536. To ensure proper handling please reference INS No. 1823–96 on your correspondence. Comments are available or public inspection at the above address by calling (202) 514–3048 to arrange an appointment.

FOR FURTHER INFORMATION CONTACT: Anne Gyemant, Immigration and Naturalization Service, Adjudications Division, 425 I Street, NW, Room 3214, Washington DC 20536, telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

What Is the Family Unity Program?

Established by section 301 of the Immigration Act of 1990, IMMACT 1990, Public Law 101–649 (November 29, 1990), the Family Unity Program provides renewable periods of voluntary departure and employment authorization for the eligible spouses and children of legalized aliens. A legalized alien is a person who has been granted temporary or permanent residence status under section 210 (Special Agricultural Worker (SAW)) or section 245A (Legalization) programs of the Immigration and Nationality Act (Act), or a permanent resident under the Cuban/Haitian Adjustment Act under section 202 of the Immigrant Reform and Control Act of 1986 (IRCA), Public Law 99–603 (November 6, 1986). To establish eligibility for the benefits, the family relationship must have existed as of May 5, 1988, for the Legalization and Cuban/Haitian Adjustment Act programs or as of December 1, 1988, for SAW recipients. The family members must also have been present in the United States prior to May 5 or December 1, 1988, as applicable, and have resided in the U.S. since that date.

What Are the Changes to the Family Unity Program Created by the Settlement of the Hernandez v. Reno Class Action Lawsuit?

As part of the settlement of a Nationwide class action lawsuit, *Hernandez* v. *Reno*, C.A. No. 9:93 CV 63 (E.D. Tex., filed Dec. 30, 1997), the Service agreed to revise the existing Family Unity Program benefits application system so that an applicant no longer had to file one application (Form I–817, Application for Voluntary Departure under the Family Unity Program) to receive a grant of voluntary departure under the Family Unity Program and then file a separate application (Form I–7657, Application for Employment Authorization) to receive an employment authorization document. The implementation of this aspect of the settlement agreement has involved two phases. During the first phase, which was implemented effective January 29, 1998, the Service issued supplemental instructions which provided that from then forward, the Form I–765 would be treated as a supplement to and not a form separate from the Form I–817. The Form I–765 supplement was attached to each Form I–817 that was mailed to potential applicants. Applicants were encouraged to file the two forms jointly and were required to pay only the filing fee applicable to the Form I–817.

What Is the Fee Required for the Form I–817?

Since the implementation of phase one, the Service revised its fee structure including the amount charged for the Form I–817. (See 63 FR 43604). The amount currently charged as a result of the change is $120. The fee is necessary to recover the cost to the Government of both the adjudication of a request for voluntary departure and the issuance of an employment authorization document under the Family Unity Program. (63 FR 1775). A separate application and fee, however, will be required of any person granted Family Unity benefits who seeks to replace a Family Unity Program benefit based on an employment authorization document that is lost, misplaced, mutilated, or destroyed.

What Is the Single Application System Created Using the Revised Form I–817?

Phase two of the implementation of the ''single application'' system agreed to under the *Hernandez* v. *Reno* settlement agreement involved the development and issuance of a revised Form I–817 that would contain sufficient requests for information from the applicant so that an employment authorization document could be issued without resorting to the use of the Form I–765 as a supplement. Such a form has now been developed and has been sent to the Office of Management and Budget (OMB) for review. Approval of the revised Form I–817, now entitled ''Application for Benefits under the Family Unity Program,'' will result in the grant of voluntary departure for a 2-year period and the issuance of an employment authorization document valid for the same period as the grant of voluntary departure.

Who Is an ''Eligible Immigrant'' Under the Family Unity Program?

Under the Family Unity Program, an applicant is an ''eligible immigrant'' for purposes of the program if he or she is a spouse or unmarried child of a legalized alien. A legalized alien has been defined under 8 CFR § 236.11 as a temporary or permanent resident under section 210 (SAW) and section 245A (Legalization) programs of the Act or a permanent resident under the Cuban/Haitian Adjustment Act under section 202 of IRCA.

An alien has been defined, for purposes of this Act, to include, ''any person not a citizen or national of the United States.'' See 8 U.S.C. 1101(a)(3) (Supp. IV 1998). The Service recognizes that defining ''legalized alien'' to include naturalized U.S. citizens is exceptional. Nevertheless, in light of the congressional policies of family reunification and encouragement of naturalization, we think it is clear that Congress did not intend to deprive eligible legalized residents of family unity benefits under these provisions on the basis of their having obtained U.S. citizenship through naturalization. The regulatory definition thus addresses a specific situation and has not application outside this context.

Will an Applicant Lose Eligibility if His or Her Sponsoring Family Member Naturalizes?

This rule clarifies that an applicant does not lose eligibility under the Family Unity Program when the family member through whom the applicant claims eligibility becomes a naturalized U.S. citizen provided that the lawful permanent resident maintained status as a legalized alien up until the time of his/her naturalization. However, the naturalized family member should file a Form I–130, Petition for Alien Relative, on the applicant's behalf so that the applicant can apply for adjustment of status to become a lawful permanent resident. If the applicant is an ''immediate relative,'' which includes the spouse, parents and minor children of a U.S. citizen, the naturalized family member may apply for adjustment of status by submitting Form I–485, Application for Adjustment of Status to Permanent Resident at the same time as the Form I–130 petition. All other applicants may apply for adjustment of status by filing Form I–485 as soon as a Form I–130 petition is approved for them, and they are notified that a visa number is available. The visa number must be available at both the time of application and the time of approval of the Form I–485. All approved applicants will remain eligible for Family Unity Program benefits until their adjustment of status to that of a lawful permanent resident. If the sponsoring family member filed a Form I–130 petition for the family-based 2A preference category, Spouse and Children and Unmarried Sons and Daughters of Permanent Residents, for the applicant before naturalization, he may file a new Form I–130 petition after naturalization for the family-based 1A preference category, Unmarried Sons and Daughters of Citizens. The change of preference classification may significantly accelerate the applicant's priority date.

What Is the Purpose of Making Certain Juvenile Offenders a New Class of Aliens Ineligible for Family Unity Benefits?

On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104–208. Section 383 of IIRIRA provides that aliens who committed a specific act of juvenile delinquency, as defined in 18 U.S.C. 5031, are ineligible for benefits under the Family Unit Program. Disqualifying acts include acts which if committed by an adult, would be classified either (1) as a felony crime of violence that involved the use or attempted use of physical force against another individual, or (2) a felony offense which intrinsically involved a substantial risk of the use of such physical force.

What Is the Definition of a ''Juvenile'' Under This Rule, and Where Does the Definition Come From?

The definitions to be used in implementing section 383 of IIRIRA are drawn from the United States Code. A ''juvenile'' is defined as a ''person who has not attained his eighteenth birthday.'' 18 U.S.C. 5031. ''Juvenile deliquency'' is defined as ''the violation of a law of the United States committed by a person prior to his eighteenth birthday which would have been a crime if committed by an adult.'' 18 U.S.C. 5031. As a result, the class of aliens ineligible for Family Unity Program benefits now includes individuals who, while under the age of 18, violated a law of the United States which, if committed by an adult, would have constituted either (1) a felony crime of violence involving the use or the attempted use of physical force against another individual, or (2) a felony offense involving a substantial risk of the use of violence against another individual. Section 383 also applies to any alien who is over the age of 18, and who committed such an act of juvenile delinquency before his or her 18th birthday.

What Is the Effective Date of This Section?

The amendments made by section 383 of IIRIRA apply to benefits granted or extended after September 30, 1996.

Good Cause Exception

The Service's implementation of this rule as an interim rule, with provisions for post-promulgation public comments, is based upon the ''good cause'' exceptions found at 5 U.S.C. 553(b)(3)(B) and (d)(3). The reason and the necessity for immediate implementation of this interim rule without prior notice and comment is because parts of this rule merely codify in the Service's regulation the statutory mandates in section 383 of Public Law 104–208. In addition, some of the changes in this rule are beneficial to the affected public in that they either serve to implement the *Hernandez* v. *Reno* settlement agreement or to clarify that certain aliens do not lose eligibility because their sponsoring family member has naturalized. Therefore, it is impracticable and unnecessary to adopt this rule with the prior notice and comment period normally required under 5 U.S.C. 553(b) or with the delayed effective date normally required under 5 U.S.C. 553(d). The removal of 8 CFR 274a.12(c)(12), Family Unity Program-based employment authorization, is an agency rule of

practice and procedure and, therefore, exempt from the requirements of 5 U.S.C. 553.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. While this rule does affect individuals, the number affected will be minimal. There is no impact on small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this regulation has been submitted to the OMB for review.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationships between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988 Civil Justice Reform

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

Family Policymaking Assessment

The Commissioner of the Immigration and Naturalization Service has reviewed this regulation and has determined that it may affect family well-being as that term is used in section 654 of the Treasury-General Government Appropriations Act, 1999, Public Law 105–277 Div. A. Accordingly, the Service has assessed this action in accordance with the criteria specified by section 654(c)(1). This regulation will create a positive effect on the family by allowing Family Unity Program beneficiaries to retain eligibility when their sponsoring family member naturalizes. This will have the effect of keeping families together by encouraging their adjustment of status to that of a legal permanent resident while allowing them to retain Family Unity Program benefits until that time. Additionally, when the sponsoring family member naturalizes, the subsequent change of preference classification may significantly move forward the applicant's priority date, allowing them to adjust their status even sooner. Finally, this regulation will have the effect of strengthening the stability of the family and establishing an explicit policy concerning the relationship between the behavior and personal responsibility of youth, and the norms of society.

Paperwork Reduction Act of 1995

The Service has requested expedited OMB review of the revised Form I–817 in order to comply with the settlement agreement in the *Hernandez* v. *Reno* litigation. During the course of the development of the revised Form I–817, the Service made several revisions unrelated to the implementation of the *Hernandez* v. *Reno* settlement. These additional revisions were necessary due to changes in the Family Unity provisions and inadmissibility grounds affected by the IIRIRA. Finally, changes were made on the form to reflect the changes made to the regulations by this interim rule. The Service is requesting comments on revised Form I–817.

List of Subjects

8 CFR Part 236

Administrative practice and procedure, Aliens, Immigration.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

8 CFR Part 299

Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 236—APPREHENSION AND DETENTION OF INADMISSIBLE AND DEPORTABLE ALIENS; REMOVAL OF ALIENS ORDERED REMOVED

1. The authority citation for part 236 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1224, 1225, 1226, 1227, 1362; sec. 303(b) of Div. C of Pub. L. No. 104–208, 8 CFR part 2.

2. Section 236.11 is amended by revising the definition ''*Legalized alien*'' to read as follows:

§ 236.11 Definitions.

* * * * *

For purposes of §§ 236.10 to 236.18 only, *Legalized alien* means an alien who:

(1) Is a temporary or permanent resident under section 210 or 245A of the Act;

(2) Is a permanent resident under section 202 of the Immigration Reform and Control Act of 1986 (Cuban/Haitian Adjustment); or

(3) Is a naturalized U.S. citizen who was a permanent resident under section 210 or 245A of the Act or section 202 of the Immigrant Reform and Control Act of 1986 (IRCA) (Cuban/Haitian Adjustment), and maintained such a status until his or her naturalization.

3. Section 236.12(a)(2) is revised to read as follows:

§ 236.12 Eligibility.

(a) * * *

(2) That as of May 5, 1988, (in the case of a relationship to a legalized alien described in subsection (b)(2)(B) or (b)(2) (C) of section 301 of IMMACT 90) or as of December 1, 1988, (in the case of a relationship to a legalized alien described in subsection (b)(2) (A) of section 301 of IMMACT 90), he or she was the spouse or unmarried child of a legalized alien, and that he or she has been eligible continuously since that time for family-sponsored immigrant status under section 203(a) (1), (2), or (3) or as an immediate relative under section 201 (b)(2) of the Act based on the same relationship.

* * * * *

4. Section 236.13 is amended by:

a. Removing the ''or'' at the end of paragraph (b);

b. Removing the period at the end of paragraph (c), and inserting in its place a ''; or'' ; and by

c. Adding a new paragraph (d) to read as follows:

§ 236.13 Ineligible aliens.

* * * * *

(d) An alien who has committed an act of juvenile delinquency (as defined in 18 U.S.C. 5031) which if committed by an adult would be classified as:

(1) A felony crime of violence that has an element the use or attempted use of physical force against another individual; or

(2) A felony offense that by its nature involves a substantial risk that physical force against another individual may be used in the course of committing the offense.

5. Section 236.14(a) is revised to read as follows:

§ 236.14 Filing.

(a) *General.* An application for benefits under the Family Unity Program must be filed at the service center having jurisdiction over the alien's place of residence. A Form I-817 Application for Benefits Under the Family Unity Program, must be filed with the correct fee required in § 103.7(b)(1) of this chapter and the required supporting documentation. A separate application with appropriate fee and documentation must be filed for each person claiming eligibility.

* * * * *

6. Section 236.15 is amended by revising paragraphs (d), (e), and (f) to read as follows:

§ 236.15 Voluntary departure and eligibility for employment.

* * * * *

(d) *Employment authorization.* An alien granted benefits under the Family Unity Program is authorized to be employed in the United States and will receive an employment authorization document. The validity period of the employment authorization document will coincide with the period of voluntary departure.

(e) *Extension of voluntary departure.* An application for an extension of voluntary departure under the Family Unity Program must be filed by the alien on Form I-817 along with the correct fee required in § 103.7(b)(1) of this chapter and the required supporting documentation. The submission of a copy of the previous approval notice will assist in shortening the processing time. An extension may be granted if the alien continues to be eligible for benefits under the Family Unity Program. However, an extension may not be approved if the legalized alien is a lawful permanent resident, or a naturalized U.S. citizen who was a lawful permanent resident under section 210 or 245A of the Act or section 202 of the Immigration Reform and Control Act of 1986 (IRCA), Pub. L. 66–903, and maintained such status until his or her naturalization, and a petition for family-sponsored immigrant status has not been filed on behalf of the applicant. In such case, the Service will notify the alien of the reason for the denial and afford him or her the opportunity to file another Form I-817 once the petition, Form I-130, has been filed on his or her behalf. No charging document will be issued for a period of 90 days from the date of the denial.

(f) *Supporting documentation for extension application.* Supporting documentation need not include documentation provided with the previous application(s). The extension application shoud only include changes to previous applications and evidence of continuing eligibility since the date of prior approval.

§ 236.18 [Amended]

7. Section 236.18 is amended by removing the phrase ''or who are'' from paragraph (a)(2).

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

8. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a, 8 CFR part 2.

§ 274a.12 [Amended]

9. Section 274a.12 is amended by removing and reserving paragraph (c)(12).

PART 299—IMMIGRATION FORMS

10. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 8 CFR part 2.

11. Section 299.1 is amended in the table by revising the entry for Form I–817 to read as follows:

§ 299.1 Prescribed forms.

* * * * *

Form No.	Edition date	Title
*	*	* * * * *
I–817	05–30–99	Application for Benefits under the Family Unity Program.
*	*	* * * * *

Dated: July 5, 2000.

Doris Meissner,

Commissioner, Immigrationa nd Naturalization Service.

[FR Doc. 00–17814 Filed 7–13–00; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 00–033–2]

Change in Disease Status of the Republic of Korea Because of Rinderpest and Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that removed the Republic of Korea from the list of regions declared free of rinderpest and foot-and-mouth disease. We took this action because the existence of foot-and-mouth disease was confirmed there. The interim rule prohibits or restricts the importation of any ruminant or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine into the

United States from the Republic of Korea. The interim rule was necessary to protect the livestock of the United States from foot-and-mouth disease.

EFFECTIVE DATE: The interim rule became effective on March 20, 2000.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import & Export, VS, APHIS, 4700 River Road 38, Riverdale, MD 20737–1231; (301) 734–3276.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective March 20, 2000, and published in the **Federal Register** on April 18, 2000 (65 FR 20713–20714, Docket No. 00–033–1), we amended the regulations in 9 CFR part 94 by removing the Republic of Korea from the list of countries in § 94.1 declared free of rinderpest and foot-and-mouth disease (FMD). We also removed the Republic of Korea from the list of countries in § 94.11 declared free of these diseases, but subject to certain restrictions because of their proximity to or trading relationships with FMD-affected regions. We took this action because the existence of foot-and-mouth disease was confirmed in the Republic of Korea. As a result of this action, the importation of ruminants or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine into the United States from the Republic of Korea is prohibited or restricted.

Comments on the interim rule were required to be received on or before June 19, 2000. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Orders 12866 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

Regulatory Flexibility Act

This rule affirms an interim rule that amended the regulations in 9 CFR part 94 governing the importation of certain animals, meat, and other animal products by removing the Republic of Korea from the list of regions declared free of rinderpest and FMD. We took this action because of an outbreak of FMD in that country. The interim rule prohibits or restricts the importation of any ruminant or swine and any fresh (chilled or frozen) meat or other products of ruminants or swine into the United States from the Republic of Korea. The interim rule was necessary to protect the livestock of the United States from FMD.

The following analysis addresses the economic effect of this rule on small entities, as required by the Regulatory Flexibility Act.

FMD is a highly communicable viral disease of cattle and swine. It also affects sheep, goats, and other cloven-hooved ruminants. The disease is characterized by fever and blisterlike lesions on the tongue and lips, in the mouth, on the teats, and between the hooves. It causes severe losses in the production of meat and milk. Many affected animals recover, but the disease leaves them debilitated. FMD is present in many parts of the world, but the United States has been free of the disease since 1929.

FMD viruses can be spread by animals, people, or materials that bring the virus into physical contact with susceptible animals. Imports of animal products contaminated with the virus pose the greatest risk of introducing FMD into the United States. For example, the virus can survive in chilled, frozen, salted, cured and partially cooked meats. Because it spreads widely and rapidly and has grave economic as well as physical consequences, FMD is one of the animal diseases that livestock owners dread most.

Animals in the United States are highly susceptible to FMD viruses because they have not developed immunity to the disease and are not vaccinated against it. If an outbreak did occur in the United States, this disease could spread rapidly to all sections of the country by routine livestock movements unless detected early and eradicated immediately. If allowed to spread unchecked, it could take years and cost billions of dollars to eradicate FMD from the United States.

The livestock industry plays a significant role in the U.S. economy. There were approximately 1,115,650 cattle operations in the United States in 1998,[1] with approximately 99.7 million head of cattle valued at $60.1 billion. About 99 percent of these operations had gross receipts of less than $500,000. There were approximately 114,470 hog producers in the United States in 1998, with approximately 61.1 million hogs valued at just under $5.0 billion. More than 99 percent of these producers had gross receipts of less than $500,000. There were approximately 68,810 sheep and lamb operations in the United States in 1998, with approximately 7.8 million sheep and lambs valued at $798 million. More than 99 percent of these operations had receipts of less than $500,000. Based on the 1997 Census of Agriculture, there were approximately 57,900 goat producers in the United States in 1997. They raised 1,989,799 goats with an approximate value of $74 million. More than 99 percent of these goat producers had receipts of less than $500,000.

The U.S. livestock industry also plays an important role in international trade. U.S. competitiveness in international markets relies to a great degree upon this country's reputation for producing high quality disease-free animals and animal products. Maintaining these favorable trade conditions depends, in part, on continued aggressive efforts to prevent any threat of FMD introduction into the United States. A single outbreak of FMD, anywhere in the United States, would close our major export markets of livestock and livestock products overnight. Most exports of meat, animals and byproducts would be stopped until the disease was completely eradicated. In 1998, total earnings from U.S. exports of ruminants and swine, and fresh (chilled or frozen) meat and other products of ruminants and swine were approximately $4.5 billion. Consequently, an outbreak of FMD could result in the potential loss of export sales in the billions of dollars as well as other costs to those involved in the U.S. livestock industry.

This action will produce economic benefits by protecting against the introduction of FMD into the United States. We expect that prohibiting or restricting the importation into the United States of any ruminant or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine from the Republic of Korea will have little or no effect on U.S. entities (importers, members of the public, and producers), large or small. U.S. imports of these products from the Republic of Korea are very small. For example, between 1996 and 1998, the United States did not import any reportable amounts of ruminants and swine or fresh (chilled or frozen) meat or other products of ruminants and swine from the Republic of Korea, other than $4,000 in imported dairy products in 1998. Since the Republic of Korea is not a significant source of these products for the U.S. market, restrictions on imports from the Republic of Korea should not have a noticeable effect on producer, wholesale, or consumer prices in the United States. Any shortfall of supply could easily be met from domestic or other sources. Therefore, we expect that there will be very little or no effect on

[1] An operation is any place having one or more cattle on hand during the year.

U.S. entities as a result of this restriction.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 94 and that was published at 65 FR 20713–20714 on April 18, 2000.

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306, 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 11th day of July 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–17886 Filed 7–13–00; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 00–031–2]

Change in Disease Status of Japan Because of Rinderpest and Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that removed Japan from the list of regions declared free of rinderpest and foot-and-mouth disease. We took this action because the existence of foot-and-mouth disease was confirmed there. The interim rule prohibits or restricts the importation of any ruminant or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine into the United States from Japan. The interim rule was necessary to protect the livestock of the United States from foot-and-mouth disease.

EFFECTIVE DATE: The interim rule became effective on March 8, 2000.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import & Export, VS, APHIS, 4700 River Road 38, Riverdale, MD 20737–1231; (301) 734–3276.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective March 8, 2000, and published in the **Federal Register** on April 18, 2000 (65 FR 20712–20713, Docket No. 00–031–1), we amended the regulations in 9 CFR part 94 by removing Japan from the list of countries in § 94.1 declared free of rinderpest and foot-and-mouth disease (FMD). We also removed Japan from the list of countries in § 94.11 declared free of these diseases, but subject to certain restrictions because of their proximity to or trading relationships with FMD-affected regions. We took this action because the existence of foot-and-mouth disease was confirmed there. As a result of this action, the importation of any ruminant or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine into the United States from Japan is prohibited or restricted.

Comments on the interim rule were required to be received on or before June 19, 2000. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Orders 12866 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

Regulatory Flexibility Act

This rule affirms an interim rule that amended the regulations in 9 CFR part 94 governing the importation of certain animals, meat, and other animal products by removing Japan from the list of regions declared free of rinderpest and FMD. We took this action because of an outbreak of FMD in that country. The interim rule prohibits or restricts the importation of any ruminant or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine into the United States from Japan. The interim rule was necessary to protect the livestock of the United States from FMD.

The following analysis addresses the economic effect of this rule on small entities, as required by the Regulatory Flexibility Act.

FMD is a highly communicable viral disease of cattle and swine. It also affects sheep, goats, and other cloven-hooved ruminants. The disease is characterized by fever and blisterlike lesions on the tongue and lips, in the mouth, on the teats, and between the hooves. It causes severe losses in the production of meat and milk. Many affected animals recover, but the disease leaves them debilitated. FMD is present in many parts of the world, but the United States has been free of the disease since 1929.

FMD viruses can be spread by animals, people, or materials that bring the virus into physical contact with susceptible animals. Imports of animal products contaminated with the virus pose the greatest risk of introducing FMD into the United States. For example, the virus can survive in chilled, frozen, salted, cured and partially cooked meats. Because it spreads widely and rapidly and has grave economic as well as physical consequences, FMD is one of the animal diseases that livestock owners dread most.

Animals in the United States are highly susceptible to FMD viruses because they have not developed immunity to the disease and are not vaccinated against it. If an outbreak did occur in the United States, this disease could spread rapidly to all sections of the country by routine livestock movements unless detected early and eradicated immediately. If allowed to spread unchecked, it could take years and cost billions of dollars to eradicate FMD from the United States.

The livestock industry plays a significant role in the U.S. economy. There were approximately 1,115,650 cattle operations in the United States in 1998,[1] with approximately 99.7 million head of cattle valued at $60.1 billion. About 99 percent of these operations had gross receipts of less than $500,000. There were approximately 114,470 hog producers in the United States in 1998, with approximately 61.1 million hogs valued at just under $5.0 billion. More than 99 percent of these producers had gross receipts of less than $500,000. There were approximately 68,810 sheep and lamb operations in the United States in 1998, with approximately 7.8

[1] An operation is any place having one or more cattle on hand during the year.

million sheep and lambs valued at $798 million. More than 99 percent of these operations had receipts of less than $500,000. Based on the 1997 Census of Agriculture, there were approximately 57,900 goat producers in the United States in 1997. They raised 1,989,799 goats with an approximate value of $74 million. More than 99 percent of these goat producers had receipts of less than $500,000.

The U.S. livestock industry also plays an important role in international trade. U.S. competitiveness in international markets relies to a great degree upon this country's reputation for producing high quality disease-free animals and animal products. Maintaining these favorable trade conditions depends, in part, on continued aggressive efforts to prevent any threat of FMD introduction into the United States. A single outbreak of FMD, anywhere in the United States, would close our major export markets of livestock and livestock products overnight. Most exports of meat, animals and byproducts would be stopped until the disease was completely eradicated. In 1998, total earnings from U.S. exports of ruminants and swine, and fresh (chilled or frozen) meat and other products of ruminants and swine were approximately $4.5 billion. Consequently, an outbreak of FMD could result in the potential loss of export sales in the billions of dollars as well as other costs to those involved in the U.S. livestock industry.

This action will produce economic benefits by protecting against the introduction of FMD into the United States. We expect that prohibiting or restricting the importation into the United States of any ruminant or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine from Japan will have little or no effect on U.S. entities (importers, members of the public, and producers), large or small. In 1998, the United States imported from Japan ruminants and swine and fresh (chilled or frozen) meat of ruminants and swine valued at approximately $3.8 million. This represents less than 1 percent of the total U.S. imports of these products. Since Japan is not a significant source of these products for the U.S. market, restrictions on imports from Japan should not have a noticeable effect on producer, wholesale, or consumer prices in the United States. Any shortfall of supply could easily be met from domestic or other sources. Therefore, we expect that there will be very little or no effect on U.S. entities as a result of this restriction.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

PART 94—RINDERFEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 94 and that was published at 65 FR 20712–20713 on April 18, 2000.

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306, 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 11th day of July 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–17885 Filed 7–13–00; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ACE–20]

Amendment to Class E Airspace; Oakley, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

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

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

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

DATES: Effective date: 0901 UTC, November 30, 2000.

Comments for incusion in the Rules Docket must be received on or before September 6, 2000.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, DOT Regional Headquarters Building, Federal Aviation Administration, Docket Number 00–ACE–20, 901 Locust, Kansas City, MO 64106.

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

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

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

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 revises the Class E airspace at Oakley, KS. A review of the Class E airspace for Oakley Municipal Airport, KS, indicates it does not meet the criteria for 700 feet AGL airspace required for diverse departures as specified in FAA Order 7400.2D. The criteria in FAA Order 7400.2D for an aircraft to reach 1200 feet AGL is based on a standard climb gradient of 200 feet per mile plus the distance from the ARP to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. The amendment at Oakley Municipal Airport, KS, will provide additional controlled airspace for aircraft operating under IFR, revise the ARP and comply with the criteria of FAA Order 7400.2D. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9G, dated September 10, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 00–ACE–20.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 10, 1999, and effective September 16, 1999, is amended as follows:

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

* * * * *

ACE KS E5 Oakley, KS [Revised]

Oakley Municipal Airport, KS
(Lat. 39°06′36″ N., long. 100°48′59″ W.)
Oakley NDB
(Lat. 39°06′45″ N., long. 100°48′55″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Oakley Municipal Airport and within 2.6 miles each side of the 175° bearing from the Oakley NDB extending from the 6.5-mile radius to 7.4 miles south of the airport.

* * * * *

Issued in Kansas City, MO, on July 3, 2000.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 00–17871 Filed 7–13–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ACE–19]

Amendment to Class E Airspace; Atwood, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

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

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

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

DATES: Effective date: 0901 UTC, November 30, 2000.

Comments for inclusion in the Rules Docket must be received on or before September 5, 2000.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, DOT Regional Headquarters Building, Federal Aviation Administration, Docket Number 00–ACE–19, 901 Locust, Kansas City, MO 64106.

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

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

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

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 revises the Class E airspace at Atwood, KS. A review of the Class E airspace for Atwood-Rawlins County-City Airport, KS, indicates it does not meet the criteria for 700 feet AGL airspace required for diverse departures as specified in FAA Order 7400.2D. The criteria in FAA Order 7400.2D for an aircraft to reach 1200 feet AGL is based on a standard climb gradient of 200 feet per mile plus the distance from the ARP to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. The amendment at Atwood-Rawlins County-City County Airport, KS, will provide additional controlled airspace for aircraft operating under IFR, revise the ARP and comply with the criteria of FAA Order 7400.2D. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9G, dated September 10, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 00–ACE–18.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 10, 1999, and effective September 16, 1999, is amended as follows:

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

* * * * *

ACE KS E5 Atwood, KS [Revised]

Atwood-Rawlins County-City County Airport, KS

(Lat 39°50′25″ N., long. 101°02′31″ W.)
Atwood NDB
(Lat 39°50′20″ N., long. 101°02′42″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Atwood-Rawlins County-City County Airport and within 2.6 miles each side of the 258° bearing from the Atwood NDB extending from the 6.5-mile radius to 7.4 miles north of the airport.

* * * * *

Issued in Kansas City, MO, on July 3, 2000.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 00–17870 Filed 7–13–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ACE–21]

Amendment to Class E Airspace, Columbia, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E surface area at Columbia Regional Airport, Columbia, MO, from part time status to full time status. The Class E surface area designation as full time is necessary to accommodate Instrument Flight Rules (IFR) operations during the periods when the Airport Traffic Control Tower (ATCT) is closed.

The intended effect of this rule is to convert the Class E surface area from part time status to full time status and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

DATES: This direct final rule is effective on 0901 UTC, November 30, 2000.

Comments for inclusion in the Rules Docket must be received on or before September 17, 2000.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division. ACE–520, DOT Regional Headquarters Building, Federal Aviation Administration, Docket Number 00–ACE–21, 901 Locust, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: There are Part 135 operations at the Columbia Regional Airport after the ATCT is closed. A revision to the Class E surface area changes the status from part time to full time. The Class E surface area will provide controlled airspace for Part 135 and other IFR operations when the ATCT is closed. Class E surface areas designated as a surface area for an airport are published in paragraph 6002 of FAA Order 7400.9G, dated September 10, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 00–ACE–21.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G airspace Designations and Reporting Points, dated September 10, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6002 Class E airspace areas designated as a surface area for an airport

* * * * *

ACE MO E2 Columbia, MO [Revised]

Columbia Regional Airport, MO
(Lat. 38°49′05″ N., long. 92°13′11″ W.)

Within a 4.3-mile radius of the Columbia Regional Airport.

* * * * *

Issued in Kansas City, MO, on July 5, 2000.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 00–17868 Filed 7–13–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 648

[Docket No. 000407096–0196–02; I.D. 040300C]

RIN 0648–AN51

Fisheries of the Northeastern United States Northeast Multispecies; Framework Adjustment 33 to the Northeast Multispecies Fishery Management Plan; Reporting Requirement

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

ACTION: Final rule; effectiveness of collection-of-information requirement.

SUMMARY: NMFS announces approval by the Office of Management and Budget (OMB) of a collection-of-information requirement contained in Framework Adjustment 33 to the Northeast Multispecies Fishery Management Plan (FMP) and issues a final rule to make effective the restrictions and related prohibitions contained in Framework 33 for charter/party vessel operators fishing in the Gulf of Maine closed areas and the Nantucket Lightship Closed Area. Charter/party vessels are required to obtain a certificate in exchange for access to the Gulf of Maine closed areas. As a condition of the certificate, the vessel owner must agree to abide by charter/party regulations and to not utilize days at sea during the 3 months covered by the certificate. This final rule also codifies the OMB control number for the approved information collection in 50 CFR part 902. The intent of this final rule is to inform the public of the effective date of the charter/party vessel requirements and publish the OMB control number for the related collection-of-information requirement.

DATES: Sections 648.14(b)(2), 648.81(g)(2)(iii), and 648.89(e) published at 65 FR 21658 (April 24, 2000) and 15 CFR 902.1 are effective on August 28, 2000.

ADDRESSES: Any comments regarding burden-hour estimates for collection-of-information requirements contained in this final rule should be sent to Patricia Kurkul, Regional Director, Northeast Regional Office, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (ATTN: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Rick Pearson, Fishery Policy Analyst, 978–281–0279.

SUPPLEMENTARY INFORMATION: A final rule that implemented the measures contained in Framework 33 to the Northeast Multispecies FMP was published in the **Federal Register** on April 24, 2000 (65 FR 21658), and most of the measures were made effective on May 1, 2000. However, because OMB approval of the reporting requirement contained in Framework 33 had not yet been received as of the effective date of that rule, effectiveness of the Charter/party vessel requirements and related prohibitions contained in the framework was delayed. OMB approval for those measures was received on June 20, 2000. Consequently, this rule makes §§ 648.14(b)(2), 648.81(g)(2)(iii), and 648.89(e), which were codified in the April 24, 2000, final rule, effective.

NOAA codifies its OMB control numbers for information collection at 15 CFR part 902. Part 902 collects and displays the control numbers assigned to information collection requirements of NOAA by OMB pursuant to the Paperwork Reduction Act (PRA). This final rule codifies OMB control number 0648–0412 for §§ 648.81 and 648.89.

Under NOAA Administrative Order 205–11, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere, NOAA, has delegated to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the **Federal Register**.

Classification

This rule has been determined to be not significant for the purposes of Executive Order 12866.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

This rule contains a collection-of-information requirement subject to the PRA that has been approved by OMB under 0648–0412. The estimated time per response for a telephone call to request a Multispecies Charter/party Gulf of Maine Closed Area Exemption Certificate is 2 minutes.

The estimated response time includes the time needed for reviewing instructions, searching existing data sources, gathering and maintaining the

data needed, and completing and reviewing the collection of information. Send comments regarding these reporting burden estimates or any other aspect of the collection-of-information, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

List of Subjects in 15 CFR Part 902

Reporting and recordkeeping requirements.

Dated: July 9, 2000.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR part 902, chapter IX, is amended as follows:

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT; OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In § 902.1, the table in paragraph (b) under 50 CFR is amended by adding in numerical order a new OMB control number, ''–0412'', to § 648.81 and by adding in numerical order § 648.89 and its corresponding OMB control number ''–0412'' to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR	
* * * * *	
648.81	*** and –0412
* * * * *	
648.89	–0412
* * * * *	

[FR Doc. 00–17894 Filed 7–13–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket Nos. RM98–10–000 and RM98–12–000]

Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas Transportation Services

July 10, 2000.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final Rule: Clarification of Filing Procedures for Order No. 637 Compliance Filings.

SUMMARY: In Order No. 637–A (65 FR 35706, June 5, 2000), issued on May 19, 2000, the Federal Energy Regulatory Commission established procedures for filing *pro forma* tariff sheets electronically through Internet E-Mail. This document clarifies the filing procedures for the *pro forma* compliance filings.

DATES: This rule is effective July 10, 2000.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 208–2294.

William P. Bushey, Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 208–0130.

SUPPLEMENTARY INFORMATION:

Notice Clarifying Filing Procedures for Order No. 637 Compliance Filings

In Order No. 637–A, issued on May 19, 2000,[1] the Federal Energy Regulatory Commission (Commission) established procedures for filing *pro forma* tariff sheets in compliance with the order electronically through Internet E-Mail. Pipelines are to make the required filings on June 15, July 17, and August 15, 2000.[2] According to the procedures, pipelines may file the electronic *pro forma* tariff sheets through Internet E-Mail to *637FASTR@ferc.fed.us* in the following format: on the subject line, specify the name of the filing entity; in the body of the E-Mail, specify the name, telephone number, and E-Mail address of a contact person; the pro forma tariff sheets should be attached to the E-Mail message. Pipelines not filing using Internet E-Mail are to file the *pro forma* tariffs on diskette along with the paper filing and must label the diskette as containing *pro forma* tariff sheets.

During the first set of compliance filings, questions about the procedures were raised. The following is intended to clarify the procedures for the last two sets of filings.

1. To identify the Pro Forma tariff sheets, the word ''Pro Forma'' should appear on each sheet before the volume name, e.g., Pro Forma Second Revised Volume No. in the upper left hand side of each sheet. The word Pro Forma need not appear before the sheet number on the upper right hand side of each sheet.

2. The E-mail file containing the Pro Forma tariff sheets should be labeled ⟨company name, or abbreviation, limited to two words⟩ followed by 637.asc. For example, Columbiagulf637.asc; MIGC637.asc; or Transco637.asc is acceptable.

3. A diskette containing an electronic copy of the notice of filing is not required for the initial Order No. 637 compliance filing. A basket notice will be issued identifying all pipelines filing on July 17 and August 15, 2000. However, if the initial Order No. 637 application is amended, the amended filing must contain a diskette with a copy of the notice. The electronic notice for an amended application should not be filed as part of the E-mail filing which should only contain the Pro Forma tariff sheets.

4. For the purpose of paginating tariff sheets, the Pro Forma tariff sheet is for informational purposes and is not an effective tariff sheet. The Pro Forma tariff sheet cannot be superseded, so the pagination of any subsequent live tariff filing should be made as if the Pro Forma Sheet had not been filed.

David P. Boergers,

Secretary.

[FR Doc. 00–17863 Filed 7–13–00; 8:45 am]

BILLING CODE 6717–01–M

[1] Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services, Order No. 637–A, 65 FR 35706, 35764 (Jun. 5, 2000), III FERC Stats. & Regs. Regulations Preambles ¶ 31,099, at 31,649 (May 19, 2000).

[2] Regulation of Short-Term Natural Gas Transportation Services, 91 FERC ¶ 61,020 (2000).

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 132 and 163

[T.D. 00–49]

RIN 1515–AC55

Export Certificates for Sugar-Containing Products Subject to Tariff-Rate Quota

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, without change, the interim rule amending the Customs Regulations that was published in the **Federal Register** on February 4, 2000, as T.D. 00–7. The interim rule set forth the form and manner by which an importer establishes that a valid export certificate is in effect for certain sugar-containing products subject to a tariff-rate quota, that are products of a participating country, as defined in regulations of the United States Trade Representative (USTR). The export certificate is necessary to enable the importer to claim the in-quota rate of duty on the sugar-containing products.

EFFECTIVE DATE: July 14, 2000.

FOR FURTHER INFORMATION CONTACT: Leon Hayward, Office of Field Operations, (202–927–9704).

SUPPLEMENTARY INFORMATION:

Background

As a result of the Uruguay Round Agreements, approved by Congress in section 101 of the Uruguay Round Agreements Act (URAA) (Pub. L. 103–465), the President, by Presidential Proclamation No. 6763, established a tariff-rate quota for imported sugar-containing products.

Under a tariff-rate quota, the United States applies one tariff rate, known as the in-quota tariff rate, to imports of a product up to a particular amount, known as the in-quota quantity, and another, higher rate, known as the over-quota rate, to imports of a product in excess of the given amount. The preferential, in-quota tariff rate would be applicable only to the extent that the aggregate in-quota quantity of a product allocated to a country had not been exceeded.

Under Presidential Proclamation No. 7235, dated October 7, 1999, the United States Trade Representative (USTR) was given authority under section 404(a) of the URAA to implement the tariff-rate quota for sugar-containing products to ensure that they do not disrupt the orderly marketing of such products in the United States. The USTR has already assigned Canada an in-quota allocation of the sugar-containing products (64 FR 54719; October 7, 1999).

As part of the implementation of this tariff-rate quota, the USTR has established an export-certificate program under which exporting countries that have an allocation of the in-quota quantity and that wish to participate in the program may use export certificates for their sugar-containing products that are exported to the United States. The USTR issued regulations for this export-certificate program (15 CFR part 2015) (64 FR 67152; December 1, 1999).

An exporting country wishing to participate in the export-certificate program must notify the USTR and provide the necessary supporting information. As defined in the USTR regulations (15 CFR 2015.2(e)), a participating country is a country that has received an allocation of the in-quota quantity of the tariff-rate quota, and that the USTR has determined, and has so informed Customs, is eligible to use export certificates for their sugar-containing products exported to the United States. The USTR has stated that it intends to publish a notice in the **Federal Register** whenever a country becomes, or ceases to be, a participating country.

The particular sugar-containing products subject to a tariff-rate quota for which the USTR has established the export-certificate program are described in additional U.S. Note 8 to chapter 17 of the Harmonized Tariff Schedule of the United States (HTSUS). Specifically, unless excepted as provided in additional U.S. Note 3 to chapter 17, HTSUS, the imported sugar-containing products covered by the export-certificate program contain over 10 percent by dry weight of sugars derived from cane or sugar beets, whether or not mixed with other ingredients, and they are classified under one of the following HTSUS subheadings: 1701.91.54, 1704.90.74, 1806.20.75, 1806.20.95, 1806.90.55, 1901.90.56, 2101.12.54, 2101.20.54, 2106.90.78, or 2106.90.95.

While a country does not need to participate in the export-certificate program in order to receive the in-quota tariff rate for its share of the in-quota quantity, using export certificates assures the exporting country that only those exported sugar-containing products that it intends for the United States market are counted against its in-quota allocation. As already noted, this helps ensure that such products do not disrupt the orderly marketing of sugar-containing products in the United States.

On December 4, 1998, the Governments of the United States and Canada entered into a Record of Understanding regarding Areas of Agricultural Trade. In Annex 17 of this Record of Understanding, the United States agreed to require an export permit issued by the Government of Canada in order to enable an importer to claim the in-quota tariff rate for those sugar-containing products of Canadian origin described in additional U.S. Note 8 to chapter 17, HTSUS. Canada was thus a participating country in this export-certificate program as of January 31, 2000, the effective date of the USTR rule.

In accordance with the rulemaking of the USTR, by a document published in the **Federal Register** (65 FR 5430) on February 4, 2000, Customs issued an interim rule that added a new § 132.17 to the Customs Regulations (19 CFR 132.17), in order to prescribe the form and manner by which an importer establishes that a valid export certificate exists, including a unique number for the certificate that must be referenced on the entry or withdrawal from warehouse for consumption, whether filed in paper form or electronically. This was intended to ensure that no imports of the specified sugar-containing products of a participating country are counted against the country's in-quota allocation unless the products are covered by a proper export certificate. The export certificate is necessary in this regard in order to enable the importer to claim the in-quota rate of duty on the sugar-containing products.

In addition, the Interim (a)(1)(A) List set forth as an Appendix to part 163, Customs Regulations (19 CFR part 163, Appendix), that lists the records required for the entry of merchandise, was revised to add a reference to the requirement in new § 132.17 that an importer possess a valid export certificate for sugar-containing products that are subject to a tariff-rate quota and that are products of a participating country, in order for the importer to be able to claim the applicable in-quota rate of duty.

Also, § 132.15, Customs Regulations (19 CFR 132.15), was revised to make provision for electronic entry filing in the case of beef subject to a tariff-rate quota, for which the importer must similarly possess a valid export certificate in order to claim the in-quota rate of duty.

No comments were received from the public in response to the interim rule, and Customs has now determined to

adopt the interim rule as a final rule without change.

The Regulatory Flexibility Act and Executive Order 12866

As discussed in the interim rule, since the amendments are not subject to the notice and public procedure requirements of the Administrative Procedure Act (5 U.S.C. 553), they are not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Also, because this document involves a foreign affairs function of the United States and implements an international agreement, it is not subject to the provisions of E.O. 12866.

Paperwork Reduction Act

The collections of information involved in this interim rule have already been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned OMB Control Numbers 1515–0065 (Entry summary and continuation sheet) and 1515–0214 (General recordkeeping and record production requirements). This rule does not propose any substantive changes to the existing approved information collections.

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 control number assigned by OMB.

List of Subjects

19 CFR Part 132

Agriculture and agricultural products, Customs duties and inspection, Quotas, Reporting and recordkeeping requirements.

19 CFR Part 163

Administrative practice and procedure, Customs duties and inspection, Imports, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, the interim rule amending 19 CFR parts 132 and 163, which was published in the **Federal Register** at 65 FR 5430 on February 4, 2000, is adopted as a final rule without change.

Raymond W. Kelly,

Commissioner of Customs.

Approved: June 14, 2000.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 00–17927 Filed 7–13–00; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 821, 895, and 900

[Docket No. 00N–1361]

Code of Federal Regulations; Technical Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendments.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to correct some errors that have become incorporated into the regulations. This action is being taken to improve the accuracy of the regulations.

DATES: This rule is effective July 14, 2000.

FOR FURTHER INFORMATION CONTACT: LaJuana D. Caldwell, Office of Policy, Planning, and Legislation (HF–927), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7010.

SUPPLEMENTARY INFORMATION: FDA has discovered that errors have been incorporated into the agency's codified regulations for 21 CFR parts 821, 895, and 900. This document corrects those errors. Publication of this document constitutes final action under the Administrative Procedure Act (5 U.S.C. 553). FDA has determined that notice and public comment are unnecessary because this amendment is nonsubstantive.

List of Subjects

21 CFR Part 821

Imports, Medical devices, Reporting and recordkeeping requirements.

21 CFR Part 895

Administrative practice and procedure, Labeling, Medical devices.

21 CFR Part 900

Electronic products.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 821, 895, and 900 are amended as follows:

PART 821—MEDICAL DEVICE TRACKING REQUIREMENTS

1. The authority citation for 21 CFR part 821 continues to read as follows:

Authority: 21 U.S.C. 331, 351, 352, 360, 360e, 360h, 360i, 371, 374.

§ 821.50 [Amended]

2. Section 821.50 *Availability* is amended in paragraph (a) by removing ''Form FD 482'' and by adding in its place ''Form FDA 482''.

PART 895—BANNED DEVICES

3. The authority citation for 21 CFR part 895 continues to read as follows:

Authority: 21 U.S.C. 352, 360f, 360h, 360i, 371.

§ 895.21 [Amended]

4. Section 895.21 *Procedures for banning a device* is amended in the fourth sentence of paragraph (d)(8) by removing ''201(y)'' and by adding in its place ''201(x)''.

PART 900—MAMMOGRAPHY

5. The authority citation for 21 CFR part 900 continues to read as follows:

Authority: 21 U.S.C. 360i, 360nn, 374(e); 42 U.S.C. 263b.

§ 900.12 [Amended]

6. Section 900.12 *Quality standards* is amended in paragraph (e)(5)(iii)(A)(*1*) by removing ''Cycles/millimeters'' and by adding in its place ''Cycles/millimeter'', and in the third sentence of paragraph (f)(3) by removing ''results and notifying'' and by adding in its place ''results and for notifying''.

Dated: June 27, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–17811 Filed 7–13–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[DEA–187F]

RIN 1117–AA51

Schedules of Controlled Substances: Exempt Anabolic Steroids Products

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: The Drug Enforcement Administration (DEA) published an interim rule with request for comments (65 FR 3124, Jan. 20, 2000, as corrected at 65 FR 5024, Feb. 2, 2000) which identified six anabolic steroid products as being exempt from certain regulatory provisions of the Controlled Substances Act (21 U.S.C. 801 *et seq.*) (CSA). No

comments were received. Therefore, the interim rule is being adopted without change.

EFFECTIVE DATE: July 14, 2000.

FOR FURTHER INFORMATION CONTACT: Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, D.C. 20537; Telephone (202) 307–7183.

SUPPLEMENTARY INFORMATION:

What Does This Rule Accomplish and by What Authority Is It Being Issued?

This rule finalizes an interim rule (65 FR 3124, Jan. 20, 2000, as corrected at 65 FR 5024, Feb. 2, 2000) which identified six products as being exempt from certain portions of the Controlled Substances Act (21 U.S.C. 801 *et seq.*) (CSA). Section 1903 of the Anabolic Steroids Control Act of 1990 (title XIX of Pub. L. 101–647) (ASCA) provides that the Attorney General may exempt products which contain anabolic steroids from all or any part of the CSA if the products have no significant potential for abuse. The procedure for implementing this section of the ASCA is described in 21 CFR 1308.33. Exempt status removes each product from application of the registration, labeling, records, reports, prescription, physical security, and import and export restrictions associated with Schedule III substances.

Why Did DEA Add Six Products to the List of Exempt Anabolic Steroids Products?

Manufacturers of six anabolic steroid products submitted exempt status applications to the Deputy Assistant Administrator for the DEA Office of Diversion Control in accordance with 21 CFR 1308.33. Each application delineated a set of facts which the applicant believed justified the exempt status of its product. The applicants provided information which they believed showed that because of the specific product preparation, concentration, mixture, or delivery system these products had no significant potential for abuse. Upon acceptance of the applications, the Deputy Assistant Administrator requested from the Assistant Secretary for Health, Department of Health and Human Services (HHS) a recommendation as to whether these products should be considered for exemption from certain portions of the CSA. The Deputy Assistant Administrator received the determination and recommendation of the Assistant Secretary for Health and Surgeon General that there was sufficient evidence to establish that each product does not possess a significant potential for abuse.

Which Anabolic Steroid Products Are Effected and When Does the Rule Become Affective?

In the interim rule, the Deputy Assistant Administrator identified the following six products as being exempt from application of sections 302 and through 309 and 1002 through 1004 of the CSA (21 U.S.C. 822–829 and 952–954) and 21 CFR 1301.13, 1301.22, and 1301.71 through 1301.76:

EXEMPT ANABOLIC STEROID PRODUCTS

Trade name	Company	NDC No.	Form	Ingredients	Quantity
Component E–H in process granulation.	Ivy Laboratories, Inc., Overland Park, KS.	.....	Pail or drum ...	Testosterone propionate	10 parts
				Estradiol benzoate	1 part
Component E–H in process pellets.	Ivy Laboratories, Inc., Overland Parks, KS.	.....	Pail	Testosterone propionate	25 mg/
				Estradiol benzoate	2.5 mg/pellet
Component TE–S in process granulation.	Ivy Laboratories, Inc., Overland Park, KS.	.....	Pail or drum ...	Trenbolone acetate	5 parts
				Estradiol USP	1 part
Component TE–S in process pellets.	Ivy Laboratories, Inc., Overland Parks, KS.	.....	Pail	Trenbolone acetate	120 mg/
				Estradiol USP	24 mg/pellet
Testoderm with Adhesive 4 mg/d.	Alza Corp., Palo Alto,CA	Export only	Patch	Testosterone	10 mg
Testosterone Ophthalmic Solutions.	Allergan, Irvine, CA	.....	Ophthalmic Solutions.	Testosterone	≤0.6% w/v

The interim rule became immediately effective on publication in the **Federal Register,** January 20, 2000, in order to provide a health benefit to the public by more expeditiously increasing the access to these anabolic steroid products and to reduce regulatory restrictions that DEA (in consultation with HHS) has determined to be an unnecessary burden on the businesses manufacturing these products.

What Comments to the Interim Rule Were Received?

Comments to the interim rule were requested, none were received.

What Exempt Anabolic Steroid Products are Included in the List Referred to in 21 CFR 1308.34?

With the publication of this final rule, the complete list of products referred to in 21 CFR 1308.34 is as follows:

EXEMPT ANABOLIC STEROID PRODUCTS

Trade Name	Company	NDC No.	Form	Ingredients	Quantity
Andro-Estro 90–4	Rugby Laboratories, Rockville Centre, NY.	0536–1605	Vial	Testosterone enanthate	90 mg/ml
				Estradiol valerate	4 mg/ml
Androgyn L.A.	Forest Pharmaceuticals, St. Louis, MO.	0456–1005	Vial	Testosterone enanthate	90 mg/ml
				Estradiol valerate	4 mg/ml

EXEMPT ANABOLIC STEROID PRODUCTS—Continued

Trade Name	Company	NDC No.	Form	Ingredients	Quantity
Component E–H in process granulation.	Ivy Laboratories, Inc., Overland Park, KS.		Pail or drum ...	Testosterone propionate	10 parts
				Estradiol benzoate	1 part
Componenet E–H in process pellets.	Ivy Laboratories, Inc., Overland Park, KS.		Pail	Testosterone propionate	25 mg/
				Estradiol benzoate	2.5 mg/pellet
Component TE–S in process granulation.	Ivy Laboratories, Inc., Overland Park, KS.		Pail or drum ...	Trenbolone acetate	5 parts
				Estradiol USP	1 part
Component TE–S in process pellets.	Ivy Laboratories, Inc., Overland Park, KS.		Pail	Trenbolone acetate	120 mg/
				Estradiol USP	24 mg/pellet
depANDROGYN	Forest Pharmaceuticals, St. Louis, MO.	0456–1020	Vial	Testosterone cypionate	50 mg/ml
				Estradiol cypionate	2 mg/ml
DEPTO–T.E.	Quality Research Pharm., Carmel, IN.	52765–257	Vial	Testosterone cypionate	50 mg/ml
				Estradiol cypionate	2 mg/ml
Depo-Testadiol	The Upjohn Company, Kalamazoo, MI.	0009–0253	Vial	Testosterone cypionate	50 mg/ml
				Estradiol cypionate	2 mg/ml
depTESTROGEN	Martica Pharmaceuticals, Phoenix, AZ.	51698–257	Vial	Testosterone cypionate	50 mg/ml
				Estradiol cypionate	2 mg/ml
Duomone	Wintec Pharmaceutical, Pacific, MO.	52047–360	Vial	Testosterone enanthate	90 mg/ml
				Estradiol valerate	4 mg/ml
DUO–SPAN II	Primedics Laboratories, Gardena, CA.	0684–0102	Vial	Testosterone cypionate	50 mg/ml
				Estradiol cypionate	2 mg/ml
DURATESTRIN	W. E. Hauck, Alpharetta, GA	43797–016	Vial	Testosterone cypionate	50 mg/ml
				Estradiol cypionate	2 mg/ml
Estratest	Solvay Pharmaceuticals, Marietta, GA.	0032–1026	TB	Esterifield estrogens	1.25 mg
				Methyltestosterone	2.5 mg
Estratest HS	Solvay Pharmaceuticals, Marietta, GA.	0032–1023	TB	Esterifield estrogens	0.625 mg
				Methyltestosterone	1.25 mg
Menogen	Sage Pharmaceuticals, Shreveport, LA.	59243–570	TB	Esterifield estrogens	1.25 mg
				Methyltestosterone	2.5 mg
Menogen HS	Sage Pharmaceutical, Shreveport, LA.	59243–560	TB	Esterifield estrogens	.0625 mg
				Methyltestosterone	1.25 mg
PAN ESTRA TEST	Pan American Labs., Covington, LA.	0525–0175	Vial	Testosterone cypionate	50 mg/ml
				Estradiol cypionate	2 mg/ml
Premarin with Methyltestosterone.	Ayerst Labs. Inc,. New York, NY.	0046–0878	TB	Conjugated estrogens	0.625 mg
				Methyltestosterone	5.0 mg
Premarin with Methyltestosterone.	Ayerst Labs. Inc., New York, NY.	0046–0879	TB	Conjugated estrogens	1.25 mg
				Methyltestosterone	10.0 mg
Synovex H in-process bulk pellets.	Syntex Animal health, Palo Alto, CA.		Drum	Testosterone propionate	25 mg
				Estradiol benzoate	2.5 mg/pellet
Synovex H in-process granulation.	Syntex Animal Health, Palo Alto, CA.		Drum	Testosterone propionate	10 part
				Estradiol benzoate	1 part
Synovex Plus in-process bulk pellets.	Fort Dodge Animal Health, Fort Dodge, IA.		Drum	Trenbolone acetate	25 mg/
				Estradiol benzoate	3.50 mg/pellet
Synovex Plus in-process granulation.	Fort Dodge Animal Health, Fort Dodge, IA.		Drum	Trenbolone acetate 25 parts.	
				Estradiol benzoate	3.5 parts
Testagen	Clint Pharmaceuticals, Nashville, TN.	55553–257	Vial	Testosterone cypionate	50 mg/ml
				Estradiol cypionate	2 mg/ml
TEST–ESTRO Cypionates	Rugby Laboratories Rockvill Centre, NY.	0536–9470	Vial	Testosterone cypionate	50 mg/ml
				Estradiol cypionate	2 mg/ml

EXEMPT ANABOLIC STEROID PRODUCTS—Continued

Trade Name	Company	NDC No.	Form	Ingredients	Quantity
Testoderm 4 mg/d	Alza Copr., Palo Alto, CA	17314–4608	Patch	Testosterone	10 mg
Testoderm 6 mg/d	Alza Corp., Palo Alto, CA	17314–4609	Patch	Testosterone	15 mg
Testoderm with Adhesive 4 mg/d.	Alza Corp., Palo Alto, CA	Export only	Patch	Testosterone	10 mg
Testoderm with Adhesive 6 mg/d.	Alza Corp., Palo Alto, CA	17314–2836	Patch	Testosterone	15 mg
Testoderm in-process film	Alza Corp, Palo Alto, CA		Sheet	Testosterone	0.25 mg/cm2
Testoderm with Adhesive in-process film.	Alza Corp., Palo Alto, CA		Sheet	Testosterone	0.25 mg/cm2
Testosterone Cypionate/Estradiol Cypionate Injection.	Best Generics, No. Miami Beach, FL.	54274–530	Vial	Testosterone cypionate	50 mg/ml
				Estradiol cypionate	2 mg/ml
Testosterone Cypionate/Estradiol Cypionate Injection.	Goldline Labs, Ft. Lauderdale, Fl.	0182–3069	Vial	Testosterone cypionate	50 mg/ml
				Estradiol cypionate	2mg/ml
Testosterone Cyp 50 Estradiol Cyp 2.	I.D.E.-Interstate, Amityville, NY.	0814–7737	Vial	Testosterone cypionate	50 mg/ml
				Estradiol cypionate	2 mg/ml
Testosterone Cypionate/Estradiol Cypionate Injection.	Schein Pharmaceuticals, Port Washington, NY.	0364–6611	Vial	Testosterone cypionate	50 mg/ml
				Estradiol cypionate	2mg/ml
Testosterone Cypionate/Estradiol Cypionate Injection.	Steris Labs. Inc., Phoenix, AZ.	0402–0257	Vial	Testosterone cypionate	50 mg/ml
				Estradiol cypionate	2 mg/ml
Testosterone Enanthate/Estradiol Valerate Injection.	Goldline Labs, Ft. Lauderdale, Fl.	0182–3073	Vial	Testosterone enanthate	90 mg/ml
				Estradiol valerate	4 mg/ml
Testosterone Enanthate/Estradiol Valerate Injection.	Schein Pharmaceuticals, Port Washington, NY.	0364–6618	Vial	Testosterone enanthate	90 mg/ml
				Estradiol valerate	4 mg/ml
Testosterone Enanthate/Estradiol Valerate Injection.	Steris Labs. Inc., Phoenix, AZ.	0402–0360	Vial	Testosterone enanthate	90 mg/ml
				Estradiol valerate	4 mg/ml
Testosterone Ophthalmic Solutions.	Allergan, Irvine, CA		Ophthalmic solutions.	Testosterone	≤0.6% w/v
Tilapia Sex Reversal Feed (Investigational).	Rangen, Inc., Buhl, ID		Plastic bags	Methyltestosterone	60 mg/kg fish feed
Tilapia Sex Reversal Feed (Investigational).	Ziegler Brothers, Inc., Gardners, PA.		Plastic bags	Methyltestosterone	60 mg/kg fish feed

Additional copies of this list may be obtained by submitting a written request to the Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537.

Plain Language Instructions

The Drug Enforcement Administration makes every effort to write clearly. If you have suggestions as to how to improve the clarity of this regulation, call or write Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537, Telephone (202) 307–7297.

Certifications

Regulatory Flexibility Act

The Deputy Assistant Administrator, for the DEA Office of Diversion Control, in accordance with the Regulatory Flexibility Act [5 U.S.C. 605(b)], has reviewed this rule and by approving it, certifies that it will not have significant economic impact on a substantial number of small business entities. The granting of exempt status relieves persons who handle the exempt products in the course of legitimate business from the registration, labeling, records, reports, prescription, physical security, and import and export restrictions imposed by the CSA.

Executive Order 12866

The Deputy Assistant Administrator further certifies that this rulemaking has been drafted in accordance with the principles in Executive Order 12866, section 1(b). The Office of Management and Budget (OMB) reviewed the interim rule as a significant action; the DEA received no comments regarding the interim rule. This final rule falls into a category of regulatory actions which OMB has determined are exempt from regulatory review. Therefore, this action has not been reviewed by the OMB.

Executive Order 13132

This action has been analyzed in accordance with the principles and criteria in Executive Order 13132 and it has been determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not

result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

PART 1308—[AMENDED]

Pursuant to the authority delegated to the Administrator of the DEA pursuant to 21 U.S.C. 871(a) and 28 CFR 0.100 and redelegated to the Deputy Assistant Administrator of the Drug Enforcement Administration Office of Diversion Control, pursuant to 28 CFR 0.104, appendix to subpart R, section 7(g), the Deputy Assistant Administrator of the Office of Diversion Control hereby adopts as a final rule, without change, the interim rule which was published at 65 FR 3124 on Jan. 20, 2000 and corrected at 65 FR 5024, on Feb. 2, 2000, amending the list described in 21 CFR 1308.34.

Dated: July 3, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 00–17915 Filed 7–13–00; 8:45 am]

BILLING CODE 4410–09–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in August 2000. Interest assumptions are also published on the PBGC's web site (http://www.pbgc.gov).

EFFECTIVE DATE: August 1, 2000.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (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's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to Part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to Part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in Appendix C to Part 4022). (See the PBGC's two final rules published March 17, 2000, in the **Federal Register** (at 65 FR 14752 and 14753). Effective May 1, 2000, these rules changed how the interest assumptions are used and where they are set forth in the PBGC's regulations.)

Accordingly, this amendment (1) Adds to Appendix B to Part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during August 2000, (2) adds to Appendix B to Part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during August 2000, and (3) adds to Appendix C to Part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during August 2000.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 7.10 percent for the first 25 years following the valuation date and 6.25 percent thereafter. These interest assumptions represent a decrease (from those in effect for July 2000) of 0.30 percent for the first 25 years following the valuation date and are otherwise unchanged.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 5.25 percent for the period during which a benefit is in pay status, 4.50 percent during the seven-year period directly preceding the benefit's placement in pay status, and 4.00 percent during any other years preceding the benefit's placement in pay status. These interest assumptions represent a decrease (from those in effect for July 2000) of 0.25 percent for the period during which a benefit is in pay status and for the seven-year period directly preceding the benefit's placement in pay status and are otherwise unchanged.

For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during August 2000, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

2. In appendix B to part 4022, Rate Set 82, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4022—Lump Sum Interest Rates For PBGC Payments

* * * * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	
82	8–1–00	9–1–00	5.25	4.50	4.00	4.00	7	8

3. In appendix C to part 4022, Rate Set 82, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix C to Part 4022—Lump Sum Interest Rates For Private-Sector Payments

* * * * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	
82	8–1–00	9–1–00	5.25	4.50	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

5. In appendix B to part 4044, a new entry, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4044—Interest Rates Used to Value Benefits

* * * * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
*	*	*	*	*	*	*
August 2000	.0710	1–25	.0625	>25	N/A	N/A

Issued in Washington, DC, on this 7th day of July 2000.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 00–17911 Filed 7–13–00; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD 01–00–140]

RIN 2115–AA97

Safety Zone: Iron Spring Farm Fireworks Display.

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the Iron Spring Farm Fireworks Display to be held in the Atlantic Ocean, Southampton, NY, on July 19, 2000. This action is needed to protect persons, facilities, vessels and others in the maritime community from the safety hazards associated with this fireworks display. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

DATES: This rule is effective from 8:45 p.m. on July 19, 2000 to 9:40 p.m. on July 19, 2000.

ADDRESSES: Documents relating to this temporary final rule are available for inspection or copying at U.S. Coast Guard Group/Marine Safety Office Long Island Sound, 120 Woodward Avenue, New Haven, CT 06512 between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Petty Officer C. D. Stubblefield, Command Center, Captain of the Port, Long Island Sound at (203) 468–4428.

SUPPLEMENTARY INFORMATION:

Regulatory Information

Pursuant to 5 U.S.C. 553(b)(B), a notice of proposed rulemaking (NPRM) will not be published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective less than 30 days after **Federal Register** publication. Due to the fact that plans for this event were recently finalized, there was insufficient time to draft and publish a NPRM. Any delay encountered in this regulation's effective date would be contrary to the public interest since immediate action is needed to protect the maritime public from the hazards associated with the fireworks display, which is intended for public entertainment.

Background and Purpose

The Iron Spring Farm, Inc., is sponsoring a 10 minute fireworks display in the Atlantic Ocean, Southampton, NY. The safety zone will be in effect from 8:45 p.m., July 19, 2000 until 9:40 p.m. Eastern Daylight Savings Time, July 19, 2000. The safety zone covers all waters of the Atlantic Ocean within a 800 foot radius of the fireworks launching barge which will be located in the Atlantic Ocean, Southampton, NY, in approximate position; 40°–51′20″N, 072°–24′00″W, (NAD 1983). This zone is required to protect the maritime community from the safety dangers associated with this fireworks display. Entry into or movement within this zone will be prohibited unless authorized by the Captain of the Port or his on-scene representative.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The safety zone involves only a portion of the Atlantic Ocean and entry into this zone will be restricted for only 55 minutes. Although this regulation prevents traffic from transiting this section of the Atlantic Ocean, the effect of this regulation will not be significant for several reasons: the duration of the event is limited; the event is at a late hour; all vessel traffic may safely pass around this safety zone; and extensive, advance maritime advisories will be made.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

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

In addition to the statutes and Executive Orders already addressed in this preamble, the Coast Guard considered the following executive orders in developing this final rule and reached the following conclusions:

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

E.O. 12875, Enhancing the Intergovernmental Partnership. This

final rule meets applicable standards in sections 3(a) and 3(b)(2) of this Order to minimize litigation, eliminate ambiguity, and reduce burden.

E.O. 13405, Protection of Children from Environmental Health Risks and Safety Risks. This final rule is not an economically significant rule and does not concern an environmental risk to safety disproportionately affecting children.

List of Subjects in 33 CFR Part 165

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

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

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46. Section 165.100 is also issued under authority of Sec. 311, Pub. L. 105–383.

2. Add temporary § 165.T01–140 to read as follows:

§ 165.T01–140 The Iron Spring Farm Fireworks Display, Southampton, NY.

(a) *Location.* The safety zone includes all waters of the Atlantic Ocean within a 800 foot radius of the launch barge located in the Atlantic Ocean, Southampton, NY. in approximate position 40°-51′20″N, 072°-24′00″W (NAD 1983).

(b) *Effective date.* This section is effective on July 19, 2000 from 8:45 p.m. until 9:40 p.m., July 19, 2000.

(c) *Regulations.* (1) The general regulations covering safety zones contained in section 165.23 of this part apply.

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

Dated: June 25, 2000.

David P. Pekoske,

Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.

[FR Doc. 00–17913 Filed 7–13–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–00–012]

RIN 2115–AA97

Safety Zone: Mashantucket Pequot Fireworks Display, Thames River, New London, CT

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the Mashantucket Pequot Fireworks Display to be held on the Thames River, New London, CT on July 15, 2000. This action is needed to protect persons, facilities, vessels and others in the maritime community from the safety hazards associated with this fireworks display. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATE: This regulation is effective on July 15, 2000, from 8:55 p.m. until 10:10 p.m. In case of inclement weather, July 16, 2000 is the scheduled rain date for this event.

ADDRESSES: Documents relating to this temporary final rule are available for inspection and copying at U.S. Coast Guard Group/Marine Safety Office Long Island Sound, 120 Woodward Avenue, New Haven, CT 06512. Normal office hours are between 7:30 a.m. and 4 p.m., Monday through Friday, except holidays. Comments may also be faxed to this address. The fax number is (203) 468–4443.

FOR FURTHER INFORMATION CONTACT: Chief Chris Stubblefield, Group/MSO Long Island Sound, New Haven, Connecticut (203) 468–4428.

SUPPLEMENTARY INFORMATION:

Request for Comments

Pursuant to 5 U.S.C. 553(b)(B), a notice of proposed rulemaking (NPRM) will not be published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective less than 30 days after **Federal Register** publication. Due to the fact that plans for this event were recently finalized, there was insufficiant time to draft and publish a NPRM. Any delay encountered in this regulation's effective date would be contrary to the public interest since immediate action is needed to protect the maritime public from the hazards associated with the fireworks display, which is intended for public entertainment.

However, we encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking CGD01–00–012 indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8.5 by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Coast Guard Group/MSO Long Island Sound Command Center at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Mashantucket Pequot Tribal Nation of Mashantucket, CT. is sponsoring a 30 minute fireworks display in the Thames River, New London, CT. The fireworks display will occur on July 15, 2000, from 9:25 p.m. until 9:55 p.m.. The safety zone covers all waters of the Thames River within a 1000 foot radius of the fireworks launching barges which will be located off New London, CT., in approximate positions; barge one, 41° – 21′01.5″N, 072° – 05′25″W, barge two, 41° – 20′58″N, 072° – 05′23″W, and barge three, 41° – 20′53.5″N, 072° – 05′21″W (NAD 1983). This zone is required to protect the maritime from the safety dangers associated with this fireworks display. Entry into or movement within this zone will be prohibited unless authorized by the Captain of the Port or his on-scene representative.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT)

(44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This safety zone involves only a portion of the Thames River and entry into this zone will be restricted for 75 minutes on July 15, 2000. Although this regulation prevents traffic from transiting this section of Thames River, the effect of this regulation will not be significant for several reasons: the duration of the event is limited; the event is at a late hour; all vessel traffic may safely pass around this safety zone; and extensive, advance maritime advisories will be made.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this proposal would have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons discussed under the Regulatory Evaluation above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant impact on a substantial number of small entities.

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104–121], the Coast Guard wants to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. If your small business or organization would be affected by this final rule and you have questions concerning its provisions or options for compliance, please call Chief Chris Stubblefield, telephone (203) 468–4428.

The Ombudsman of Regulatory Enforcement for Small Business and Agriculture, and 10 Regional Fairness Boards, were established to receive comments from small businesses about enforcement by Federal agencies. The Ombudsman will annually evaluate such enforcement and rate each agency's responsiveness to small business. If you wish to comment on enforcement by the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 13132, and has determined that this regulations does not have federalism implications under that Order.

Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), the Coast Guard must consider whether this rule will result in an annual expenditure by state, local, and tribal governments, in aggregate of $100 million (adjusted annually for inflation). If so, the Act requires that a reasonable number of regulatory alternatives be considered, and that from those alternatives, the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule be selected. No state, local, or tribal government entities will be effected by this rule, so this rule will not result in annual or aggregate costs of $100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under Figure 2–1, paragraph 34(g), of Commandant Instruction, M 16475.C, this rule is categorically excluded from further environmental documentation. A written Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under Addresses.

Other Executive Orders on the Regulatory Process

In addition to the statutes and Executive Orders already addressed in this preamble, the Coast Guard considered the following executive orders in developing this final rule and reached the following conclusions:

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

E.O. 12875, Enhancing the Intergovernmental Partnership. This final rule meets applicable standards in sections 3(a) and 3(b)(2) of this Order to minimize litigation, eliminate ambiguity, and reduce burden.

List of Subjects in 33 CFR Part 165

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

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

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46. Section 165.100 is also issued under authority of Sec. 311, Pub. L. 105–383.

2. Add temporary § 165.T01–012 to read as follows:

§ 165.T01–012; Mashantucket Peqout Fireworks Display, Thames River, New London, CT.

(a) *Location.* The safety zone includes all waters of Thames River within a 1000 foot radius of the launch site located on the Thames River, New London, CT., in approximate positions: Barge one; 41°–21′01.5″N, 072°–05′25″W, Barge two: 41°–20′58″N, 072°–05′23″W, and Barge three; 41°–20′53.5″N, 072°–05′21″W (NAD 1983).

(b) *Effective date.* This section is effective on July 15, 2000 from 8:55 p.m. until 10:10 p.m. In case of inclement weather, July 16, 2000, is the scheduled rain date for this event.

(c)(1) *Regulations.* The general regulations covering safety zones contained in section 165.23 of this part apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the

designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard Vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: June 16, 2000.

David P. Pekoske,

Captain, U.S. Coast Guard, Captain of the Port, Group/Marine Safety Office Long Island Sound.

[FR Doc. 00–17914 Filed 7–13–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AK04

The Veterans Millennium Health Care and Benefits Act

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends Department of Veterans Affairs (VA) adjudication regulations to reflect changes made by the Veterans Millennium Health Care and Benefits Act. These changes concern payment of dependency and indemnity compensation to the surviving spouses of certain former prisoners of war; the provision of health care, education and home loan benefits to surviving spouses upon termination of their remarriages; and the addition of bronchiolo-alveolar carcinoma to the list of diseases that VA presumes are the result of exposure to radiation during active military service.

DATES: *Effective Dates:* The amendments to 38 CFR 3.22 and 3.309 are effective November 30, 1999. The amendment to 38 CFR 3.55 is effective December 1, 1999.

FOR FURTHER INFORMATION CONTACT: Bill Russo (211), Attorney-Advisor, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273–7210.

SUPPLEMENTARY INFORMATION: On November 30, 1999, the President signed into law the Veterans Millennium Health Care and Benefits Act, Pub. L. 106–117 (the Act). Three provisions of the Act directly affect the payment of VA benefits. These provisions concern: (1) Payment of dependency and indemnity compensation (DIC) to the surviving spouses of certain former prisoners of war (POWs); (2) provision of health care, education and home loan benefits to surviving spouses upon termination of their remarriages; and (3) addition of bronchiolo-alveolar carcinoma to the list of diseases that VA presumes are the result of exposure to radiation during active military service.

DIC benefits are generally payable to the survivors of veterans who died from their service-connected disabilities. In addition, 38 U.S.C. 1318 authorizes VA to pay DIC benefits to survivors of veterans whose deaths were not service-connected but who were continuously rated totally disabled due to service-connected disabilities for ten years or more immediately preceding the veteran's death, or for five years from the date of such veteran's discharge. Section 501 of Pub. L. 106–117 authorizes payment of DIC to the survivors of former POWs who died after September 30, 1999, and who were continuously rated totally disabled due to a service-connected disability for a period of not less than one year immediately preceding death. This provision is effective November 30, 1999, the date of enactment. This document amends 38 CFR 3.22, to reflect this change.

In 1998, Pub. L. 105–178 restored eligibility to DIC to a surviving spouse of a veteran if that person's subsequent remarriage had been terminated by death or divorce, or if a subsequent relationship had been terminated. Eligibility to DIC was restored effective October 1, 1998. This law restored eligibility only to DIC. Eligibility to ancillary benefits—including VA Civilian Health Care and Medical Program (CHAMPVA), chapter 35 education, and home loan guaranty benefits—was not restored.

Section 502 of Pub. L. 106–117 restores eligibility to health care benefits under 38 U.S.C. chapter 17 (CHAMPVA), education benefits under chapter 35, and home loan guaranty benefits under chapter 37 to a surviving spouse if his or her remarriage has been terminated by death or divorce, or if a surviving spouse has ceased living with another person and holding himself or herself out openly to the public as that person's spouse. Section 502 states that its changes shall take effect on the first day of the first month beginning after the month in which the Act is enacted, *i.e.,* December 1, 1999. This document amends 38 CFR 3.55 to reflect these changes.

Section 503 of the Act adds bronchiolo-alveolar carcinoma to the list of diseases that VA presumes result from exposure to radiation during active military service. This provision of the law is effective November 30, 1999. This document amends 38 CFR 3.309(d) to reflect these changes.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. These amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance program numbers are 64.100, 64.101, 64.104, 64.105, 64.106, 64.109, and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: June 28, 2000.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3 is amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. Section 3.22 is amended by:

A. In paragraph (a)(2)(i), removing the word ''or'' after the semi-colon at the end of the paragraph.

B. In paragraph (a)(2)(ii), removing the period at the end of the paragraph and adding, in its place, ''; or''.

C. Adding paragraph (a)(2)(iii) to read as follows:

§ 3.22 DIC benefits for survivors of certain veterans rated totally disabled at the time of death.

(a) * * *

(2) * * *

(iii) Rated by VA as totally disabling for a continuous period of not less than one year immediately preceding death, if the veteran was a former prisoner of war who died after September 30, 1999. (Authority: 38 U.S.C. 1318(b))

* * * * *

3. Section 3.55 is amended by redesigning paragraphs (a)(4), (a)(5), and

(a)(6) as paragraphs (a)(5), (a)(6) and (a)(8), respectively; and adding new paragraphs (a)(4) and (a)(7) to read as follows:

§ 3.55 Reinstatement of benefits eligibility based upon terminated marital relationships.

(a) * * *

(4) On or after December 1, 1999, remarriage of a surviving spouse terminated by death, divorce, or annulment, will not bar the furnishing of benefits relating to medical care for survivors and dependents under 38 U.S.C. 1713, educational assistance under 38 U.S.C. chapter 35, or housing loans under 38 U.S.C. chapter 37, unless the Secretary determines that the divorce or annulment was secured through fraud or collusion.

(Authority: 38 U.S.C. 103(d))

* * * * *

(7) On or after December 1, 1999, the fact that a surviving spouse has lived with another person and has held himself or herself out openly to the public as the spouse of such other person will not bar the furnishing of benefits relating to medical care for survivors and dependents under 38 U.S.C. 1713, educational assistance under 38 U.S.C. chapter 35, or housing loans under 38 U.S.C. chapter 37 to the surviving spouse if he or she ceases living with such other person and holding himself or herself out openly to the public as such other person's spouse.

(Authority: 38 U.S.C. 103(d)).

* * * * *

4. Section 3.309 is amended by adding paragraph (d)(2)(xvi) and an authority citation after the Note to read as follows:

§ 3.309 Disease subject to presumptive service connection.

* * * * *

(d) * * *

(2) * * *

(xvi) Bronchiolo-alveolar carcinoma.

* * * * *

(Authority: 38 U.S.C. 1112(c)(2))

[FR Doc. 00–17901 Filed 7–13–00; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–6729–7]

Finding of Failure To Submit a Required State Implementation Plan for Carbon Monoxide; Anchorage, AK

AGENCY: Environmental Protection Agency (EPA).

ACTION: Finding of Failure to Submit.

SUMMARY: EPA is taking final action in making a finding, under the Clean Air Act (CAA or Act), that Alaska failed to make a carbon monoxide (CO) nonattainment area state implementation plan (SIP) submittal required for Anchorage under the Act. Under certain provisions of the Act, states are required to submit SIPs providing for, among other things, reasonable further progress and attainment of the CO national ambient air quality standards (NAAQS) in areas classified as serious. The deadline for submittal of this plan for Anchorage was January 13, 2000. This action triggers the 18-month time clock for mandatory application of sanctions and the two-year time clock for a federal implementation plan (FIP) under the Act. This action is consistent with the CAA mechanism for assuring SIP submissions.

EFFECTIVE DATE: This action is effective as of July 13, 2000.

ADDRESSES: Written comments should be addressed to: Ms. Debra Suzuki, Office of Air Quality (OAQ–107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: John Pavitt, U.S. EPA, Region 10, Alaska Operations Office, 222 W. 7th Avenue, #19, Anchorage, Alaska 99513–7588, Telephone (907) 271–5083.

SUPPLEMENTARY INFORMATION:

I. Background

The CAA Amendments of 1990 were enacted on November 15, 1990. Under section 107(d)(1)(c) of the amended CAA, each CO area designated nonattainment prior to enactment of the 1990 Amendments, such as the Anchorage area, was designated nonattainment by operation of law upon enactment of the 1990 Amendments. Under section 186(a) of the Act, each CO area designated nonattainment under section 107(d) was also classified by operation of law as either ''moderate'' or ''serious'' depending on the severity of the area's air quality problem. CO areas with design values between 9.1 and 16.4 parts per million (ppm), such as the Anchorage area, were classified as moderate. These nonattainment designations and classifications were codified in 40 CFR part 81. See 56 FR 56846 (November 6, 1991).

(1) The CO nonattainment area is the ''Anchorage Area, Anchorage Election District (part), Anchorage nonattainment area boundary.'' 40 CFR 81.302.

States containing areas that were classified as moderate nonattainment by operation of law under section 107(d) were required to submit SIPs designed to attain the CO NAAQS as expeditiously as practicable but no later than December 31, 1995. Under section 186(a)(4), Alaska requested and EPA granted a one-year extension of the December 31, 1995 attainment deadline (61 FR 33676, June 28, 1996).

(2) The moderate area SIP requirements are set forth in section 187(a) of the Act and differ depending on whether the area's design value is above or below 12.7 ppm. The Anchorage area has a design value above 12.7 ppm. 40 CFR 81.302.

Anchorage exceeded the CO NAAQS three times during calendar year 1996. On June 12, 1998, EPA made a final finding that the Anchorage CO nonattainment area did not attain the CO NAAQS under the CAA-mandated attainment date after having received a one-year extension from the mandated attainment date of December 31, 1995 for moderate nonattainment areas to December 31, 1996. As a result of that finding, which went into effect on July 13, 1998, (63 FR 32128, June 12, 1998) the Anchorage, Alaska CO nonattainment area was reclassified as serious. The State had 18 months or until January 13, 2000 to submit a new State Implementation Plan (SIP) demonstrating attainment of the CO NAAQS as expeditiously as practicable but no later than December 31, 2000, the CAA attainment date for serious areas. Anchorage complied with the CO NAAQS in 1997, 1998, and 1999, with one or fewer exceedances recorded in each of these years, and no exceedances in the year 2000 to date.

The Alaska Department of Environmental Conservation (ADEC) and the Municipality of Anchorage (MOA) have been conducting local research aimed at quantifying the impact of motor vehicle cold start emissions and warm-up idling on ambient CO in Anchorage. The local research program included: (1) A CO saturation monitoring study to better characterize the nature of the CO problem in Anchorage's neighborhoods and near major roadways; (2) a driver

idling behavior study to quantify the prevalence and duration of extended warm-up idling among Anchorage drivers in the winter months; (3) cold weather motor vehicle emission testing to quantify the proportion of emissions that occur during cold starts and warm-up idles; and (4) a ''real world'' CO emissions inventory that would better reflect unique winter season driving behaviors and cold weather motor vehicle emissions. MOA and ADEC anticipate that the information provided by these studies will be critical to the preparation of a credible SIP. Notwithstanding significant efforts to complete its CO SIP, the State failed to meet the January 13, 2000 deadline for the required SIP submission. EPA is therefore compelled to find that the State of Alaska has failed to make the required SIP submission for Anchorage. The CAA establishes specific consequences if EPA finds that a State has failed to meet certain requirements of the CAA. Of particular relevance here is CAA section 179(a)(1), the mandatory sanctions provisions. Section 179(a) sets forth four findings that form the basis for applications of a sanction. The first finding, that a State has failed to submit a plan required under the CAA, is the finding relevant to this rulemaking.

If Alaska has not made the required complete submittal by January 13, 2002, pursuant to CAA section 179(a) and 40 CFR 52.31, the offset sanction identified in CAA section 179(b) will be applied in the affected area. If the State has still not made a complete submission by July 13, 2002, then the highway funding sanction will apply in the affected area, in accordance with 40 CFR 52.31. In addition, CAA section 110(c) provides that EPA must promulgate a federal implementation plan (FIP).

(3) In a 1994 rulemaking, EPA established the Agency's selection of the sequence of these two sanctions: the offset sanction under section 179(b)(2) shall apply at 18 months, followed six months later by the highway sanction under section 179(b)(1) of the Act. EPA does not choose to deviate from this presumptive sequence in this instance. For more details on the timing and implementation of the sanctions, see 59 FR 39832 (August 4, 1994), promulgating 40 CFR 52.31, ''Selection of sequence of mandatory sanctions for findings made pursuant to section 179 of the Clean Air Act.''

The sanctions will not take effect if, before January 13, 2002, EPA finds that the State has made a complete submittal of a plan addressing the serious area CO requirements for Anchorage. In addition, EPA will not promulgate a FIP if the State makes the required SIP submittal and EPA takes final action to approve the submittal before July 13, 2002 (section 110(c)(1) of the Act). EPA encourages the responsible parties in Alaska to continue working together on a CO SIP which can eliminate the need for potential sanctions and a FIP.

II. Final Action

A. Rule

Today, EPA is making a finding of failure to submit for the Anchorage CO nonattainment area, due to failure of the State to submit a SIP revision addressing the serious area CO requirements of the CAA.

B. Effective Date Under the Administrative Procedures Act

EPA has issued this action as a rulemaking because the Agency has treated this type of action as rulemaking in the past. However, EPA believes that it has the authority to issue this action in an informal adjudication, and is considering which administrative process—rulemaking or informal adjudication—is appropriate for future actions of this kind. Because EPA is issuing this notice as a rulemaking, the Administrative Procedures Act (APA) applies. Today's notice is effective as of July 13, 2000. Under the APA, 5 U.S.C. 553(d)(3), agency rulemaking may take effect before 30 days after the date of publication in the **Federal Register** if an agency has good cause to mandate an earlier effective date. Today's action concerns a SIP submission that is already overdue and the State is aware of the applicable provisions of the CAA relating to overdue SIPs. In addition, today's action simply starts a ''clock'' that will not result in sanctions for 18 months, which the State may ''turn off'' through the submission of a complete SIP submittal. These reasons support an effective date prior to 30 days after the date of publication.

C. Notice-and-Comment Under the Administrative Procedures Act

This notice is a final agency action, but is not subject to the notice-and-comment requirements of the APA, 5 U.S.C. 533(b). EPA believes that because of the limited time provided to make findings of failure to submit regarding SIP submissions, Congress did not intend such findings to be subject to notice-and-comment rulemaking. However, to the extent such findings are subject to notice-and-comment rulemaking, EPA invokes the good cause exception pursuant to the APA, 5 U.S.C. 553(d)(3). Notice and comment are unnecessary because no EPA judgment is involved in making a nonsubstantive finding of failure to submit SIPs required by the CAA. Furthermore, providing notice and comment would be impracticable because of the limited time provided under the statute for making such determinations. Finally, notice and comment would be contrary to the public interest because it would divert Agency resources from critical substantive review of submitted SIPs. See 58 FR 51270, 51272, note 17 (October 1, 1993); 59 FR 39832, 39853 (August 4, 1994).

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute (see Section II.C in this **Federal Register** action), it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This action is not a regulation that will have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The action also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this action, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729,

February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of July 13, 2000. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 12, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations.

Dated: June 26, 2000.

Chuck Clarke,

Regional Administrator, Region 10.

[FR Doc. 00–17190 Filed 7–13–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[KS 105–1105a; FRL–6733–9]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Control of Emissions From Hospital/Medical/Infectious Waste Incinerators (HMIWI); State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the state of Kansas' section 111(d) plan for controlling emissions from existing HMIWIs. The plan was submitted to fulfill the requirements of sections 111 and 129 of the Clean Air Act (CAA). The state plan establishes emission limits and controls for sources constructed on or before June 20, 1996.

DATES: This rule is effective on September 12, 2000 without further notice, unless EPA receives adverse comment by August 14, 2000. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments must be submitted to Wayne Kaiser, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we, us, or our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What are the requirements of section 129 of the CAA?

What is a section 111(d) state plan?

What is Subpart Ce?

What are the requirements for the HMIWI state plan? What is contained in the Kansas state plan?

What are the approval criteria for the state plan?

What Are the Requirements of Section 129 of the CAA?

Section 129 of the CAA Amendments of 1990 requires us to set air emission standards and emission guidelines (EG) under the authority of section 111 of the CAA to reduce pollution from incinerators that burn solid waste. Incinerators that burn medical waste are classified as solid waste incinerators and therefore must be regulated.

What Is a Section 111(d) State Plan?

Section 111(d) of the CAA, ''Standards of Performance for New Stationary Sources,'' authorizes us to set air emissions standards for certain categories of sources. These standards are called new source performance standards (NSPS). When an NSPS is promulgated for new sources, we also publish an EG applicable to the control of the same pollutant from existing (designated) facilities. States with designated facilities must then develop a state plan to adopt the EG into its body of regulations and submit it to us for approval. The state plan is called a 111(d) plan.

What Is Subpart Ce?

We issued regulations to reduce air pollution from incinerators that are used to burn hospital waste and/or medical/infectious waste. The NSPS at 40 CFR Part 60, Subpart Ec, and the EG, Subpart Ce, were promulgated by us on September 15, 1997 (62 FR 48374). These rules apply to new and existing incinerators used by hospitals and health care facilities, as well as to incinerators used by commercial waste disposal companies to burn hospital waste and/or medical/infectious waste. The EG applies to existing HMIWIs that commenced construction on or before June 20, 1996.

The Subpart Ce EG is not a direct Federal regulation but is a ''guideline'' for states to use in regulating existing HMIWIs. The EG requires states to submit for our approval a section 111(d) state plan containing air emission regulations and compliance schedules for existing HMIWIs.

What Are the Requirements for the HMIWI State Plan?

A section 111(d) state plan submittal must meet the requirements of 40 CFR Part 60, Subpart B, sections 60.23 through 60.26, and 40 CFR Part Ce. Subpart B addresses public participation, legal authority, emission standards and other emission limitations, compliance schedules,

emission inventories, source surveillance, and compliance assurance and enforcement requirements. The technical requirements for existing HMIWI sources are contained in Subpart Ce. A state will generally address the HMIWI technical requirements by adopting by reference Subpart Ce. The section 111(d) state plan is required to be submitted within one year of the EG promulgation date, *i.e.,* by September 15, 1998.

Prior to submittal to us, the state must make available to the public the state plan and provide opportunity for public comment. If a state fails to have an approvable plan in place by September 15, 1999, sources will be subject to a Federal plan when it is promulgated.

What Is Contained in the Kansas State Plan?

The state of Kansas submitted its section 111(d) state plan to us for approval on May 4, 2000. The state adopted the EG requirements into Kansas Department of Health and Environment (KDHE) rules at Kansas Administrative Regulations (K.A.R.) Article 19, rules 28–19–729 through 28–19–729h. The state effective date of these rules is May 5, 2000. The section 111(d) state plan contains:

1. A demonstration of the state's legal authority to implement the section 111(d) state plan. Pages one and two of the plan list 15 separate Kansas statutes which provide the basis for Kansas' authority to adopt and implement the 111(d) plan.

2. State rules K.A.R. 28–19–729 through 28–19–729h, as the enforceable mechanism. The specific rules are:

- 28–19–729—Standards for ''hospital/medical/infectious waste incinerators.''
- 28–19–729a—''Hospital/medical/infections waste incinerators''; definitions.
- 28–19–729b—''Hospital/medical/infections waste incinerators''; emission standards.
- 28–19–729c—Standards for ''Hospital/medical/infections waste incinerators''; compliance schedule.
- 28–19–729d—''Hospital/medical/infections waste incinerators''; operation, operator training, and qualification standards.
- 28–19–729e—''Hospital/medical/infections waste incinerators''; waste management plan.
- 28–19–729f—''Hospital/medical/infections waste incinerators''; inspections.
- 28–19–729g—''Hospital/medical/infections waste incinerators''; compliance, performance testing, and monitoring guidelines.
- 28–19–729h—''Hospital/medical/infections waste incinerators''; reporting and recordkeeping.

3. An inventory of sources in Appendix A.

4. An emissions inventory on pages six through eleven, and in Table 2 of the plan.

5. Emission limits, as protective as the EG, are contained in rule 28–19–729b and Table 1 of the rule.

6. A final compliance date of September 15, 2002, which is specified in rule 28–19–729c(b)(2).

7. Testing, monitoring, and inspection requirements, which are contained in rule 28–19–729g.

8. Reporting and recordkeeping requirements, which are contained in rule 28–19–729h.

9. Operator training and qualification requirements, which are contained in rule 28–19–729d.

10. Requirements for the development of waste management plans, which are contained in rule 28–19–729e.

11. A record of the public notice and hearing requirements is provided starting on page 14 of the plan.

12. Provisions for progress reports to EPA is discussed on page 15 of the plan.

13. Title V permit application due date requirements are specified on page 13 of the plan. Title V permit applications must be submitted no later than September 15, 2000.

14. A final compliance date of September 15, 2002, is specified in the plan on page 13 and in rule 28–19–729c.

What Are the Approval Criteria for the State Plan?

The state plan was reviewed for approval against the following criteria: 40 CFR 60.23 through 60.26, Subpart B, ''Adoption and Submittal of State Plans for Designated Facilities,'' and 40 CFR 60, 60.30e through 60.39e, Subpart Ce, ''Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators.'' A detailed discussion of our evaluation of the state plan is included in our technical support document (TSD) located in the official file for this action and available from the EPA contact listed above. The state plan meets all of the applicable approval criteria.

Final Action

Based on the rationale discussed above and in further detail in the TSD associated with this action, EPA is approving Kansas' May 4, 2000, section 111(d) state plan for the control of HMIWI emissions, except for those facilities located in Indian country. Any facilities located in Indian country will be subject to a Federal plan. In Kansas there are no known HMIWIs in Indian country. Nothing in this action should be construed as making any determinations or expressing any position with regard to Kansas' audit law (K.S.A. 60–3332, *et seq.*), and this action does not express or imply any viewpoint regarding any legal deficiencies in this or any other Federally authorized, deleted, or approved program resulting from the effect of Kansas's audit law.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the state plan should adverse comments be filed. This rule will be effective September 12, 2000 without further notice unless the Agency receives adverse comments by August 14, 2000.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 12, 2000 and no further action will be taken on the proposed rule.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves preexisting requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as

specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing state plan submissions, our role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), we have no authority to disapprove a state plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state plan submission, to use VCS in place of a state plan submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, we have taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. We will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 12, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects 40 CFR Part 62

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: June 20, 2000.

Michael Sanderson,

Acting Regional Administrator, Region 7.

Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart R—Kansas

2. Subpart R is amended by adding § 62.4179 and an undesignated center heading to read as follows:

Air Emissions From Existing Hospital/Medical/Infectious Waste Incinerators

§ 62.4179 Identification of plan.

(a) Identification of plan. Kansas plan for the control of air emissions from hospital/medical/infectious waste incinerators submitted by the Kansas Department of Health and Environment on May 4, 2000.

(b) Identification of sources. The plan applies to existing hospital/medical/infectious waste incinerators constructed on or before June 20, 1996.

(c) Effective date. The effective date of the plan is September 12, 2000.

[FR Doc. 00–17872 Filed 7–13–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301013; FRL–6593–1]

RIN 2070–AB78

Pyridaben; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of pyridaben [2-tert-butyl-5-(4-tert-butylbenzylthio)-4-choropyridazin-3(2H)-one] in or on citrus; citrus pulp, dried; citrus oil; apple; apple pomace, wet; pear; tree nuts; almond hulls; pistachio; peach (and nectarine); plum; prune; grape; and cranberry. Time-limited tolerances are established for residues of pyridaben on apricot and cherry (sweet and tart) which will expire and are revoked on June 30, 2004. This regulation also establishes tolerances for residues of pyridaben and its metabolites PB–7 and PB–9 in or on the following ruminant commodities: milk, and milk-by-product, fat, and meat of cattle, goat, hog, and sheep. BASF Corporation and the Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act (FQPA) of 1996.

DATES: This regulation is effective July 14, 2000. Objections and requests for hearings, identified by docket control number OPP–301013, must be received by EPA on or before September 12, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301013 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Melody A. Banks, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone

number: 703–305–5413; and e-mail address: Banks.Melody@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

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

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301013. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is 703–305–5805.

II. Background and Statutory Findings

In the **Federal Register** of January 9, 1998 (63 FR 1457) (FRL–5762–6) and February 13, 1998 (63 FR 7414) (FRL–5768–9), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP 7F4881) for a tolerance by BASF Corporation, Agricultural Products, P.O. Box 13528, Research Triangle Park, NC 27709. This notice included a summary of the petition prepared by BASF Corporation, Agricultural Products. Also, in the **Federal Register** of December 22, 1999 (64 FR 71767) (FRL–6396–2), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a as amended by the FQPA (Public Law 104–170) announcing the filing of a pesticide petition (PP 9E6002) for a tolerance by IR-4, Center for Minor Crop Pest Management, North Brunswick, NJ 08902–3390. There were no comments received in response to either notice of filing.

The petition requested that 40 CFR 180.494 be amended by establishing a tolerance for residues of pyridaben [2-tert-butyl-5-(4-tert-butylbenzylthio-4-choropyridazin-3(2H)-one], in or on the following crops and crop groups: peach and nectarine at 2.4 ppm; plum and prune (fresh) at 0.7 ppm; prune (dried) at 2.2 ppm; cherry and apricot at 0.05 ppm; grape at 1.4 ppm; and tree nut crops at 0.05 ppm. IR-4 proposed a tolerance for cranberry at 0.50 ppm in support of regional registration. Registration for use on cranberry will be geographically limited based on the available residue data to the states of Maine, New Jersey, Rhode Island, Massachusetts, New York, Connecticut, New Hampshire, Vermont, and Delaware. Persons seeking broader registration should contact the appropriate EPA product manager concerning additional residue data required to expand the use area.

Time-limited tolerances currently exist in 40 CFR 180.494 for pyridaben on apple, pear, almond, and citrus. After further reassessment of the data base in lieu of additional data submitted by the petitioner for tolerances originally established for pyridaben on the forementioned commodities, BASF petitioned EPA to reestablish tolerances for pyridaben on apple and pear. As a result of additionally submitted crop field trial data, EPA is proposing that the tolerances be adjusted as follows: apple from 0.6 ppm to 0.5 ppm and pear from 0.75 ppm to 0.6 ppm; tolerances for citrus and almond will remain the same. Currently, a separate tolerance exists in 40 CFR 180.494(a) for pyridaben on almond. Since the crop group, tree nuts, includes almond, the existing almond tolerance is being removed. However, the existing tolerance for almond hulls at 4.0 ppm will remain the same.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that '' there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable

certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue.''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for residues of pyridaben in or on peach at 2.5 ppm; nectarine at 2.5 ppm; plum at 0.75 ppm; cherry, sweet at 0.05 ppm; cherry, tart at 0.05 ppm; apricot at 0.05 ppm; crop group 14, tree nuts at 0.05 ppm; pistachio at 0.05 ppm; grape at 1.5 ppm; prune at 2.5 ppm; and cranberry at 0.5 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by pyridaben are discussed in this unit.

Pyridaben belongs to the pyridazinone class of pesticides. Other active ingredients that belong to this class of pesticides include pyrazon and norflurazon. EPA does not currently have data available to determine with certainty whether pyridaben has a common mechanism of toxicity with any other substances. For the purposes of this human health risk assessment, EPA has not assumed that pyridaben has a common mechanism of toxicity with other pesticides.

In general, the acute toxicology studies conducted on technical grade pyridaben demonstrate that it has moderate to mild toxic effects. It was classified as Toxicity Category III based upon the acute oral LD_{50} of 1,100 milligrams/kilograms (mg/kg) in male rats and 570 mg/kg in female rats. The dermal LD_{50}, in rabbits was greater than or equal to 2,000 mg/kg (Toxicity Category III) and the inhalation LC_{50} was 0.66/0.64 milligram/liter (mg/L) in male/female rats, respectively (Toxicity Cateogry III). The eye irritation study (rabbits) produced slight ocular irritation (Toxicity Cateogry III). Pyridaben was not a dermal irritant (Toxicity Cateogry IV) or sensitizer.

There are guideline acute and subchronic neurotoxicity studies. The neurological symptoms in the available neurotoxicity studies and some of the other studies, were seen only at relatively high doses. The neurotoxic effects (piloerection, hypocricturty, tremors, partially closed eyes) were weak, sporadic, transient and/or non-reproducible with no neuropathological effects. In a 90–day rat study, plasma cholinesterase enzyme (ChE) was statistically-significantly inhibited in the females at the highest dose tested (HDT) of 350 ppm (25.71 mg/kg/day for males or 27.68 mg/kg/day for females). Based on these neurotoxic effects, EPA has required that a developmental neurotoxicity study be submitted. There are developmental toxicity studies in rats and rabbits (by the oral or dermal routes), and a multi-generation reproduction study in rats. The developmental and reproduction toxicity studies showed no effect on reproduction and no increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to pyridaben as demonstrated by a higher developmental lowest observed adverse effect level (LOAEL) than those observed to produce maternal toxicity.

The most common toxicity endpoint across the various studies and tested species was decreased body weight/decreased body weight gain followed by decreased feed consumption and/or feed efficiency. These effects were observed in 13–week feeding studies in mice, rats, and dogs, in a 21–day dermal toxicity study in rats, in a 28–day inhalation toxicity study in rats, in a 13–week neurotoxicity study in rats, in 1-year feeding studies in dogs, in a 78–week feeding/carcinogenicity study in mice, in developmental toxicity studies in rats and rabbits, in a 2-generation reproduction study in rats, and in a 2-year feeding/carcinogenicity study in rats. It is noteworthy that the LOAELs were always based on decreases in body weight gain/decreases in body weight or decreases in food consumption. Other effects were sporadic and involved changes in certain clinical chemistry values or increases or decreases in organ weights. There is no evidence of increased susceptibility of infants and children to any of these endpoints.

In an acceptable rat metabolism study by the oral route, pyridaben was mainly eliminated in feces where 80–97% of the administered dose was excreted regardless of dose or site of label (pyridazinone or benzyl ring). Nearly 20% of the excreted residue in the feces was unmetabolized parent compound and there was some evidence of glucuronide conjugate(s) in the bile. The plasma levels following a single low oral dose (3 mg/kg) peaked at 2–3 hours while peak levels at the high dose (30 mg/kg) were at approximately 24 hours post-dose due, at least in part, to enterohepatic circulation where nearly 22–30% of an administered radioactive dose is excreted in bile within a period of 24 hours. Residual radioactivity was at or near background levels for most tissues by 72 to 168 hours. Generally, there seemed to be increased distribution to fat over time and, compared to other tissues, fat seemed to have relatively more residual radioactivity. Several metabolites, totaling up to 20–30, were resolved in urine and feces and some were structurally identified.

B. Toxicological Endpoints

1. *Acute toxicity.* An acute reference dose (RfD) of 0.13 mg/kg/day NOAEL = 13 mg/kg/day, uncertainty factor (UF) = 100 for use in assessing acute dietary risk for females 13 years and older. This acute RfD is based upon the developmental toxicity study with rats in which developmental effects (decreased fetal body weight and increased delayed bone ossification) were observed at the development LOAEL of 30 mg/kg/day. The acute population adjusted dose (PAD) = acute RfD/FQPA factor (1x) = 0.13 mg/kg/day for females 13 years older.

An acute RfD of 0.50 mg/kg/day (NOAEL = 50 mg/kg/day, UF = 100) was selected for use in assessing acute dietary risk for the general population. This acute RfD is based upon the acute oral neurotoxicity study with rats in which the following effects were observed at the LOAEL of 100 mg/kg/day: clinical signs of toxicity, decreased food consumption, and decreased body weight gain. The acute PAD = acute RfD/FQPA factor (1x) = 0.5 mg/kg/day for the U.S. population.

2. *Short-term and intermediate-term toxicity.* A NOAEL of 100 mg/kg/day was selected based on a 21–day dermal toxicity study in rats that resulted in decreased body weight gain in female rats at 300 mg/kg/day (LOAEL). A margin of exposure (MOE) of 100 or

greater is adequate since the FQPA factor was reduced to 1X.

EPA concluded that for short-term and intermediate-term aggregate exposure risk assessment the MOEs cannot be combined since the toxicological endpoints were different via the oral, dermal, and inhalation routes (i.e., no common endpoint of concern).

3. *Long-term dermal toxicity*. A long-term dermal endpoint was not selected as the use pattern does not indicate a potential for long-term exposure.

4. *Chronic toxicity*. A chronic RfD of 0.005 mg/kg/day (NOAEL = < 0.50 mg/kg/day; UF = 100) was selected for use in assessing chronic dietary risk. This chronic RfD is based on the chronic toxicity study in dogs, in which the following effects were observed at the LOAEL of 0.5 mg/kg/day: increased incidence of clinical signs in both sexes and decreased body weight gain in females. An additional uncertainty factor (3x, for not establishing a NOAEL) was not applied to the chronic RfD because the toxic response observed was very minimal and was considered to be a threshold effect. The 100x UF for use in assessing chronic dietary risk was considered to be adequate. The chronic cPAD = chronic RfD/FQPA factor (1x) = 0.005 mg/kg/day.

5. *Carcinogenicity*. Based on the lack of evidence of carcinogenicity in acceptable studies in male and female rats and mice, pyridaben was classified as a ''not likely'' human carcinogen based upon the proposed EPA Weight-of-the-Evidence Categories. Also, there was no indication that pyridaben is mutagenic in acceptable *in vitro* and *in vivo* studies.

C. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.494) for the residues of pyridaben, in or on a variety of raw agricultural commodities. Pyridaben is currently registered for use on almond, apple, citrus fruit, and pear. Time-limited tolerances are established in conjunction with these uses. Additionally, a time-limited tolerance for pyridaben in/on cranberries is established in conjunction with a section 18 request. BASF Corporation has proposed to make the tolerances for pyridaben in/on citrus fruit and pear permanent. Additionally, in today's action, tolerances will be established for pyridaben in/on tree nuts, pistachio, peach, nectarine, plum, prune, apricot, cherry, grape, and cranberry.

Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a Data Call-In for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

i. *Acute exposure and risk*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure.

EPA used the Dietary Exposure Evaluation Model (DEEM) software for conducting a Tier 1 acute dietary (food only) risk analysis. DEEM is a dietary exposure analysis system developed by Novigen Sciences, Inc. that is used to estimate exposure to a pesticide chemical in foods comprising the diets of the U.S. population, including population subgroups. DEEM contains food consumption data as reported by respondents in the Department of Agriculture (USDA) Continuing Surveys of Food Intake by Individuals conducted in 1989-1992. The assumptions of the Tier 1 acute dietary exposure analysis are tolerance level residues and 100 percent crop-treated estimates. The tolerance levels were adjusted to account for organosoluble residue content.

The acute DEEM analysis indicates the resulting dietary food exposures (at the 95th percentile) occupy up to 19% of the acute PAD for population subgroups exclusive to females 13 years and older. The highest exposed subgroup for females 13 years and older is females (13+/nursing). The analysis also shows that the resulting dietary food exposures (at the 95th percentile) occupy up to 18% of the acute PAD for population subgroups not specific to females 13 years and older. The highest exposed subgroup for population subgroups not specific to females 13 years and older is all infants (< 1-year).

ii. *Chronic exposure and risk*. EPA used DEEM software for conducting a Tier 2 chronic (non-cancer) dietary (food only) risk analysis. The assumptions of the Tier 2 chronic dietary exposure analysis are anticipated residue estimates and 100% crop-treated estimates. The chronic DEEM analysis indicates that the most highly exposed population subgroup is non-nursing infants which occupy up to 64% of the chronic PAD.

2. *From drinking water*. The Agency currently lacks sufficient water-related exposure data from monitoring to complete a quantitative drinking water exposure analysis and risk assessment for pyridaben. Therefore, the Agency is presently relying on computer-generated Estimated Environmental Concentrations (EECs). GENEEC and/or PRZM/EXAMS (both produce estimates of pesticide concentration in a farm pond) are used to generate EECs for surface water and SCI-GROW (an empirical model based upon actual monitoring data collected for a number of pesticides that serve as benchmarks) predicts EECs in ground water. These models take into account the use patterns and the environmental profile of a pesticide, but do not include consideration of the impact that processing raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for assessing whether a pesticide is likely to be present in drinking water at concentrations which would exceed human health levels of concern.

For any given pesticide, the SCI-GROW model generates a single EEC value of pesticide concentration in ground water. That EEC is used in assessments of both acute and chronic dietary risk. It is not unusual for the ground water EEC to be significantly lower than the surface water EECs. The GENEEC model generates several time-based EECs of pesticide concentration in surface water, ranging from 0–days (peak) to 56-days (average). The GENEEC peak EEC is used in assessments of acute dietary risk; the GENEEC 56–day (average) EEC is used in assessments of chronic (non-cancer and cancer) dietary risk. PRZM/EXAMS provides longer duration (up to 36 years) values of pesticide concentration in surface water and is mainly used when a refined EEC is needed.

A drinking water level of comparison (DWLOC) is the concentration of a pesticide in drinking water that would be acceptable as a theoretical upper limit in light of total aggregate exposure to that pesticide from food, water, and residential uses. EPA uses DWLOCs internally in the risk assessment process as a surrogate measure of potential exposure associated with pesticide exposure through drinking water. In the absence of monitoring data for a pesticide, the DWLOC is used as a point of comparison against the conservative

EECs provided by computer modeling (SCI-GROW, GENEEC < PRZM/EXAMS).

EPA back-calculates DWLOCs by a two-step process: exposure food + (if applicable) residential is subtracted from the PAD to obtain the maximum acceptable exposure allowed in drinking water; DWLOCs are then calculated using that value and default body weight and drinking water consumption figures. In assessing human health risk, DWLOCs are compared to EECs. When EECs are less than DWLOCs, HED considers the aggregate risk from food + water + (if applicable) residential exposures to be acceptable.

EPA conducted its Tier II screening-level assessments using the simulation models SCI-GROW and PRZM/EXAMS to generate EECs for ground and surface water, respectively. The modeling was conducted based on the environmental profile and the maximum seasonal application rate proposed for pyridaben (0.5 lbs active ingredient (ai/acre) x 2 applications/acre/year on apples). The EECs are summarized in Table 1 below.

TABLE 1.—ESTIMATED ENVIRONMENTAL CONCENTRATIONS (EECS)

SCI-GROW [1] (µg/L) [2]	PRZM/EXAMS [3] (µg/L)	
0.006 (acute & chronic)	0.215 (peak)	0.020 (long-term mean)

[1] SCI-GROW (Screening Concentration in Ground Water) is an empirical model for predicting pesticide levels in ground water. The value from SCI-GROW is considered an upper bound concentration estimate.
[2] µg/L = parts per billion (ppb).
[3] PRZM (Pesticide Root Zone Model—simulates the transport of a pesticide off the agricultural field) and EXAMS (Exposure Analysis Modeling System—simulates fate and transport of a pesticide in surface water. PRZM/EXAMS can substantially overestimate true pesticide concentrations in drinking water.

i. *Acute exposure and risk*. Drinking Water Levels of Comparison (DWLOCs). The DWLOCs value are shown in Table 2. For each population subgroup listed, the acute PAD and the acute dietary (food only) exposure for that subgroup were used to calculate the acute DWLOC for the subgroup, using the formulas in footnotes 1 and 2 of Table 2.

TABLE 2.—DWLOCS FOR ACUTE DIETARY EXPOSURE

Population Subgroup	Acute PAD (mg/kg/day)	Food Exposure (mg/kg/day)	Max. Water Exposure (mg/kg/day) [1]	SCI-GROW (µg/L)	PRZM/EXAMS Peak EEC (µg/L)	DWLOC (µg/L) [2,3,4]
U.S. Population (all seasons)	0.50	0.023	0.48	0.006	0.215	1.6×10^4
Females 13+ [5]	0.13	0.024	0.11			3.2 x 103
Infants/Children [5]	0.50	0.091	0.41			4.1×10^3
Other [5]	0.50	0.029	0.47			1.6 x 10

[1] Maximum Water Exposure (mg/kg/day) = Acute PAD (mg/kg/day)—Acute Food Exposure + Acute Residential Exposure (mg/kg/day). Pyridaben has no registered residential uses.
[2] DWLOC (µg/L) = Maximum Water Exposure (mg/kg/day) x body wt (kg) (10^{-3} mg/µg) x water consumed daily (L/day). µ/L = ppb.
[3] Default body weights are: general U.S. Population, 70 kg; males (13+ years old), 70 kg; females (13+ years old), 60 kg; other adult populations, 70 kg; and, all infants/children, 10 kg.
[4] Default daily drinking rates are 2 L/day for adults and 1 L/day for children.
[5] Within each of these subgroups, the subpopulation with the highest (acute) food exposure was selected; namely, females (13+/nursing); all infants (< 1-year); and, the non-Hispanic other, respectively.

ii. *Chronic exposure and risk.—Chronic (Non-Cancer) Dietary (Drinking Water) Exposure—Drinking water levels of comparison (DWLOCs)*. The DWLOC value are shown in Table 3. For each population subgroup listed, the chronic PAD (0.005 mg/kg/day) and the chronic dietary (food only) exposure for that subgroup were used to calculate the chronic DWLOC for the subgroup, using the formulas in footnotes 1 and 2 of Table 3.

TABLE 3.—DWLOCS FOR CHRONIC (NON-CANCER) DIETARY EXPOSURE

Population Subgroup	Chronic PAD (mg/kg/day)	Food Exposure (mg/kg/day)	Max. Water Exposure (mg/kg/day) [1]	SCI- GROW (µg/L)	PRZM/EXAMS Chronic EEC (µg/L)	DWLOC (µg/L) [2,3,4]
U.S. population (48 contiguous States, all seasons)	0.0050	0.00073	0.0043	0.006	0.020	1.4×10^2
Females 13+ [5]		0.0011	0.0039			1.2×10^2
Infants/children [5]		0.0032	0.0018			18

TABLE 3.—DWLOCS FOR CHRONIC (NON-CANCER) DIETARY EXPOSURE—Continued

Population Subgroup	Chronic PAD (mg/kg/day)	Food Exposure (mg/kg/day)	Max. Water Exposure (mg/kg/day) [1]	SCI- GROW (µg/L)	PRZM/EXAMS Chronic EEC (µg/L)	DWLOC (µg/L) [2,3,4]
Other [5]		0.00094	0.0041			1.4 x 10

[1] Maximum Water Exposure (mg/kg/day) = Chronic PAD (mg/kg/day)—Chronic Food Exposure + Chronic Residential Exposure (mg/kg/day). Pyridaben has no registered residential uses.
[2] DWLOC (µg/L) = Maximum Water Exposure (mg/kg/day) x body weightt (kg) (10^{-3} mg/µg) x water consumed daily (L/day). µg/L = ppb.
[3] HED default body weights are: General U.S. population, 70 kg; males (13+ years old), 70 kg; females (13+ years old), 60 kg; other adult populations, 70 kg; and, all infants/children, 10 kg.
[4] HED default daily drinking rates are 2 L/day for adults and 1 L/day for children.
[5] Within each of these subgroups, the subpopulation with the highest (chronic) food exposure was selected; namely, females (13+/nursing); non-nursing infants (< 1-year); and the Pacific Region, respectively.

3. *From non-dietary exposure*. At present, there are no registered or proposed residential uses of pyridaben. Thus, a residential exposure assessment is not required. There is a potential for occupational exposure to pyridaben during mixing, loading, and application activities. However, risks from these routes of exposure are considered negligible.

4. *Cumulative exposure to substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether pyridaben has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, pyridaben does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that pyridaben has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Aggregate Risks and Determination of Safety for U.S. Population and Infants and Children.

1. *Acute risk*. Acute aggregate risk is the sum of exposures resulting from acute dietary food + acute drinking water. This acute aggregate risk assessment was conducted for all population subgroups, and the acute PAD of 0.13 mg/kg/day is applied to all population subgroups exclusive to females 13 years and older and the acute PAD of 0.50 mg/kg/day is applied to all other population subgroups.

EPA used DEEM software for conducting a Tier 1 acute dietary (food only) risk analysis. The assumptions of the Tier 1 dietary exposure analysis are tolerance level residues and 100% crop-treated estimates. The tolerance levels were adjusted to account for organosoluble residue content.

The resulting dietary food exposures (at the 95th percentile) occupy up to 19% of the acute PAD for population subgroups exclusive to females 13 years and older (females (13+/nursing)). The resulting dietary food exposures (at the 95th percentile) occupy up to 18% of the acute PAD for population subgroups not specific to females 13 years and older (all infants (< 1-year)).

The EECs for assessing acute aggregate dietary risk are 0.006 ppb (in ground water, based on SCI-GROW) and 0.215 ppb (in surface water, based on the PRZM/EXAMS). The back-calculated DWLOCs (Table 2) for assessing acute aggregate dietary risk range from 3.2 x 10^3 ppb for the most highly exposed population subgroup (females 13 years and older/nursing) to 1.6 x 10^4 ppb for the U.S. population (all seasons) and non-Hispanic others.

The SCI-GROW and PRZM/EXAMS acute EECs are less than the Agency's level of comparison (the DWLOC value for each population subgroup) for pyridaben residues in drinking water as a contribution to acute aggregate exposure. EPA thus concludes with reasonable certainty that residues of pyridaben in drinking water will not contribute significantly to the aggregate acute human health risk and that the acute aggregate exposure from pyridaben residues in food and drinking water will not exceed the Agency's level of concern (100% of the acute PAD) for acute dietary aggregate exposure by any population subgroup. EPA generally has no concern for exposures below 100% of the acute PAD, because it is a level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to the health and safety of any population subgroup. This risk assessment is considered high confidence, conservative, and very protective of human health.

2. *Chronic risk*. Chronic (non-cancer) aggregate risk is the sum of exposures resulting from chronic dietary food + chronic drinking water + chronic residential uses. Pyridaben has no registered residential uses. Therefore, this risk assessment is the aggregate of chronic dietary food + chronic drinking water exposures only. This chronic aggregate risk assessment was conducted for all population subgroups, and the chronic PAD is applied to all population subgroups.

EPA used DEEM software for conducting a Tier 2 chronic (non-cancer) dietary (food) exposed analysis. Tier 2 assumptions are anticipated residue levels and 100% crop-treated estimates.

The resulting dietary food exposures occupy up to 64% of the chronic PAD for the most highly exposed population subgroup, non-nursing infants. These results should be viewed as conservative (health protective) risk estimates. Refinements such as use of percent crop-treated information and/or additional refinements of the anticipated residue estimates would yield even lower estimates of chronic dietary exposure.

The EECs for assessing chronic aggregate dietary risk are 0.006 ppb (in ground water, based on SCI–GROW) and 0.020 ppb (in surface water, based on the PRZM/EXAMS). The back-calculated DWLOCs for assessing chronic aggregate dietary risk range from 18 ppb for the most highly exposed population subgroup (non-nursing infants, < 1-year old) to 1.4 x 10^2 ppb for the U.S. population (48 contiguous States—all seasons).

The SCI–GROW and PRZM/EXAMS chronic EECs are less than the Agency's

level of comparison (the DWLOC value for each population subgroup) for pyridaben residues in drinking water as a contribution to chronic aggregate exposure. EPA thus, concludes with reasonable certainty that residues of pyridaben in drinking water will not contribute significantly to the aggregate chronic human health risk and that the chronic aggregate exposure from pyridaben residues in food and drinking water will not exceed the Agency's level of concern (100% of the chronic PAD) for chronic dietary aggregate exposure by any population subgroup. EPA generally has no concern for exposures below 100% of the chronic PAD, because it is a level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to the health and safety of any population subgroup. This risk assessment is considered high confidence, conservative, and very protective of human health.

Cancer aggregate risk is based on the sum of exposures resulting from chronic dietary food + chronic drinking water + chronic residential uses. Pyridaben is classified as a ''not likely'' human carcinogen based upon the proposed EPA Weight-of-the-Evidence Categories. Thus, pyridaben does not pose a cancer risk.

3. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to pyridaben residues.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*—i. *In general*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using UF in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard UF (usually 100 for combined interspecies and intraspecies variability) and not the additional tenfold MOE/UF when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Conclusion*. There is a complete toxicity data base for pyridaben and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10x safety factor to protect infants and children should be removed. The FQPA factor is removed because:

a. The toxicity data base is complete for the assessment of the effects following *in utero* and /or postnatal exposure to pyridaben.

b. The toxicity data provided no indication of quantitative or qualitative increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure.

c. Although a developmental neurotoxicity study is required, this requirement is not based on criteria reflecting some special concern for developing fetuses or the young which are generally used for requiring a developmental neurotoxicity study and retention of the FQPA safety factor; and, therefore, does not warrant retention of the FQPA safety factor.

d. The exposure assessments will not underestimate the potential dietary (food and water) exposures for infants and children from the use of pyridaben (currently no residential exposure is expected).

2. *Acute risk*. The resulting dietary food exposures (at the 95th percentile) occupy up to 19% of the acute PAD for population subgroups exclusive to females 13 years and older (females (13+/nursing). The resulting dietary food exposures (at the 95th percentile) occupy up to 18% of the acute PAD for population subgroups not specific to females 13 years and older (all infants < 1-year).

The EECs for assessing acute aggregate dietary risk are 0.006 ppb (in ground water, based on SCI-GROW) and 0.215 ppb (in surface water, based on the PRZM/EXAMS). The back-calculated DWLOCs for assessing acute aggregate dietary risk range from 3.2×10^3 ppb for the most highly exposed population subgroup (females 13 years and older/ nursing) to 1.6×10^4 ppb for the U.S. population (all seasons) and non-Hispanic others.

3. *Chronic risk*. Using the exposure assumptions described in this unit, EPA has concluded that aggregate exposure to pyridaben from food will utilize 64% of the RfD for infants and children. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to pyridaben in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD.

4. *Short-term or intermediate-term risk*. These aggregate risk assessments take into account chronic dietary exposure from food and water (considered to be a background exposure level) plus (short-term, intermediate-term, or long-term, as applicable) indoor and outdoor residential exposure. Since pyridaben is not registered for residential uses, short-term and intermediate-term, and long-term aggregate risk is captured by the assessment for aggregate chronic risk.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to pyridaben residues.

IV. Other Considerations

A. Metabolism in Plants and Animals

1. *Nature of residues in plants*. EPA concludes that the tolerance expression for plant commodities will include pyridaben only and that all organosoluble residues may be presumed to be of comparable toxicity to the parent. Thus, the risk assessment for human dietary consumption of pyridaben-treated plant commodities will include all organosoluble residues. EPA has calculated a ratio of pyridaben to organosoluble residues based upon the low dose pyridaben apple and orange metabolism studies. These studies were chosen because they approximate the proposed use of pyridaben on citrus and apples. For dietary exposure analysis, tolerance levels of pyridaben in/on plant commodities will be multiplied by the ratio of organosoluble residues to pyridaben.

2. *Nature of residues in animals*. EPA concludes that the tolerance expression for ruminant commodities will include pyridaben and its metabolites PB–7 and PB–9 and that all organosoluble residues may be presumed to be of comparable toxicity to the parent. Thus, the risk assessment for human consumption of ruminant commodities will also include all organosoluble residues. For liver, EPA will calculate a ratio of pyridaben, PB–7 and PB–9 residues to organosoluble residues based upon the ruminant metabolism study. For milk and other tissues, best estimates of residues of concern for risk assessment may need to be based on total organosoluble residues in the goat metabolism study. Dietary exposure of

poultry to pyridaben residues is not expected as a result of the proposed uses.

3. *Enforcement analytical methods—Plants—Apple, pear, peach, plum, cherry, apricot, grape, pistachio and tree nuts.* BASF Method D9312A: For solid samples, residues of pyridaben are extracted by blending the sample with a solution of acetone/water (8:2 v/v). For juice, residues are extracted by mixing the sample with 80% acetone/water (v/v). Following filtration to remove the sample material, the solvent is exchanged to water and an aliquot of the extract is applied to a mini-C18 silica gel column. Residues are eluted with 80% methanol/water (v/v) and the solvent is exchanged to toluene for analysis. Residues of pyridaben are quantified by analysis of the sample extracts by gas chromatography (GLC) utilizing an electron capture detector (63Ni—ECD) and a fused silica column. The method has been validated to a quantification limit of 0.05 p.m. This method has been independently validated for use with apple and pear commodities as per PR Notice 88-5.

BASF Method D9312 has been adequately validated in both apples and almonds. The submitted method is adequate for the enforcement of the proposed tolerances for residues of pyridaben in/on apples, pears, and almonds. This method has been validated by EPA and was submitted to the Food and Drug Administration (FDA) for inclusion in PAM, Volume II.

4. *Citrus BASF Method D9309B* BASF Method D9309B is briefly described as follows: whole fruit are homogenized and then blended with acetone:water. Sodium chloride is added to the extract and the residues are partitioned into dichloromethane, dried by evaporation, dissolved in DCM:hexane (3:7, v/v) and cleaned up on a silica gel column eluted with DCM:hexane (11:9, v/v). The samples are then dried, dissolved in toluene, and analyzed by GC/ECD. This method has been independently validated for use with citrus commodities as per PR Notice 88-5. The submitted method is adequate for enforcement of permanent tolerances for residues of pyridaben in/on citrus and will be forwarded to the Food and Drug Administration for publication in PAM Vol. II.

5. *Enforcement analytical method—Animals—BASF Method D9405 for animal matrices.* BASF Method D9405 is briefly described as follows: macerate animal tissue with acetone/water and milk with acetone. Filter and wash the sample with the same solvent. Methylate a portion of the extract with diazomethane. After adding water, load the methylated sample onto a octadecylsilane column and elute with methanol/water. The sample is then evaporated to dryness, dissolved in acetonitrile and analyzed by GC/ECD. This method has been independently validated for use with milk and liver commodities as per PR Notice 88–5. BASF Method D9405 has been validated in both liver and milk.

B. International Residue Limits

There are no established or proposed Codex, Canadian or Mexican limits for residues of pyridaben in/on plant commodities or for pyridaben and its metabolites (PB–7 and PB–9) in/on livestock commodities. Therefore, no compatibility issues exist with regard to the proposed U.S. tolerances discussed in this risk assessment.

V. Conclusion

Therefore, the tolerance is established for residues of pyridaben, in or on peach at 2.5 ppm; nectarine at 2.5 ppm; plum at 0.75 ppm; cherry, sweet at 0.05 ppm; cherry, tart at 0.05 ppm; apricot at 0.05 ppm; crop group, 14, tree nuts at 0.05 ppm; almond hulls at 4.4 ppm; pistachio at 0.05 ppm; grape at 1.5 ppm; prune at 2.5 ppm; cranberry at 0.5 ppm.

VI. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301013 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before September 12, 2000.

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

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

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

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources

and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301013, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

VII. Regulatory Assessment Requirements

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

VIII. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: June 28,2000.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.494 is revised to read as follows:

§ 180.494 Pyridaben; tolerance for residues.

(a) *General*. Tolerances are established for residues of the insecticide pyridaben [2-tert-butyl-5-(4-tert-butylbenzylthio)-4-chloropyridazin-3(2H)-one] on the following plants, and of the insecticide pyridaben and its metabolites (2-tert-butyl-5-(4-(1-carboxy-1-methylethyl)benzylthio)-4-chloropyridazin-3(2H)-one] and (2-tert-butyl-5-[4(-1,1-dimethyl-2-hypdroxyethyl)benzylthio-4-chloropyridazinn-3(2H)-one) on animals, as indicated in the following table.

Commodity	Parts per million	Revocation/expiration date
Almond hulls	4.0	None
Apple	0.5	None
Apple, wet pomace	0.75	None
Apricot	0.05	6/30/04
Cattle, fat	0.05	None
Cattle, meat	0.05	None
Cattle, meat by-products	0.05	None
Cherry, sweet	0.05	6/30/04
Cherry, tart	0.05	6/30/04
Citrus, crop group	0.05	None
Citrus, dried pulp	1.5	None
Citrus, oil	10.0	None
Goat, fat	0.0	None
Goat, meat	0.05	None
Goat meat by-products	0.05	None
Grape	1.5	None
Hog, fat	0.05	None
Hog, meat	0.05	None
Hog meat by-products	0.05	None
Horse, fat	0.05	None
Horse meat	0.05	None
Horse meat by-products	0.05	None
Milk	0.01	None
Nectarine	2.5	None
Nut, tree crop group	0.05	None
Peach	2.5	None
Pear	0.75	None
Pistachio	0.05	None
Plum	2.5	None
Prune	2.5	None
Sheep, fat	0.05	None
Sheep, meat	0.05	None
Sheep, meat by-product	0.05	None

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* Tolerances with regional registration, as defined in § 180.1(n) are established for residues of the insecticide pyridaben [2-tert-butyl-5(4-tert-butylbenzylthio)-4-chloropyridazin-3(2H)-one] in or on the following raw agricultural commodity:

Commodity	Parts per million	Expiration Date
Cranberry	0.5	None

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 00–17619 Filed 7–13–00; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 80, and 90

[WT Docket No. 99–332; FCC 00–220]

Frequency 156.250 MHz Available for Port Operations Purposes in Los Angeles and Long Beach, CA Ports

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the Commission's rules to designate marine VHF Channel 05A for port operations communications in Los Angeles and Long Beach, California ports. The effect of this rule is that it will foster reliable marine communications and increase safe vessel transit in the ports. The action will allow the LA/LB Pilots to manage vessel traffic in that area more efficiently and protect the marine environment by preventing collisions and groundings.

EFFECTIVE DATE: August 14, 2000.

FOR FURTHER INFORMATION CONTACT: James Shaffer, Wireless Telecommunications Bureau at (202) 418–0680.

SUPPLEMENTARY INFORMATION:

1. This is a summary of the Commission's *Report and Order* (R&O) FCC 00–220, adopted on June 15, 2000, and released on June 20, 2000. The full text of this *R&O* is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY A257, 445 12th Street, S.W., Washington, D.C. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W. Washington, D.C. 20037.

Summary of Report and Order

2. By letter the Los Angeles and Long Beach Port Pilots (jointly, LA/LB Pilots) request the assignment of an intership

marine VHF channel dedicated to port operations (namely, pilot-tug communications) in the Ports of Los Angeles and Long Beach, California. They note that marine VHF Channels 01A (156.050 MHz), 05A (156.250 MHz), and 63A (156.175 MHz) are currently used for U.S. Coast Guard (Coast Guard) designated Vessel Traffic Service (VTS) systems in defined areas of the United States. The LA/LB Pilots recommend that the Commission designate one of these for intership communications regarding port operations to improve vessel traffic safety in the Los Angeles and Long Beach port area.

3. Based on the record in this proceeding, we conclude that designating 156.250 MHz for intership communications related to port operations for the ports of Los Angeles and Long Beach, CA will allow the Marine Exchange of Los Angeles-Long Beach Harbor, Inc. to manage vessel traffic in those areas more efficiently. Further this action will help protect the marine environment by preventing vessel collisions and groundings. Therefore, we are amending § 80.373(f) of the Commission's Rules to indicate that frequency 156.250 MHz (marine VHF Channel 05A) is available only for intership communications related to port operations within the Los Angeles and Long Beach harbor areas. The radio protection area will be defined as ''within a 25-nautical mile radius of Point Fermin, California.''

4. In light of our action designating 156.250 MHz for intership communications related to port operations for the ports of Los Angeles and Long Beach, CA, we will lift the current freeze imposed on licensing the Public Safety Pool frequencies of 156.240 and 156.2475 MHz within 100 miles of the geographic center of Los Angeles. The freeze will be lifted as of the date of the release of this *R&O*. In addition, we are adopting our proposal to make assignments on these Public Safety Pool frequencies within 100 miles of the geographic center of Los Angeles, CA secondary to marine port operations on 156.250 MHz. By secondary, we mean that radio communications from licensees on the Public Safety Pool frequencies 156.240 and 156.2475 MHz may not cause interference to marine port operations on 156.250 MHz and licensees on the Public Safety Pool frequencies are not protected from interference from marine port operations on 156.250 MHz.

5. Finally, we amend 47 CFR 0.331 of the Commission's Rules to authorize the Chief, WTB to amend the maritime service rules at the request of the Coast Guard to indicate that the use of marine VHF private communications frequencies in defined port areas are available for intership communications related to such port operations in order to alleviate the communications congestion related to such port operations.

6. We do not envision or anticipate that allowing the Chief, WTB at the request of the Coast Guard to amend the frequency table in 47 CFR 80.373(f) and make marine VHF frequencies available for intership port operations communications in defined port areas will impact those licenses sold in Auction No. 20, VHF Public Coast (VPC) Service. The forty-two licenses that were auctioned involved the nine channels (''working frequencies'') in the 157.1875–157.4500 MHz (ship transmit) and 161.775–162.0125 MHz (coast transmit) bands assignable to VHF public coast stations for public correspondence. These auctioned frequencies are assigned for radiotelephone working frequencies and are assignable to ship and public coast stations. The frequencies in 47 CFR 80.373(f) are for private communications and are assignable for ship-to-ship and ship-to-coast private communications and are below the frequency range of the auctioned public correspondence frequencies. Therefore the auctioned public correspondence frequencies will not be considered for intership port operations.

7. Overall, we believe the approach outlined above will allow the Commission to expedite Coast Guard requests, which will promote increased safe vessel transit and protect U.S. waters and associated natural resources from environmental harm.

8. Accordingly, we adopt rules: to amend § 80.373(f) of the Commission's Rules to indicate that frequency 156.250 MHz (marine VHF Channel 05A) is available only for intership communications related to port operations within the Los Angeles and Long Beach harbor areas (The radio protection area for these harbors will be defined as ''within a 25-nautical mile radius of Point Fermin, California''); to amend § 90.20(c) of the Commission's Rules to indicate that assignments on public safety pool frequencies of 156.240 and 156.2475 MHz within 100 miles of the geographic center of Los Angeles are secondary to marine port operations on 156.250 MHz; and to amend § 0.331 of the Commission's Rules to authorize the Chief, Wireless Telecommunications Bureau to amend the maritime service rules at the request of the Coast Guard to indicate that the use of marine VHF private communications frequencies in defined port areas are available for intership communications related to port operations. We conclude that adoption of these rule changes will allow the vessel traffic in the congested areas of the Los Angeles and Long Beach harbors to be managed more efficiently and will protect the marine environment by preventing vessel collisions and groundings.

Final Regulatory Flexibility Analysis (FRFA)

9. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rulemaking* (NPRM) prepared in this proceeding. The Commission sought written public comment on the proposals in the *NPRM,* including comments on the IRFA. This present FRFA conforms to the RFA.

A. Need for, and Objectives of, the Report and Order

10. In this proceeding, we amend parts 0, 80 and 90 of the Commission's Rules to indicate that frequency 156.250 MHz (marine VHF Channel 05A) is available for intership communications related to port operations within the Los Angeles and Long Beach harbor areas. The adopted rules will promote safe vessel transit and protect U.S. waters and associated natural resources from environmental harm.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

11. No comments were submitted specifically in response to the IRFA.

C. Description and Estimate of the Number of Small Entities to Which the Adopted Rules Will Apply

12. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally ''any not-for-profit enterprise which is independently

owned and operated and is not dominant in its field. The adopted rules would apply to small businesses in the marine radio services that use a marine VHF radio. According to SBA's regulations, a radiotelephone (wireless) must employ no more than 1,500 persons less in order to qualify as a small business concern. According to the Bureau of the Census, only twelve radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

13. There are no reporting, recordkeeping and other compliance requirements proposed.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

14. By making frequency spectrum available, the adopted rules will have a beneficial economic impact on small business entities that use the frequency 156.250 for intership communications related to port operations within the Los Angeles and Long Beach harbor areas. This flexible approach allows the vessel pilots to manage vessel traffic in the Los Angeles and Long Beach harbor areas more efficiently and protect the marine environment by preventing vessel collisions and groundings. Currently under the rules frequency 156.250 MHz is similarly made available to maritime mobile and was made available for port operations purposes within the Coast Guard designated Houston and New Orleans, and Seattle Vessel Traffic Service (VTS) systems. The alternative in this context—to retain the allocation for maritime mobile in the two ports—would not assist the maritime community in the way expected, including the small entities affected. We believe that the adopted rules are sufficient to alleviate the communications congestion related to port operations in the Los Angeles and Long Beach harbor areas. This decision benefits small entities and seeks to ensure reliable marine communications, increase safe vessel transit to protect U.S. waters and associated natural resources from environmental harm, and increase port efficiency thereby promoting growth within the shipping community.

Report to Congress: The Commission will send a copy of the *R&O,* including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, see 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *R&O,* including FRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *R&O* and FRFA (or summaries thereof) will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

Ordering Clauses

15. Pursuant to the authority of § 4(i), 303(r), and 332(a)(2) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), 332(a)(2), parts 0, 80 and 90 of the Commission's Rules, are amended as set forth.

16. The rule changes will become effective August 14, 2000.

17. The Commission's Reference Information Center, Consumer Information Bureau, SHALL SEND a copy of this *R&O,* WT Docket No. 99–332, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

18. Pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), that this proceeding is *terminated*.

List of Subjects

47 CFR Part 0

Administrative practice and procedure.

47 CFR Part 80

Communications equipment, marine safety.

47 CFR Part 90

Communications equipment.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Final Rules

For reasons discussed in the preamble, Title 47 of the Code of Federal Regulations, parts 0, 80 and 90, are proposed to be amended as follows:

PART 0—COMMISSION ORGANIZATION

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

Authority: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

2. Section 0.331 is amended by adding new paragraph (d)(3) to read as follows:

§ 0.331 Authority delegated.

* * * * *

(d) * * *

(3) Designate by footnote to frequency table in § 80.373(f) of this chapter marine VHF frequencies are available for intership port operations communications in defined port areas.

PART 80—STATIONS IN THE MARITIME SERVICES

3. The authority citation for part 80 continues to read as follows:

Authority: Secs. 4, 303, 307 (e), 309 and 322, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307 (e), 309 and 322 unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

4. In § 80.373 (f), footnote 2 to the table is revised as follows:

§ 80.373 Private communications frequencies.

* * * * *

[2] 156.250 MHz is available for port operations communications use only within the U.S. Coast Guard designated VTS radio protection areas of New Orleans and Houston described in § 80.383. 156.250 MHz is available for intership port operations communications used only within the area of Los Angeles and Long Beach harbors, within a 25-nautical mile radius of Point Fermin, California.

* * * * *

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

5. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

6. Section 90.20 (c) (3) is amended by revising the entry to read as follows:

§ 90.20 Public Safety Pool.

* * * * *

(c) * * *

(3) * * *

PUBLIC SAFETY POOL FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations	Coordinator
* *	* *	* *	* *
156.240	do	43, 79	PH
* *	* *	* *	* *

* * * * *

7. Section 90.20(d) is amended by designating the second paragraph (77) as (78) and by adding paragraph (79) to read as follows:

(d) * * *

(79) This frequency will be secondary to marine port operations within 100 miles of Los Angeles (coordinates 34° 03′ 15″ north latitude and 118° 14′ 28″ west longitude).

* * * * *

[FR Doc. 00–17665 Filed 7–13–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 93–144, GN Docket No. 93–252, PP Docket No. 93–253; FCC 99–368]

Rules To Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: In this document, the Commission addresses petitions for reconsideration of the 800 MHz Specialized Mobile Radio (SMR) proceeding in which the Commission reconsidered the rules governing the upper 200 channels of the SMR.

DATES: Effective July 14, 2000.

FOR FURTHER INFORMATION CONTACT: Alice Elder, Wireless Telecommunications Bureau, Industry Analysis Division (202) 418–0660.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Memorandum Opinion and Order on Reconsideration (*Second MO&O*) in PR Docket No. 93–144, adopted November 23, 1999 and released December 2, 1999. The complete text of this *Second MO&O* is available for inspection and copying during normal business hours in the Commission's Reference Center, room CY–A257, 445 12th Street SW, Washington, DC. This *Second MO&O* is also available through the Internet at http://www.fcc.gov/Bureaus/Wireless/Orders/1999/. The complete text may be purchased from the Commission's duplicating contractor, International Transcription Service, Inc. (ITS, Inc.) at 1231 20th Street NW, Washington, DC 10036, (202) 857–3800.

1. Two petitions for reconsideration (''Petitions''), were filed with the Commission seeking reconsideration of the Amendment of Part 1 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, *Memorandum Opinion and Order on Reconsideration (First MO&O)*, 62 FR 41225 (July 31, 1997). In that document the Commission reconsidered the rules governing the upper 200 channels of the 800 MHz Specialized Mobile Radio (SMR). No pleadings were filed in response to these petitions.

2. First, petitioners request reconsideration of the Commission's decision to modify its competitive bidding rules to eliminate installment payments and adopt larger bidding credits for entities qualifying as small businesses for the auction of the upper 200 channels of the 800 MHz SMR service. Second, one petitioner claims that the Commission acted in violation of its rules regarding delegation of authority and the Administrative Procedure Act (APA), by delegating the authority to set the level of upfront payments to the Wireless Telecommunications Bureau (''Bureau''). Third, one petitioner requests review of the Commission's decisions to license the upper 200 channels of the 800 MHz SMR spectrum in contiguous blocks, eliminate the finder's preference program, and use competitive bidding to license the upper 200 channels in the 800 MHz spectrum band. Finally, one petitioner requests clarification of the Commission's decision to require incumbents seeking geographic licenses to show that their external site facilities are constructed and operational.

3. On reconsideration, the Commission affirms its decision to eliminate installment payments. At the outset, the Commission notes that Congress did not require the use of installment payments in all auctions, but rather recognized them as one means of promoting the objectives of section 309(j)(3) of the Communications Act. However, Congress has not dictated that installment payments are the only tool in assisting small business. The Commission's experience with the installment payment program has led it to conclude that installment payments may not always serve the public interest. As noted in the First MO&O, the Commission has found that obligating licensees to pay for their licenses as a condition of receipt requires greater financial accountability from applicants. The Commission determined in its Amendment of Part 1 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, *Third Report and Order and Second Further Notice of Proposed Rule Making (Third R&O)*, 63 FR 2315 (January 15, 1998), that installment payments should not be used in the immediate future as a means of financing small business participation in our auction program. Moreover, in recent legislation, Congress dictated that certain future auctions effectively be conducted without installment payments. The Balanced Budget Act of 1997 requires the Commission to conduct the competitive bidding required by that act in a manner that ensures that the proceeds of such bidding are deposited in the U.S. Treasury by September 30, 2002. After careful consideration, the Commission concludes that it has met its statutory obligations without offering installment payment plans for 800 MHz SMR licensees. The Commission notes further that in place of installment payments, it established larger bidding credits for the 800 MHz SMR auction to provide for qualifying small businesses.

4. The Commission disagrees with petitioner's contentions that installment payments are necessary to ensure a meaningful opportunity for small businesses to participate in the 800 MHz SMR auction. The rules were changed more than ten weeks before the filing deadline, providing an adequate opportunity for the parties to alter their business plans, if necessary. The Commission also notes that the elimination of installment payments

and the timing of that auction did not prevent the participation of small businesses in the 800 MHz SMR auction, in which 52 of the 62 qualified bidders were eligible for small or very small business credits.

5. Second, the Commission rejects the claim that the Bureau's authority to set the level of upfront payments constitutes an illegal delegation of authority. Section 0.131 of the Commission's rules explicitly states that the Bureau has delegated authority to develop, recommend and administer policies, programs and rules concerning auctions of spectrum for wireless telecommunications. In the Amendment of Part 1 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, *Order and Memorandum Opinion & Order (Part 1 Order)*, 62 FR 13540 (March 21, 1997), rulemaking, the Commission clarified that pursuant to § 0.131 of its rules, the Chief of the Wireless Telecommunications Bureau has delegated authority to implement all of the Commission's rules pertaining to auctions procedures. This includes the authority to choose competitive bidding designs and methodologies; conduct auctions; administer application, payment, licenses grant and denial procedures; and determine upfront and down payment amounts as well as minimum opening bids. These actions do not fall under the prohibited activities set forth in § 0.331 of the Commission's rules, which include acting upon complaints, petitions, requests, applications for review and notices of proposed rulemaking. The Commission concludes that the Bureau's actions are valid, as they affect procedural rather than substantive issues, and are, therefore, in compliance with our rules. Furthermore, the Bureau's actions were in compliance with the APA. Pursuant to 5 U.S.C. 553(b), an agency may modify procedural rules without notice and comment. Because the rule modifications were procedural in nature and did not affect the substantive rights of interested parties, the Bureau's actions fall within that exception.

6. Third, the Commission dismisses as repetitions the request that it reconsider its decisions to allocate licenses in the upper 200 channels of the 800 MHz SMR spectrum in contiguous blocks, eliminate the finder's preference program, and use competitive bidding as the licensing mechanism for the upper 200 channels in the 800 MHz band. The Commission disagrees with petitioner's contention that these decisions were unsupported by evidence and therefore, arbitrary and capricious. These conclusions were set forth first in the Amendment of Part 1 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, *First Report and Order, Eighth Report and Order and Second Further Notice of Proposed Rulemaking (First R&O)*, 61 FR 6212 (February 16, 1996), and reaffirmed in the *First MO&O*. In each case, the Commission set forth reasoned explanations for its decision. It is not in the public interest to revisit these issues.

7. Finally, the Commission finds it unnecessary to address the request for clarification of the Commission's decision to require incumbents seeking geographic licenses to show that their facilities are constructed and operational. In the *First R&O*, the Commission stated that such licensees are required to make a one-time filing of specific information for each of their external base station sites to assist the staff in updating the Commission database after the close of the auction for the upper 200 channels of the 800 MHz SMR spectrum. Under that decision, the Commission also requires evidence that such facilities are constructed and placed in operation and that, by operation of its rules, no other licensees would be able to use these channels within a geographic area.

8. It is ordered that the Petitions are denied.

List of Subjects in 47 CFR Part 90

Radio.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–17848 Filed 7–13–00; 8:45 am]

BILLING CODE 6712–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1804 and 1852

Security Requirements for Unclassified Information Technology Resources

AGENCY: National Aeronautics and Space Administration.

ACTION: Final Rule.

SUMMARY: This final rule amends the NASA FAR Supplement (NFS) to: include a requirement for contractors and subcontractors working with NASA unclassified Information Technology Systems to take certain Information Technology (IT) security related actions; document those actions; and submit related reports to NASA.

EFFECTIVE DATE: July 14, 2000.

FOR FURTHER INFORMATION CONTRACT: Karl Beisel, NASA Headquarters (Code HC), Washington, DC, (202) 358–0416, email: *Karl.Beisel@hq.nasa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

A proposed rule was published in the **Federal Register** on January 5, 2000 (65 FR 429–431). Comments were received from two respondents, an industry association and the NASA Office of Inspector General (OIG). All comments were considered in the development of this final rule. This final rule includes changes for clarification of meaning, consistency of wording (and phrasing), and to eliminate informational redundancies within the clause as it references information in other related documents.

This final rule requires NASA contractors and subcontractors to comply with the security requirements outlined in NASA Policy Directive (NPD) 2810.1, Security of Information Technology, and NASA Procedures and Guidelines (NPG) 2810.1, Security of Information Technology, and additional safeguarding requirements delineated in the contract clause. Currently, NASA contractors have no definitive contractual requirement to follow NASA directed policy in safeguarding unclassified NASA data held via information technology (computer systems). This final rule establishes these requirements in a contract clause. These policies apply to all IT systems and networks under NASA's purview operated by or on behalf of the Federal Government, regardless of location.

B. Regulatory Flexibility Act

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The changes merely formalize standard procedures in using Government computer systems and databases. Small entities will not need to significantly revise internal procedures to satisfy the NFS changes.

C. Paperwork Reduction Act

An Office of Management and Budget (OMB) approval for data collection has been approved under OMB Control No. 2700–0098.

List of Subjects in 48 CFR Parts 1804 and 1852.

Government procurement.

Tom Luedtke,

Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1804 and 1852 are amended as follows:

1. The authority citation of 48 CFR Parts 1804 and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1804—ADMINISTRATIVE MATTERS

2. Revise the title of section 1804.470 to read as follows:

1804.470 Security requirements for unclassified information technology resources.

3. Revise sections 1804.470–2, 1804.470–3, and 1804.470–4 to read as follows:

1804.470–2 Policy.

(a) NASA policies and procedures on security for automated information technology are prescribed in NPD 2810.1, Security of Information Technology, and in NPG 2810.1, Security of Information Technology. Security requirements for safeguarding sensitive information contained in unclassified Federal computer systems are required in the following:

(1) All contracts for information technology resources or services. This includes, but is not limited to information technology hardware, software, and the management, operation, maintenance, programming, and system administration of information technology resources, to include computer systems, networks, and telecommunications systems.

(2) Contracts under which contractor personnel must have physical or electronic access to NASA's sensitive information contained in unclassified systems or information technology services that directly support the mission of the agency.

(b) The contractor must not use or redistribute any NASA information processed, stored, or transmitted by the contractor except as specified in the contract.

1804.470–3 Security plan for unclassified Federal Information Technology systems.

(a) The contracting officer, with the concurrence of the requiring activity, the center Chief Information Officer (CIO), and the center Information Technology (IT) Security Manager, may require the contractor to submit for post-award Government approval, a detailed Security Plan for Unclassified Federal Information Technology Systems. The plan must be required as a contract data deliverable that must be subsequently incorporated into the contract as a compliance document after Government approval. The plan must demonstrate a thorough understanding of NPG 2810.1 and NPD 2810.1 and must include, as a minimum, the security measures and program safeguards planned to ensure that the information technology resources acquired and used by contractor and subcontractor personnel—

(1) Are protected from unauthorized access, alteration, disclosure, or misuse of information processed, stored, or transmitted;

(2) Can maintain the continuity of automated information support for NASA missions, programs, and functions;

(3) Incorporate management, general, and application controls sufficient to provide cost-effective assurance of the systems' integrity and accuracy;

(4) Have appropriate technical, personnel, administrative, environmental, and access safeguards;

(5) Document and follow a virus protection program for all IT resources under its control; and

(6) Document and follow a network intrusion detection and prevention program for all IT resources under its control.

(b) The contractor must be required to develop and maintain IT System Security Plans, in accordance with NPG 2810.1, for systems for which the contractor has primary operational responsibility on behalf of NASA.

1804.470–4 Contract clauses.

The contracting officer must insert the clause at 1852.204–76, Security Requirements for Unclassified Information Technology Resources, in solicitations and contracts involving unclassified information technology resources.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Revise section 1852.204–76 to read as follows:

1852.204–76 Security Requirements for Unclassified Information Technology Resources.

As prescribed in 1804.470–4, insert the following clause:

Security Requirements for Unclassified Information Technology Resources July, 2000

(a) The Contractor shall comply with the security requirements outlined in NASA Policy Directive (NPD) 2810.1, Security of Information Technology, and NASA Procedures and Guidelines (NPG) 2810.1, Security of Information Technology. These policies apply to all IT systems and networks under NASA's purview operated by or on behalf of the Federal Government, regardless of location.

(b)(1) The Contractor shall ensure compliance by its employees with Federal directives and guidelines that deal with IT Security including, but not limited to, OMB Circular A–130, Management of Federal Information Resources, OMB Circular A–130 Appendix III, Security of Federal Automated Information Resources, the Computer Security Act of 1987 (40 U.S.C. 1441 *et seq.*), and all applicable Federal Information Processing Standards (FIPS).

(2) All Federally owned information is considered sensitive to some degree and must be appropriately protected by the Contractor as specified in applicable IT Security Plans. Types of sensitive information that may be found on NASA systems that the Contractor may have access to include, but are not limited to—

(i) Privacy Act information (5 U.S.C. 552a *et seq.*);

(ii) Export Controlled Data, (e.g. Resources protected by the International Traffic in Arms Regulations (22 CFR Parts 120–130)).

(3) The Contractor shall ensure that all systems connected to a NASA network or operated by the Contractor for NASA conform with NASA and Center security policies and procedures.

(c)(1) The Contractor's screening of Contractor personnel will be conducted in accordance with NPG 2810.1, Section 4.5 for personnel requiring unescorted or unsupervised physical or electronic access to NASA systems, programs, and data.

(2) The Contractor shall ensure that all such employees have at least a National Agency Check investigation. The Contractor shall submit a personnel security questionnaire (NASA Form 531), Name Check Request for National Agency Check (NAC) investigation, and Standard Form 85P, Questionnaire for Public Trust Positions (for specified sensitive positions), and a Fingerprint Card (FD–258 with NASA overprint in Origin Block) to the Center Chief of Security for each Contractor employee requiring screening. The required forms may be obtained from the Center Chief of Security. In the event that the NAC is not satisfactory, access shall not be granted. At the option of the Government, background screenings may not be required for employees with recent or current Federal Government investigative clearances.

(3) The Contractor shall have an employee checkout process that ensures—

(i) Return of badges, keys, electronic access devices and NASA equipment;

(ii) Notification to NASA of planned employee terminations at least three days in advance of the employee's departure. In the case of termination for cause, NASA shall be notified immediately. All NASA accounts and/or network access granted terminated employees shall be disabled immediately upon the employee's separation from the Contractor; and

(iii) That the terminated employee has no continuing access to

systems under the operation of the Contractor for NASA. Any access must be disabled the day the employee separates from the Contractor.

(4) Granting a non-permanent resident alien (foreign national) access to NASA IT resources requires special authorization. The Contractor shall obtain authorization from the Center Chief of Security prior to granting a non-permanent resident alien access to NASA IT systems and networks.

(d)(1) The Contractor shall ensure that its employees with access to NASA information resources receive annual IT security awareness and training in NASA IT Security policies, procedures, computer ethics, and best practices.

(2) The Contractor shall employ an effective method for communicating to all its employees and assessing that they understand any Information Technology Security policies and guidance provided by the Center Information Technology Security Manager (CITSM) and/or Center CIO Representative as part of the new employee briefing process. The Contractor shall ensure that all employees represent that they have read and understand any new Information Technology Security policy and guidance provided by the CITSM and Center CIO Representative over the duration of the contract.

(3) The Contractor shall ensure that its employees performing duties as system and network administrators in addition to performing routine maintenance possess specific IT security skills. These skills include the following:

(i) Utilizing software security tools.

(ii) Analyzing logging and audit data.

(iii) Responding and reporting to computer or network incidents as per NPG 2810.1.

(iv) Preserving electronic evidence as per NPG 2810.1.

(v) Recovering to a safe state of operation.

(4) The Contractor shall provide training to employees to whom they plan to assign system administrator roles. That training shall provide the employees with a full level of proficiency to meet all NASA system administrators' functional requirements. The Contractor shall have methods or processes to document that employees have mastered the training material, or have the required knowledge and skills. This applies to all system administrator requirements.

(e) The Contractor shall promptly report to the Center IT Security Manager any suspected computer or network security incidents occurring on any system operated by the Contractor for NASA or connected to a NASA network. If it is validated that there is an incident, the Contractor shall provide access to the affected system(s) and system records to NASA and any NASA designated third party so that a detailed investigation can be conducted.

(f) The Contractor shall develop procedures and implementation plans that ensure that IT resources leaving the control of an assigned user (such as being reassigned, repaired, replaced, or excessed) have all NASA data and sensitive application software permanently removed by a NASA-approved technique. NASA-owned applications acquired via a ''site license'' or ''server license'' shall be removed prior to the resources leaving NASA's use. Damaged IT storage media for which data recovery is not possible shall be degaussed or destroyed. If the assigned task is to be assumed by another duly authorized person, at the Government's option, the IT resources may remain intact for assignment and use of the new user.

(g) The Contractor shall afford NASA, including the Office of Inspector General, access to the Contractor's and subcontractor's facilities, installations, operations, documentation, databases and personnel. Access shall be provided to the extent required to carry out a program of IT inspection, investigation and audit to safeguard against threats and hazards to the integrity, availability and confidentiality of NASA data, and to preserve evidence of computer crime.

(h)(1) The Contractor shall document all vulnerability testing and risk assessments conducted in accordance with NPG 2810.1 and any other IT security requirements specified in the contract or as directed by the Contracting Officer.

(2) The results of these tests shall be provided to the Center IT Security Manager. Any Contractor system(s) connected to a NASA network or operated by the Contractor for NASA may be subject to vulnerability assessment or penetration testing as part of the Center's IT security compliance assessment and the Contractor shall be required to assist in the completion of these activities.

(3) A decision to accept any residual risk shall be the responsibility of NASA. The Contractor shall notify the NASA system owner and the NASA data owner within 5 working days if new or unanticipated threats or hazards are discovered by the Contractor, made known to the Contractor, or if existing safeguards fail to function effectively. The Contractor shall make appropriate risk reduction recommendations to the NASA system owner and/or the NASA data owner and document the risk or modifications in the IT Security Plan.

(i) The Contractor shall develop a procedure to accomplish the recording and tracking of IT System Security Plans, including updates, and IT system penetration and vulnerability tests for all NASA systems under its control or for systems outsourced to them to be managed on behalf of NASA. The Contractor must report the results of these actions directly to the Center IT Security Manager.

(j) When directed by the Contracting Officer, the Contractor shall submit for NASA approval a post-award security implementation plan outlining how the Contractor intends to meet the requirements of NPG 2810.1. The plan shall subsequently be incorporated into the contract as a compliance document after receiving Government approval. The plan shall demonstrate thorough understanding of NPG 2810.1 and shall include as a minimum, the security measures and program safeguards to ensure that IT resources acquired and used by Contractor and subcontractor personnel—

(1) Are protected from unauthorized access, alteration, disclosure, or misuse of information processed, stored, or transmitted;

(2) Can maintain the continuity of automated information support for NASA missions, programs, and functions;

(3) Incorporate management, general, and application controls sufficient to provide cost-effective assurance of the systems' integrity and accuracy;

(4) Have appropriate technical, personnel, administrative, environmental, and access safeguards;

(5) Document and follow a virus protection program for all IT resources under its control; and

(6) Document and follow a network intrusion prevention program for all IT resources under its control.

(k) Prior to selecting any IT security solution, the Contractor shall consult with their Center IT Security Manager to ensure interoperability and compatibility with other systems with which there is a data or system interface requirement.

(l) The Contractor shall comply with all Federal and NASA encryption requirements for NASA flight programs (*e.g.,* secure flight termination systems, encryption for satellite uplinks, encryption for flight and satellite command and control for both up and down link) and involve the Center Communications Security (COMSEC) Manager when selecting encryption solutions.

(m) The Contractor shall incorporate this clause in all subcontracts where the requirements identified in this clause are applicable to the performance of the subcontract.

(End of clause)

[FR Doc. 00–17881 Filed 7–13–00; 8:45 am]

BILLING CODE 7510–01–U

Proposed Rules

Federal Register
Vol. 65, No. 136
Friday, July 14, 2000

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–35–AD]

Airworthiness Directives; Eurocopter France Model AS332C, L, and L1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD) for Eurocopter France Model AS332C, L, and L1 helicopters. That proposed AD would have required inspecting the horizontal stabilizer spar tube (spar tube) for corrosion, hardness, cracks, and scratches, and if necessary, replacing any unairworthy spar tube and bushing with an airworthy spar tube and bushing. That proposal was prompted by the loss of a horizontal stabilizer in flight due to a spar tube failure. This action revises the proposed AD by correcting the model number given in the applicability section. The actions specified by this proposed AD are intended to prevent failure of the spar tube, separation of the horizontal stabilizer and impact with the main or tail rotor, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before September 12, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–35–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov. Comments may be inspected at the Office of the Regional Counsel between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Jim Grigg, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5490, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed AD by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed AD. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 99–SW–35–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this Supplemental Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99-SW–35-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an AD for Eurocopter France Model AS332C, L, and L1 helicopters was published as an NPRM in the **Federal Register** on March 28, 2000 (65 FR 16352). That NPRM would have required inspecting any spar tube, part number (P/N) 330A13–2024–01, –02, –03, –04, installed on horizontal stabilizers, P/N's 332A13–1000–00, –01, –02, –03, and 332A13–1040–00, –01, for corrosion, hardness, cracks, or scratches. The NPRM also would have required replacing the spar tube and bushing, as necessary, with an airworthy spar tube and bushing. That NPRM was prompted by the loss of a horizontal stabilizer in flight due to a spar tube failure. That condition, if not corrected, could result in failure of the spar tube, separation of the horizontal stabilizer and impact with the main or tail rotor, and subsequent loss of control of the helicopter.

Since the issuance of that NPRM, the FAA discovered an error in the model number given in the applicability section of the proposed AD. The helicopter models that are affected are Model AS332C, L, and L1 helicopters; the NPRM incorrectly listed Model AS322C, L, and L1 helicopters.

Since this change expands the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

The FAA estimates that 3 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 40 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $1,000 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $10,200.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of

power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Eurocopter France: Docket No. 99–SW–35–AD.

Applicability: Model AS332C, L, and L1 helicopters with horizontal stabilizer spar tube (spar tube), part number (P/N) 330A13–2024–01, –02, –03, –04, installed on horizontal stabilizer, P/N 332A13–1000–00, –01, –02, –03 or 332A13–1040–00, –01, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 failure of the spar tube, separation of the horizontal stabilizer and impact with the main or tail rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) For helicopters on which the horizontal spar tube (spar tube) composite bushing (bushing), P/N 330A13–2024–31, has been replaced and since replacement has accumulated:

(1) Less than 1400 hours time-in-service (TIS) or less than 30 calendar months:

(i) Prior to accumulating 1600 hours TIS or 32 calendar months, whichever occurs first, and thereafter at intervals not to exceed (NTE) 3000 hours TIS or 72 calendar months, whichever occurs first, inspect the spar tube in accordance with (IAW) the Accomplishment Instructions, paragraph 2.B.1.1 and 2.B.2. of Eurocopter France Service Bulletin No. 01.00.57, Revision 1, dated November 24, 1999 (SB).

(A) If the spar tube passes the hardness inspection of paragraph 2.B.1.1 of the SB and the scratch, corrosion, and crack inspection of paragraph 2.B.2. of the SB, replace the bushing with a new bushing, before further flight.

(B) If the spar tube fails either the hardness inspection of paragraph 2.B.1.1 of the SB or the scratch, corrosion, or crack inspection of paragraph 2.B.2. of the SB, replace the spar tube with an airworthy spar tube before further flight.

(ii) Before installing any replacement spar tube that has previously been installed on any helicopter, inspect it IAW the Accomplishment Instructions, paragraphs 2.B.1.1 and 2.B.2. of the SB.

(2) 1400 or more hours TIS or 30 or more calendar months:

(i) Within 200 hours TIS or 2 calendar months, whichever occurs first, and thereafter at intervals NTE 3000 hours TIS or 72 calendar months, whichever occurs first, inspect the spar tube IAW the Accomplishment Instructions, paragraphs 2.B.1.1 and 2.B.2. of the SB.

(A) If the spar tube passes the hardness inspection of paragraph 2.B.1.1 of the SB and the scratch, corrosion, and crack inspection of paragraph 2.B.2 of the SB, replace the bushing with a new bushing before further flight.

(B) If the spar tube fails either the hardness inspection of paragraph 2.B.1.1 of the SB or the scratch, corrosion, or crack inspection of paragraph 2.B.2 of the SB, replace the spar tube with an airworthy spar tube before further flight.

(ii) Before installing any replacement spar tube that has previously been installed on any helicopter, inspect it IAW the Accomplishment Instructions, paragraphs 2.B.1.1 and 2.B.2. of the SB.

(b) For all spar tubes:

(1) With less than 7500 hours TIS or 144 calendar months since original installation:

(i) Prior to accumulating 7500 hours TIS or 144 calendar months, remove the spar tube and inspect IAW the Accomplishment Instructions, paragraphs 2.B.1.1 and 2.B.2. of the SB.

(ii) After accomplishing the requirements of paragraph (b)(1)(i) of this AD, install an airworthy spar tube before further flight. Before installing any replacement spar tube that has been previously installed in any helicopter, inspect it IAW the Accomplishment Instructions, paragraphs 2.B.1.1 and 2.B.2. of the SB.

(2) With 7500 or more hours TIS or 144 or more calendar months since original installation:

(i) Within 500 hours TIS or 12 calendar months, whichever occurs first, remove the spar tube and inspect IAW the Accomplishment Instructions, paragraphs 2.B.1.1 and 2.B.2. of the SB.

(ii) After accomplishing the requirements of paragraph (b)(2)(i) of this AD, install an airworthy spar tube before further flight. Before installing any replacement spar tube that has been previously installed in any helicopter, inspect it IAW the Accomplishment Instructions, paragraph 2.B.1.1 and 2.B.2. of the SB.

(3) After accomplishing the requirements of either paragraph (b)(1) or (b)(2) of this AD, as applicable, thereafter, at intervals NTE 7500 hours TIS or 144 calendar months, whichever occurs first, remove the spar tube and inspect IAW the Accomplishment Instructions, paragraphs 2.B.1.1 and 2.B.2. of the SB.

(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, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through a FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

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

(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 helicopter to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 1999–039–073(A)R1, dated December 29, 1999.

Issued in Fort Worth, Texas, on June 30, 2000.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00–17839 Filed 7–13–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ASO–26]

Proposed Amendment to Class D Airspace, Melbourne, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to amend Class D airspace at Melbourne International Airport, FL, by lowering the airspace ceiling from 2,500 feet above ground level (AGL) to 1,900 feet AGL. Due to the high number of overflying aircraft, in the interest of safety the airspace above 1,900 AGL has been delegated by the Melbourne Air Traffic Control Tower, which provides Visual Flight Rules (VFR) service to aircraft operating in the vicinity of the Melbourne International Airport, to the Daytona Beach Radar Approach Control Facility, which provides Instrument Flight Rules (IFR) air traffic control service to the Melbourne International Airport. This proposed action will also change the name of the airport in the legal description from Melbourne Regional to Melbourne International Airport.

DATES: Comments must be received on or before August 14, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 00–ASO–26, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice musk submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 00–ASO–26.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being place don a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 17 of the Federal Aviation Regulations (14 CFR part 71) to amend Class D airspace at Melbourne International Airport, FL, by lowering the airspace ceiling from 2,500 AGL to 1,900 feet AGL and changing the airport name in the legal description from Melbourne Regional to Melbourne International Airport. Class D airspace designations are published in Paragraph 5000 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designations listed in this comment would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 5000 Class D airspace.

* * * * *

ASO FL D Melbourne, FL [Revised]

Melbourne International Airport, FL
(Lat. 28°06′10″ N, long. 80°38′45″ W)

That airspace extending upward from the surface, to and including 1,900 feet MSL within a 4.3-mile radius of the Melbourne International Airport, excluding the portion north of a line connecting the points of intersection with a 5.3-mile radius circle centered on Patrick AFB. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on June 30, 2000.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 00–17869 Filed 7–13–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–117162–99]

RIN 1545–AY23

Tax Treatment of Cafeteria Plans; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This document contains a notice of public hearing on proposed regulations relating to the tax treatment of cafeteria plans.

DATES: The public hearing is being held on August 17, 2000, at 10 a.m. The IRS must receive outlines of the topics to be discussed at the hearing by August 3, 2000.

ADDRESSES: The public hearing is being held in Room 4718, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building.

Mail outlines to: Regulations Unit CC (REG–117162–99), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Hand deliver outlines Monday through Friday between the hours of 8 a.m. and 5 p.m. to: Regulations Unit CC (REG–117162–99), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Submit outlines electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting them directly to the IRS Internet site at http://www.irs.gov/tax_regs/regslist.html.

FOR FURTHER INFORMATION CONTACT: Concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing Treena Garrett, (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed regulations (REG–117162–99) that was published in the **Federal Register** on March 23, 2000 (65 FR 15587).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who have submitted written comments and wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (signed original and eight (8) copies) by August 3, 2000.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

Cynthia E. Grigsby,

Chief, Regulations Unit, Office of Special Counsel (Modernization and Strategic Planning).

[FR Doc. 00–17806 Filed 7–13–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

[VA–118–FOR]

Virginia Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Virginia regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The program amendment consists of changes to the Virginia Surface Mining Reclamation Regulations concerning subsidence control. The amendment is intended to revise the Virginia program to be consistent with the corresponding Federal regulations.

DATES: If you submit written comments, they must be received on or before 4:00 p.m. (local time), on August 14, 2000. If requested, a public hearing on the proposed amendment will be held on August 8, 2000. Requests to speak at the hearing must be received by 4:00 p.m. (local time), on July 31, 2000.

ADDRESSES: Mail or hand-deliver your written comments and requests to speak at the hearing to Mr. Robert A. Penn, Director, Big Stone Gap Field Office at the address listed below.

You may review copies of the Virginia program, the proposed amendment, a listing of any scheduled hearings, and all written comments received in response to this document at the addresses below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the proposed amendment by contacting OSM's Big Stone Gap Field Office.

Mr. Robert A. Penn, Director, Office of Surface Mining Reclamation and Enforcement, Big Stone Gap Field Office, 1941 Neeley Road, Suite 201, Compartment 116, Big Stone Gap, Virginia 24219, Telephone: (540) 523–4303, E-mail: rpenn@osmre.gov

Virginia Division of Mined Land Reclamation, P. O. Drawer 900, Big Stone Gap, Virginia 24219, Telephone: (540) 523–8100, E-mail: whb@mme.state.va.us

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Penn, Director, Big Stone Gap Field Office; Telephone: (540) 523–4303.

SUPPLEMENTARY INFORMATION:

I. Background on the Virginia Program

On December 15, 1981, the Secretary of the Interior conditionally approved the Virginia program. You can find background information on the Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the December 15, 1981, **Federal Register** (46 FR 61085–61115). You can find later actions concerning the conditions of approval and program amendments at 30 CFR 946.12, 946.13, 946.15, and 946.16.

II. Discussion of the Proposed Amendment

By letter dated June 27, 2000 (Administrative Record Number VA–999) the Virginia Department of Mines, Minerals and Energy (DMME) submitted an amendment to the Virginia program. In its letter, the DMME stated that on December 22, 1999, OSM suspended and modified portions of 30 CFR 784.20 and 30 CFR 817.121 pursuant to an order of the United States Appeals Court for the District of Columbia. The DMME

further stated that the corresponding sections of the Virginia Surface Mining Reclamation Regulations also contain the same language the court found inappropriate and which OSM consequently removed from the Federal rules. The DMME stated that it proposes to amend its rules to be consistent with and in the same manner that OSM modified the Federal regulations.

The Energy Policy Act was enacted October 24, 1992, Pub. L. 102–486, 106 Stat. 2776 (1992) (hereinafter, ''The Energy Policy Act or EPAct''). Section 2504 of that Act, 106 Stat. 2776, 3104, amends SMCRA, 30 U.S.C. 1201 *et seq.* Section 2504 of EPAct added a new section 720 to SMCRA. Section 720(a)(1) requires that all underground coal mining operations conducted after October 24, 1992, promptly repair or compensate for material damage to non-commercial buildings and occupied residential dwellings and related structures as a result of subsidence due to underground coal mining operations. Repair of damage includes rehabilitation, restoration, or replacement of the structures identified by section 720(a)(1), and compensation must be provided to the owners in the full amount of the diminution in value resulting from the subsidence. Section 720(a)(2) requires prompt replacement of certain identified water supplies which have been adversely affected by underground coal mining operations. Under section 720(b), the Secretary of the Interior was required to promulgate final regulations to implement the provisions of section 720(a).

On September 24, 1993 (58 FR 50174), OSM published a proposed rule to amend the regulations applicable to underground coal mining and control of subsidence-caused damage to lands and structures through the adoption of a number of permitting requirements and performance standards. We adopted final regulations on March 31, 1995 (60 FR 16722).

The rules were challenged by the National Mining Association in the District Court for the District of Columbia and in the U.S. Court of Appeals for the District of Columbia Circuit. On April 27, 1999, the U.S. Court of Appeals issued a decision vacating certain portions of the regulatory provisions of the subsidence regulations. See National Mining Association v. Babbitt, 173 F.3d 906 (1999). We suspended those regulatory provisions that are inconsistent with the rationale provided in the U.S. Court of Appeals' decision. The following Federal provisions were suspended.

1. 30 CFR 817.121(c)(4)(i)–(iv)

This regulation provided that if damage to any non-commercial building or occupied residential dwelling or structures related thereto occurred as a result of earth movement within an area determined by projecting a specific angle of draw from the outer-most boundary of any underground mine workings to the surface of the land, a rebuttable presumption would exist that the permittee caused the damage. The presumption typically would have applied to a 30-degree angle of draw. Once the presumption was triggered, the burden of going forward shifted to the mine operator to offer evidence that the damage was attributable to another cause. The purpose of this regulatory provision was to set out a procedure under which damage occurring within a specific area would be subject to a rebuttable presumption that subsidence from underground mining was the cause of any surface damage to non-commercial buildings or occupied residential dwellings and related structures.

The Court of Appeals vacated, in its entirety, this rule that established an angle of draw and that created a rebuttable presumption that damage to EPAct protected structures within an area defined by an ''angle of draw'' was in fact caused by the underground mining operation. 173 F.3d at 913.

In reviewing the regulation, the Court rejected the Secretary's contention that the angle of draw concept was reasonably based on technical and scientific assessments and that it logically connected the surface area that could be damaged from earth movement to the underground mining operation. The angle of draw provided the basis for establishing the surface area within which the rebuttable presumption would apply. The Secretary had explained that the rebuttable presumption merely shifted the burden of document production to the operator in evaluating whether the damage was actually caused by the underground mining operation within the surface area defined by the angle of draw. The Court nevertheless held that the angle of draw was irrationally broad and that the scientific facts presented did not support the logical inference that damage to the surface area would be caused by earth movement from underground mining within the area.

Based on the conclusion that there was no scientific or technical basis provided for establishing a rational connection between the angle of draw and surface area damage, the Court further concluded that the rebuttable presumption failed. In reviewing the rebuttable presumption requirement, the Court held ''an evidentiary presumption is 'only permissible if there is sound and rational connection between the proved and inferred facts, and when proof of one fact renders the existence of another fact so probable that it is sensible and timesaving to assume the truth of [the inferred] fact * * * until the adversary disproves it.' '' That is to say, for the presumption to be permissible, the facts would have to demonstrate that the earth movement from the underground mining operation ''more likely than not'' caused the damage at the surface. See National Mining Association, 173 F.3d at 906–910. In compliance with the Court of Appeals' decision of April 27, 1999, we suspended 30 CFR 817.121(c)(4)(i) through (iv).

Paragraph (v) within this section applies generally to the types of information that must be considered in determining the cause of damage to an EPAct protected structure and is not limited to or expanded by the area defined by the angle of draw. Therefore, paragraph (v) remains in force.

2. Section 784.20(a)(3)

This regulatory provision required, unless the applicant was denied access for such purposes by the owner, a survey which identified certain features. First, the survey had to identify the condition of all non-commercial buildings or occupied residential dwellings and related structures which were within the area encompassed by the applicable angle of draw and which might sustain material damage, or whose reasonably foreseeable use might be diminished, as a result of mine subsidence. Second, the survey had to identify the quantity and quality of all drinking, domestic, and residential water supplies within the proposed permit area and adjacent area that could be contaminated, diminished, or interrupted by subsidence. In addition, the applicant was required to notify the owner in writing that denial of access would remove the rebuttable presumption that subsidence from the operation caused any postmining damage to protected structures that occurred within the surface area that corresponded to the angle of draw for the operation. (See discussion of angle of draw above). This regulatory provision was challenged insofar as it required a specific structural condition survey of all EPAct protected structures. The Court of Appeals vacated the specific structural condition survey regulatory requirement in its decision on April 27, 1999. In reviewing the

Secretary's requirement, the Court clearly upheld the Secretary's authority to require a pre-subsidence structural condition survey of all EPAct protected structures. The Court accepted the Secretary's explanation that this specific structural condition survey was necessary, among other requirements, in order to determine whether a subsidence control plan would be required for the mining operation. However, because of the Court's ruling on the ''angle of draw'' regulation discussed above, it vacated the requirement for a specific structural condition survey because it was tied directly to the area defined by the ''angle of draw.''

In compliance with the Court of Appeals' decision, we suspended that portion of 30 CFR 784.20(a)(3) which required a specific structural condition survey of all EPAct protected structures. The remainder of this section continues in force to the extent that it applies to the EPAct protected water supplies survey and any technical assessments or engineering evaluations necessarily related thereto.

The amendment submitted by the DMME is described below.

4 VAC 25–130–784.20. Subsidence Control Plan

Subsection 4 VAC 25–130–784.20(a)(3) is amended by adding the following language at the end of subdivision (3).

However, the requirements to perform a survey of the condition of all noncommercial buildings or occupied residential dwellings and structures related thereto, that may be materially damaged or for which the reasonably foreseeable use may be diminished by subsidence, within the areas encompassed by the applicable angle of draw is suspended consistent with the Secretary's suspension of the corresponding federal rule.

4 VAC 25–130–817.121. Subsidence Control

Section 4 VAC 25–130–817.121(c)(4), is revised by deleting the title ''Rebuttable presumption of causation by subsidence,'' and by deleting paragraphs (c)(4)(i) through (iv). New language is added which states that ''Section (4)(i) through (iv) are suspended consistent with the Secretary's suspension of the corresponding federal rule''. The paragraph designation ''(v)'' is deleted.

As amended, section 4 VAC 25–130-817.121(c)(4) provides the following.

(4) Section (4)(i) through (iv) are suspended consistent with the Secretary's suspension of the corresponding federal rule.

Information to be considered in determination of causation. In determination whether damage to protected structures was caused by subsidence from underground mining, all relevant and reasonably available information will be considered by the division.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments, on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Virginia program.

Written Comments

If you submit written or electronic comments on the proposed amendment during the 30–day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments

Please submit Internet comments as an ASCII, Word Perfect, or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS NO. VA–118–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Big Stone Gap Field office at (540) 523–4303.

Availability of Comments

Our practice is to make comments, including names and home addresses of respondents, available for public review during our regular business hours at the OSM Administrative Record Room (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing

If you wish to speak at the public hearing, you should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m. (local time), on July 31, 2000. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who testifies at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with OSM representatives to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart federal regulation.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the federal and state governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society

and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that state laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that state programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 12988—Civil Justice Reform

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

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed state regulatory program provision does not constitute a major federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

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

Regulatory Flexibility Act

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

Small Business Regulatory Enforcement Fairness Act

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

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the state submittal which is the subject of this rule is based upon counterpart federal regulations for which an analysis was prepared and a determination made that the federal regulation was not considered a major rule.

Unfunded Mandates

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

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 5, 2000.

Michael K. Robinson,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 00–17899 Filed 7–13–00; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ092–002; FRL–6736–1]

Approval and Promulgation of Implementation Plans; Arizona—Maricopa County PM–10 Nonattainment Area; Serious Area Plan for Attainment of the Annual PM–10 Standard; Further Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; further extension of comment period.

SUMMARY: EPA is extending the comment period for its proposed action to approve provisions of the Revised MAG 1999 Serious Area Particulate Plan for PM–10 for the Maricopa County (Phoenix) Nonattainment Area, February 2000, and the control measures on which it relies, that address the annual PM–10 national ambient air quality standard. As part of this proposal, we also proposed to grant Arizona's request to extend the Clean Air Act deadline for attaining the annual PM–10 standard in the Phoenix area from 2001 to 2006 and to approve two particulate matter rules adopted by the Maricopa County Environmental Services Department and Maricopa County's Residential Woodburning Restrictions Ordinance.

DATES: Comments must be received by July 28, 2000.

ADDRESSES: Mail comments to Frances Wicher, Air Planning Office (Air-2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

FOR FURTHER INFORMATION CONTACT: Frances Wicher, Air Planning Office (Air-2), U.S. Environmental Protection Agency, Region IX, (415) 744–1248.

SUPPLEMENTARY INFORMATION: On April 13, 2000 (65 FR 19963), we proposed to approve the serious area air quality plan for attainment of the annual PM–10 standard in the Phoenix, Arizona, metropolitan area. The proposed actions are based on our initial determination that this plan complies with the Clean Air Act's requirements for attainment of the annual PM–10 standard in serious PM–10 nonattainment areas.

Specifically, we proposed to approve the following elements of the plan as they apply to the annual PM–10 standard:

- The base year emissions inventory of PM–10 sources,
- The demonstration that the plan provides for implementation of

reasonably available control measures (RACM) and best available control measures (BACM), the demonstration that attainment of the PM–10 annual standard by the Clean Air Act deadline of December 31, 2001 is impracticable,

- The demonstration that attainment of the PM–10 annual standard will occur by the most expeditious alternative date practicable, in this case, December 31, 2006,
- The demonstration that the plan provides for reasonable further progress and quantitative milestones,
- The demonstration that the plan includes to our satisfaction the most stringent measures found in the implementation plan of another state or are achieved in practice in another state, and can feasibly be implemented in the area.
- The demonstration that major sources of PM–10 precursors such as nitrogen oxides and sulfur dioxide do not contribute significantly to violations of the annual PM–10 standard, and
- The transportation conformity budget.

We also proposed to grant Arizona's request to extend the attainment date for the annual PM–10 standard from December 31, 2001 to December 31, 2006.

Finally, we are proposing to approve Maricopa County's fugitive dust rules, Rules 310 and 301.01, and its residential woodburning restriction ordinance.

The proposal action provided a 60 day public comment period that ended on June 12, 2000. We have already extended the comment period to July 3, 2000. In response to a request from City of Tempe, Arizona, we are extending the comment period for an additional 14 days.

Dated: July 5, 2000.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 00–17877 Filed 7–13–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ–063–0026; FRL–6735–9]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Pinal County Air Quality Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a disapproval of revisions to the Pinal County Air Quality Control District (PCAQCD) portion of the Arizona State Implementation Plan (SIP). The revisions concern volatile organic compound (VOC) emissions from organic solvents, dry cleaners, coating operations, and degreasers. We have evaluated these revisions and are proposing to disapprove these revisions because they are not consistent with the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments are due on or before August 14, 2000.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted rules and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted rules at the following locations:

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street, SW., Washington, DC 20460

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, AZ 85012

Pinal County Air Quality Control District, 31 North Pinal Street, Building F, Florence, AZ 85232

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1199.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules addressed by this proposal with the date that they were adopted by the local air agency and submitted by the Arizona Department of Environmental Quality (ADEQ).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
PCAQCD	5–9–278	Applicability	10/12/95	11/27/95
PCAQCD	5–9–280	Organic Solvents	10/12/95	11/27/95
PCAQCD	5–10–330	Petroleum Solvent Dry Cleaning	10/12/95	11/27/95
PCAQCD	5–11–350	Chlorinated Synthetic Solvent Dry Cleaning	10/12/95	11/27/95
PCAQCD	5–12–370	Architectural Coating Operations	10/12/95	11/27/95
PCAQCD	5–13–390	Spray Paint and Other Surface Coating Operations	10/12/95	11/27/95
PCAQCD	5–15–622	Degreasers	10/12/95	11/27/95
PCAQCD	7–3–3.4	Organic Solvents (rescission)	10/12/95	11/27/95

On February 2, 1996, these rule submittals were found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of These Rules?

There are no previous versions of Rules 5–9–278, 5–9-280, 5–10–330, 5–11–350, 5–12–370, 5–13–390, and 5–15–622 (Chapter 5 Rules) in the SIP. These Chapter 5 Rules were adopted by the PCAQCD on October 12, 1995 and submitted to us by the ADEQ on November 27, 1995.

We approved a version of Rule 7–3–3.4 into the SIP on April 12, 1982. The PCAQCD rescinded the SIP-approved version of Rule 7–3–3.4 on October 12, 1995 and ADEQ submitted the rescission request to us on November 27, 1995.

C. What Is the Purpose of the Submitted Rules?

The submitted rules control emissions of VOCs from a variety of sources, including degreasers, dry cleaners, and coating operations. Except for Rule 5–9–278 which limits the applicability of Rule 5–9–280, the Chapter 5 Rules were meant to replace SIP approved Rule 7–3–3.4. Most of the provisions originally found in the SIP approved version of Rule 7–3–3.4 are now found in Rule 5–9–280. The TSD has more information about these rules.

D. What Revisions Do the Submitted Rules Make to the SIP?

The submitted rules revise the SIP approved version of Rule 7–3–3.4 by:

- Limiting the applicability of Rule 5–9–280 to an area along the northwest border of Pinal County,
- increasing the allowable discharge of organic materials exposed to heat from 15 to 40 pounds per day,
- Exempting sources subject to other portions of the PCAQCD Code of Regulations,
- Allowing some sources to exceed the 1.5 gallon disposal limit for photochemically reactive solvents, and
- Allowing the use of alternative ''rational control technology'' approved by the control officer.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). The PCAQCD regulates an ozone attainment area (see 40 CFR part 81), so the submitted rules are not required to meet RACT.

Guidance and policy documents that we used to evaluate the submitted rules include the following:

1. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** document,'' (the ''Blue Book''), notice of availability published in the May 25, 1988 **Federal Register**.

B. Do the Rules Meet the Evaluation Criteria?

These rules weaken the SIP by establishing less stringent emission limits and narrowing the scope of regulated sources. These rules are inconsistent with the relevant policy and guidance regarding enforceability and SIP relaxations. Rule provisions which do not meet the evaluation criteria are summarized below and discussed further in the TSD.

C. What Are the Rule Deficiencies?

These provisions conflict with section 110 and part D of the Act and prevent approval of the SIP revision.

1. Rule 5–9–278 relaxes the SIP by regulating potentially fewer sources.
2. Rule 5–9–280 relaxes the SIP by increasing the allowable discharge of organic materials exposed to heat.
3. Eliminating the 1.5 gallon disposal limit for photochemically reactive solvents relaxes the SIP by allowing some sources to emit more VOCs.
4. Rule 5–9–280 is unenforceable because it gives the control officer discretion in approving the use of alternative controls.
5. Rule 5–9–280 is unenforceable because it refers to other portions of the PCAQCD Code of Regulations which have not been approved into the SIP.

D. Proposed Action and Public Comment

As authorized in sections 110(k)(3) and 301(a) of the Act, EPA is proposing a disapproval of the submitted rules. This means that the version of Rule 7–3–3.4 that was approved into the SIP on April 12, 1982 will remain in the federally enforceable SIP. If this disapproval is finalized, the federal implementation plan (FIP) requirement under section 110(c) will not be triggered and section 179 sanctions will not be imposed even if EPA fails to approve subsequent SIP revisions that correct the rule deficiencies because PCAQCD is an ozone attainment area. Note that the submitted rules have been adopted by the PCAQCD, and EPA's final disapproval would not prevent the local agency from enforcing them.

We will accept comments from the public on the proposed disapproval for the next 30 days.

III. Background Information

A. Why Were These Rules Submitted?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency VOC rules.

TABLE 2.—OZONE MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

These rules are not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the OMB in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this proposed rule.

D. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely acts on state rules implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

EPA's proposed disapproval of the state request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

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

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

G. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's proposed action because it does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 28, 2000.

Nora L. McGee,

Acting Regional Administrator, Region IX.

[FR Doc. 00–17878 Filed 7–13–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[KS 105–1105b; FRL–6733–8]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Control of Emissions From Hospital/Medical/Infectious Waste Incinerators (HMIWI); State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed action.

SUMMARY: EPA proposes to approve the state of Kansas' section 111(d) plan for controlling emissions from existing HMIWIs. The plan was submitted to fulfill the requirements of sections 111 and 129 of the Clean Air Act. The state plan establishes emission limits and controls for sources constructed on or before June 20, 1996.

In the final rules section of the **Federal Register**, EPA is approving the state's submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no relevant adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments must be received in writing by August 14, 2000.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: June 20, 2000.

Michael Sanderson,

Acting Regional Administrator, Region 7.

[FR Doc. 00–17873 Filed 7–13–00; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1837

Acquisition of Training Services

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the NASA FAR Supplement (NFS) by removing Subpart 1837.70—Acquisition of Training, to conform the acquisition of training with FAR Part 6.

DATES: Comments should be submitted on or before September 12, 2000.

ADDRESSES: Interested parties should submit written comments to James H. Dolvin, NASA Headquarters, Office of Procurement, Contract Management Division (Code HK), Washington, DC 20546. Comments may also be submitted by e-mail to: jdolvin1@hq.nasa.gov.

FOR FURTHER INFORMATION CONTACT: James H. Dolvin, (202) 358–1279, or jdolvin1@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

In 1991, Subpart 1837.70—Acquisition of Training, was added to the NFS. Section 1837.7000, Acquisition of off-the-shelf training courses, provided that the Government Employees Training Act of 1958, 5 U.S.C. 4101 *et seq.*, could be used as the authority for acquisition of ''non-Governmental off-the-shelf training courses which are available to the public.'' Section 1837.7001, Acquisition of new training courses, provided that acquisition of new training courses ''developed to fill a specific NASA need'' must be conducted in accordance with the FAR. This subpart is being removed because it has caused confusion within NASA about the relevance of the FAR to training service procurement.

B. Regulatory Flexibility Act

NASA certifies that this rule will not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because the deletion of this subpart will not alter the manner in which NASA is required to acquire training.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

Tom Luedtke,

Associate Administrator for Procurement.

List of Subjects in 48 CFR Part 1837

Government procurement.

Accordingly, 48 CFR Part 1837 is proposed to be amended as follows:

1. The authority citation for 48 CFR Part 1837 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1)

PART 1837—SERVICE CONTRACTING

2. Amend Part 1837 by removing Subpart 1837.70.

[FR Doc. 00–17880 Filed 7–13–00; 8:45 am]

BILLING CODE 7510–01–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF45

Endangered and Threatened Wildlife and Plants; Clarification of Take Prohibitions for Coastal Cutthroat Trout

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; clarification.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), provide notice that the Endangered Species Act prohibitions against take of threatened species will apply to Southwestern Washington/Columbia River coastal cutthroat trout and will go into effect on the effective date of listing, if the proposed listing of this species is finalized. We also provide lists of actions that would, and would not, likely constitute a violation of section 9 of the Act and seek comment on those lists.

DATES: Comments from all interested parties must be received by August 14, 2000.

ADDRESSES: Comments and materials should be sent to the U.S. Fish and Wildlife Service, Oregon State Office, 2600 SE 98th Avenue, Suite 100, Portland, Oregon 97266 (telephone 503/231–6179; facsimile 503/231–6195), email: coastal__cutthroat@fws.gov. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Kemper McMaster, State Supervisor, 503/231–6179.

SUPPLEMENTARY INFORMATION: Based on questions we have received regarding the application of the take prohibition of section 9 of the Endangered Species Act of 1973, as amended (Act), to the potential listing of coastal cutthroat trout (*Oncorhynchus clarki clarki*) as threatened, we are providing the following clarification of our position relative to take prohibitions for threatened species.

Background

On April 5, 1999, the National Marine Fisheries Service (NMFS) and the Service jointly published a proposed rule (64 FR 16397) to list the Southwestern Washington/Columbia River coastal cutthroat trout evolutionarily significant unit (ESU) in Washington and Oregon as threatened. On November 22, 1999, we assumed sole regulatory jurisdiction over all life forms of coastal cutthroat trout under the Act (see 65 FR 21376). On April 14, 2000 (65 FR 20123), we extended by 6 months (until October 5, 2000) the timeframe to take final action on the proposed rule. We needed additional time to review new information available since the status review was published and to examine the role of hatchery and above-barrier populations of the coastal cutthroat trout within southwest Washington and the Columbia River and their importance to conservation of the species in this area. Consequently, we will take final action on the April 5, 1999, proposed rule by October 5, 2000.

Section 9 of the Act prohibits certain activities, including take, for endangered species. Section 4(d) of the Act allows the prohibition of any of these activities for threatened species, through promulgation of a special rule. The April 5, 1999, proposed rule included the stipulation that protective regulations pursuant to section 4(d) of the Act would be addressed in the future and that all relevant National Environmental Policy Act (NEPA) and Regulatory Flexibility Act (RFA) requirements would be met at that time. This stipulation reflects the approach that NMFS takes when proposing a species as threatened under the Act. However, the Service promulgated regulations establishing prohibitions for all threatened species under its jurisdiction on April 28, 1978 (43 FR 18181), and amended these regulations on May 31, 1979 (44 FR 31580). As a result, our regulations at 50 CFR 17.31 apply all of the take prohibitions for endangered species at § 17.21, except § 17.21(c)(5), to threatened wildlife. Since we now have sole regulatory authority for coastal cutthroat trout, these regulations will apply at the time of listing of any coastal cutthroat trout. Therefore, further action relative to NEPA and RFA requirements is not necessary for application of these regulations to coastal cutthroat trout in Southwestern Washington/Columbia River region, should the proposed listing be finalized.

The regulations at 50 CFR 17.21 and 17.31 prohibit taking (to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or attempt to engage in any such conduct) of listed species of fish or wildlife without a special exemption. Harm is further defined to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing behavioral patterns such as breeding, feeding, or sheltering. Harass is defined as creating the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns, which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3).

We recognize that some activities that provide for the conservation of the species may result in harm or harassment to individual coastal cutthroat trout. These activities may be permitted through a section 10(a)(1)(A) permit. In the future, we may also implement a section 4(d) rule to remove the prohibition against take resulting from activities that contribute to the conservation of the species. Such a 4(d) rule must go through a full regulatory process, including publication of a proposal in the **Federal Register** and a public comment period. For example, a section 4(d) rule could remove the prohibition against take resulting from State-regulated recreational fisheries or activities covered by local land-use planning regulations, so long as such activities provide for the conservation of the species. Activities that may result in harm or harassment to individual coastal cutthroat trout may also be permitted through section 10(a)(1)(B) with the development of a habitat conservation plan that minimizes and mitigates the impact to the maximum extent practical.

Activities That Would Not Constitute a Violation of Section 9 of the Act

Our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), is to identify to the maximum extent practicable those activities that would or would not constitute a violation of section 9 of the Act, as stipulated in 50 CFR 17.21 and 17.31. By presenting this information, we hope to increase public awareness of the potential effects of the proposed listing on new and ongoing activities within the range of coastal cutthroat trout in the Southwest Washington/Columbia River region. We believe the following actions would not be likely to result in a violation of section 9, provided the activities are carried out in accordance with all existing regulations and permit requirements:

(1) Actions that may affect coastal cutthroat trout and are authorized, funded, or carried out by a Federal agency when the action is conducted in accordance with an incidental take statement issued by us pursuant to section 7 of the Act;

(2) State, local, and other activities for the conservation of the coastal cutthroat trout approved by us under section 4(d), section 6(c)(1), or section 10(a)(1) of the Act;

(3) The planting of native vegetation within riparian areas, using hand tools or mechanical auger. This does not include any site preparation that involves the removal of native vegetation (such as deciduous trees and shrubs) or that goes beyond that necessary to plant individual trees, shrubs, or other plants;

(4) The installation of fences to exclude livestock impacts to the riparian area and stream channel. The installation of new off-channel livestock watering facilities and the operation and maintenance of existing off-channel livestock watering facilities when such facilities consist of low-volume pumping, gravity feed, or well systems, and employ in-water intakes that are screened consistent with NMFS' current Juvenile Fish Screen Criteria For Pump Intakes. This does not include the potential impacts associated with the grazing activity itself or negative effects attributable to depleting stream flow due to water withdrawal;

(5) The placement of human access barriers, such as gates, fences, boulders, logs, vegetative buffers, and signs, to limit use- and disturbance-associated impacts. These impacts may include timber theft, disturbance to wildlife, poaching, illegal dumping of waste, erosion of soils, and sedimentation of aquatic habitats, particularly in sensitive areas such as riparian habitats or geologically unstable zones. This does not include road maintenance or the potential impacts associated with the road itself;

(6) The current operation and maintenance of fish screens on various water facilities that meet the current NMFS' Juvenile Fish Screen Criteria for

Pump Intakes. This does not include the use of traps or other collection devices at screen installations, operation of the diversion structure, or negative effects attributable to depleting stream flow due to water diversion;

(7) The installation, operation, and maintenance of screens where the existing canal or ditch is located off the main stream channel when: (a) The canal or ditch is dewatered prior to screen and bypass installation and prior to fish entering the canal or ditch; (b) Installed screens and bypass structures meet the current NMFS' Juvenile Fish Screen Criteria; and (c) Bypass is accomplished through free (volitional) access, with adequate velocities, construction materials, and stream re-entry conditions that will not result in harm or death to fish. This does not include the use of traps or other collection devices at screen installations, placement or operation of the diversion structure, or negative effects attributable to depleting stream flow due to water diversion;

(8) The general maintenance of existing structures, such as homes, apartments, and commercial buildings, which may be located in close proximity to a stream corridor, but outside of the stream channel. This does not include potential impacts associated with sediment or chemical releases that may adversely affect coastal cutthroat trout or their habitat, nor does this include those activities that may degrade existing riparian areas or alter streambanks (such as removal of streamside vegetation and streambank stabilization); and

(9) The lawful use of existing State, county, city, and private roads. This does not include road maintenance and the potential impacts associated with the road itself that may destroy or alter coastal cutthroat trout habitat (such as grading unimproved roads, stormwater and contaminant runoff from roads, failing road culverts, and road culverts that block fish migration), unless authorized by us through section 6, 7, or 10 of the Act.

Activities That Would Constitute a Violation of Section 9 of the Act

We believe that the following could result in a violation of section 9:

(1) Take of coastal cutthroat trout without a permit or other authorization from us. Take includes harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting, or attempting any of these actions, except in accordance with applicable State, National Park Service, and Tribal fish and wildlife conservation laws and regulations;

(2) To possess, sell, deliver, carry, transport, or ship illegally taken coastal cutthroat trout;

(3) Introduction of nonnative fish species that compete or hybridize with, or prey on, coastal cutthroat trout;

(4) Implementation of activities that destroy or alter coastal cutthroat trout habitat including, but not limited to: dredging, channelization or diversion; riparian vegetation removal that leads to reduced shade or the recruitment of large woody debris; in-stream vehicle operation or streambed material removal; grading unimproved roads; road maintenance activities such as side-casting into riparian zones or waterways; failure to control stormwater and contaminant runoff from roads or to maintain failing road culverts; and installation of road culverts that block fish migration; or other activities that result in the destruction or significant degradation of water quality or quantity, water temperature, cover, channel stability, substrate composition, turbidity, and migratory corridors used by the species for foraging, cover, migration, and spawning;

(5) Discharges, release, or dumping of toxic chemicals, silt, or other pollutants into waters supporting coastal cutthroat trout that result in death or injury of individuals of the species, including misuse of toxic chemicals that enter the water and result in death or injury of individuals; and

(6) Destruction or alteration of stream, riparian, estuarine, or lakeshore habitat and adjoining uplands of waters supporting coastal cutthroat trout by timber harvest, grazing, mining, hydropower development, road construction, habitat restoration, or other development activities that result in long- or short-term destruction or significant degradation of water quality or quantity, water temperature, cover, channel stability, substrate composition, turbidity, and migratory corridors used by the species for foraging, cover, migration, and spawning.

We will review other activities not identified above on a case-by-case basis to determine if a violation of section 9 of the Act may be likely to result from such activity. We do not consider these lists to be exhaustive and provide them as information to the public.

Comments Solicited

This rulemaking action does not propose any changes to the regulation prohibiting take for threatened wildlife, as stipulated in 50 CFR 17.31, or the manner in which this prohibition is applied. We are soliciting comments on the above list of activities that would, and would not, likely constitute a violation of section 9 of the Act. We are not soliciting comments on the application of this regulation to any other populations of coastal cutthroat trout that may be listed in the future.

Author: The primary authors for this rulemaking action are John A. Young, Regional Office, Region 1, and Robin Bown, Oregon State Office (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: July 6, 2000.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 00–17921 Filed 7–13–00; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 65, No. 136
Friday, July 14, 2000

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 00–053–1]

Notice of Request for Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: New information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request approval of an information collection to gather data on the health status of swine by conducting a national on-farm study of swine, Swine 2000, in support of the National Animal Health Monitoring System.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by September 12, 2000.

ADDRESSES: Please send your comment and three copies to: Docket No. 00–053–1, 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. 00–053–1.

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: For information on the Swine 2000 activities, contact Ms. Marj Swanson, Management Analyst, Centers for Epidemiology and Animal Health, VS, APHIS, 555 S. Howes, Fort Collins, CO 80521; (970) 490–7978. For copies of more detailed information on the information collection, contact Ms. Cheryl Groves, APHIS' Information Collection Coordinator, at (301) 734–5086.

SUPPLEMENTARY INFORMATION:

Title: National Animal Health Monitoring System (Swine 2000).

OMB Number: 0579–XXXX.

Type of Request: Approval of a new information collection.

Abstract: The United States Department of Agriculture is responsible for protecting and improving the health, quality, and marketability of our nation's animal and poultry populations by preventing the spread of contagious, infectious, or communicable animal diseases from one State to another and by eradicating such diseases from the United States when feasible. In connection with this mission, the Animal and Plant Health Inspection Service operates the National Animal Health Monitoring System (NAHMS), which collects, on a national basis, statistically valid and scientifically sound data on the prevalence and economic importance of livestock and poultry diseases. Information from these studies is disseminated and used by livestock and poultry producers, consumers, animal health officials, private veterinary practitioners, animal industry groups, policymakers, public health officials, the media, educational institutions, and others to improve agriculture's productivity and competitiveness.

NAHMS' national studies have evolved into a collaborative industry and government initiative. We are the only agency responsible for collecting national data on animal and poultry health. Participation in any NAHMS study is voluntary, and all data are confidential.

The Swine 2000 project will identify factors associated with the shedding of specific pathogens by swine, describe antimicrobial usage, and describe animal health management practices and their relationship to swine health. In addition, data collected through our Swine 2000 project will be used to describe the changes in management practices and animal health in swine operations by comparing certain data gathered in 1990 and 1995 with data gathered in the Swine 2000 project.

We are asking the Office of Management and Budget (OMB) to approve the use of this information collection activity.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning this information collection. These comments will help us:

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

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

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average .64577 hours per response.

Respondents: Industry personnel, private veterinary practitioners, company and independent producers, academicians, State veterinary medical officers, and State public health officials.

Estimated annual number of respondents: 17,800.

Estimated annual number of responses per respondent: 1.03089.

Estimated annual number of responses: 18,350.

Estimated total annual burden on respondents: 11,850 hours. (Due to rounding, the total annual burden hours may not equal the product of the annual number of responses multiplied by the average reporting burden per response.)

All responses to this notice will be summarized and included in the request

for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 11th day of July 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–17887 Filed 7–13–00; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 00–064–1]

Secretary's Advisory Committee on Foreign Animal and Poultry Diseases; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of meeting.

SUMMARY: We are giving notice of a meeting of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases.

DATES: Sessions will be held from 8 a.m. to 5 p.m. on August 1–2, 2000, and from 8 a.m. to 12 noon on August 3, 2000.

ADDRESSES: The meeting will be held at the USDA Center at Riverside in Conference Centers C and D, 4700 River Road, Riverdale, MD.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Annelli, Chief Staff Veterinarian, Emergency Programs Staff, VS, APHIS, 4700 River Road Unit 41, Riverdale, MD 20737–1231;

(301) 734–8073.

SUPPLEMENTARY INFORMATION: The Secretary's Advisory Committee on Foreign Animal and Poultry Diseases (the Committee) advises the Secretary of Agriculture on actions necessary to prevent the introduction of foreign diseases of livestock and poultry into the United States. In addition, the Committee advises the Secretary on contingency planning and on maintaining a state of preparedness to deal with these diseases, if introduced.

The meeting will focus on the U.S. animal health emergency management system and the foreign animal disease situation worldwide and its relevance to the United States. The meeting will be open to the public. However, due to the time constraints, the public will not be allowed to participate in the Committee's discussions.

You may obtain an agenda for the meeting by contacting Dr. Joseph Annelli at the address listed under **FOR FURTHER INFORMATION CONTACT.**

You may file written statements on meeting topics with the Committee before or after the meeting by sending them to Dr. Joseph Annelli at the address listed under **FOR FURTHER INFORMATION CONTACT.** You may also file written comments at the time of the meeting. Please refer to Docket No. 00–064–1 when submitting your comments.

This meeting notice is given pursuant to section 10 of the Federal Advisory Committee Act.

Done in Washington, DC, this 11th day of July 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–17888 Filed 7–13–00; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Deschutes Provincial Interagency Executive Committee (PIEC), Advisory Committee Meeting

AGENCY: Forest Service.

ACTION: Notice of meeting.

SUMMARY: The Deschutes PIEC Advisory Committee will meet on August 16–17, 2000 at the Confederated tribes of Warm Springs Forestry and Fire Management Conference room at 4430 Upper Dry Creek Road in Warm Springs, Oregon. The first day will be a field trip starting at 10 am to visit vegetation management projects on Tribal lands. The second day will be a business meeting starting at 9 am at the Jefferson County Firehall on the corner of Adam and ''J'' Street in Madras, Oregon. Agenda items will include Rechartering, United Federal Policy on Water Quality Monitoring, Roadless Area EIS, Recreation Initiative, Update on the Lower Snake Dams, Hosmer EA, Info Sharing and a Public Forum from 3 pm till 3:30 pm. All Deschutes Province Advisory Committee Meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Mollie Chaudet, Province Liaison, USDA, Bend-Ft. Rock Ranger District, 1230 N.E. 3rd, Bend, OR 97701, Phone (541) 383–4769.

Dated: July 10, 2000.

Rebecca Heath,

Acting Deschutes National Forest Superior.

[FR Doc. 00–17907 Filed 7–13–00; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

EFFECTIVE DATE: August 14, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: On March 24, April 21 and May 26, 2000, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (65 FR 15897, 21395 and 34145) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

PVA Sponge Mop Refill

M.R. 1037

Computer Accessories

6150–00–NIB–0005 (Surge Protectors)
6150–00–NIB–0006 (Surge Protectors)
7045–00–NIB–0052 (CD Jewel Cases)
7045–00–NIB–0053 (Computer Maintenance Products)
7045–00–NIB–0056 (Computer Maintenance Products)
7045–00–NIB–0057 (Computer Maintenance Products)
7045–00–NIB–0076 (Keyboard Drawers)
7045–00–NIB–0077 (Anti-Glare Screens)
7045–00–NIB–0103 (CD Jewel Cases)
7045–00–NIB–0104 (CD Jewel Cases)
7045–00–NIB–0105 (Keyboard Drawers)
7045–00–NIB–0106 (Keyboard Drawers)
7045–00–NIB–0107 (Computer Maintenance Products)
7045–00–NIB–0108 (Computer Maintenance Products)
7045–00–NIB–0111 (Anti-Glare Screens)
7045–00–NIB–0112 (Anti-Glare Screens)
7045–00–NIB–0113 (Computer Maintenance Products)
7045–00–NIB–0121 (Desktop Media Storage)
7045–00–NIB–0123 (Desktop Media Storage)
7045–00–NIB–0124 (Desktop Media Storage)
7045–00–NIB–0125 (Desktop Media Storage)
7045–00–NIB–0126 (Desktop Media Storage)
7045–00–NIB–0129 (Desktop Media Storage)
7045–00–NIB–0131 (Desktop Media Storage)

Services

Grounds Maintenance

U.S. Army Reserve Centers at the following locations:

Lydia Street Extension, Waterbury, Connecticut
Phelps Road, East Windsor, Connecticut

AMSA 69

26 Seamans Lane, Milford, Connecticut
499 Mile Lane, Middletown, Connecticut

AMSA 72

536 Spring Street, Windsor Locks, Connecticut
200 Wintergreen Avenue, New Haven, Connecticut
180 High Street, Fairfield, Connecticut
700 South Quaker Lane, West Hartford, Connecticut

Janitorial/Custodial

Bureau of Land Management, Montana State Office Fire Office Complex for the following locations in Billings, Montana:

The Fire Operations and Air Tanker Base Building, 1299 Rimtop Drive
Billings Zone Fire Cache Building, Airport Industrial Park IP–7, 551 Northview Drive

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the commodities.

3. The action may result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities are hereby deleted from the Procurement List:

Liner, Trousers, Cold Weather

8415–01–180–0376

8415–01–180–0377

Louis R. Bartalot,

Deputy Director (Operations).

[FR Doc. 00–17891 Filed 7–13–00; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: August 14, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement

List for production by the nonprofit agencies listed:

Administrative/General Support Services, U.S. Customs Service CMC, 423 Canal Street, New Orleans, Louisiana, NPA: The Lighthouse for the Blind in New Orleans, New Orleans, Louisiana

Food Service Attendant, Pope Air Force Base, North Carolina, NPA: Fairfax Opportunities Unlimited, Inc., Alexandria, Virginia

Furniture Rehabilitation, U.S. Department of Agriculture, 14th & Independence Avenue, SW, Washington, DC (10% of the USDA's requirement), NPA: J. M. Murray Center, Inc., Cortland, New York

Janitorial/Custodial, Department of the Treasury, Federal Law Enforcement Training Center, Child Care Center, Building 315, Glynco, Georgia, NPA: Goodwill Industries of the Coastal Empire, Inc., Savannah, Georgia

Louis R. Bartalot,

Deputy Director (Operations).

[FR Doc. 00–17892 Filed 7–13–00; 8:45 am]

BILLING CODE 6353–01–P

CIVIL RIGHTS COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Commission on Civil Rights.

DATE AND TIME: Friday, July 21, 2000, 9:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, N.W., Room 540, Washington, DC 20425.

STATUS:

Agenda

I. Approval of Agenda
II. Approval of Minutes of June 16, 2000 Meeting
III. Announcements
IV. Staff Director's Report
V. State Advisory Committee Appointments for Arkansas and Oklahoma
VI. ''Fair Employment Enforcement Efforts: Overcoming the Past, Focusing on the Future: An Assessment of EEOC's Enforcement Efforts'' Report
VII. Future Agenda Items

CONTACT PERSON FOR FURTHER INFORMATION: David Aronson, Press and Communications, (202) 376–8312.

Edward A. Hailes, Jr.,

Acting General Counsel.

[FR Doc. 00–18021 Filed 7–12–00; 2:11 pm]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 6–2000]

Proposed Foreign-Trade Zone—City of Erie (County of Erie), Pennsylvania Amendment of Application

Notice is hereby given that the application of the Erie-Western Pennsylvania Port Authority, to establish a general-purpose foreign-trade zone in the City of Erie (County of Erie), Pennsylvania (Doc. 6–2000, 65 FR 12970, 3/10/00), has been amended to include an additional non-contiguous site (450 acres) at the Erie International Airport in Erie. The site includes air cargo facilities and a planned industrial park. The site is owned and operated by the Erie Municipal Airport Authority. The Erie International Airport is a Customs port of entry (within the Cleveland Customs Service port area).

As amended, the zone proposal will consist of a total of two sites (476 acres) in the City of Erie. The application otherwise remains unchanged.

The comment period is reopened until August 17, 2000. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below.

A copy of the application and the amendment and accompanying exhibits are available for public inspection at the following locations:

Erie County Public Library, Raymond M. Blasco, MD, Memorial Library, 160 East Front Street, Erie, PA 16507.

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 4008, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: July 10, 2000.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 00–17905 Filed 7–13–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 36–2000]

Foreign-Trade Zone 173—Grays Harbor County, Washington; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board), by the Port of Grays Harbor (PGH), grantee of Foreign-Trade Zone 173, requesting authority to expand its zone in Grays Harbor County, Washington, adjacent to the Aberdeen Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on July 10, 2000.

FTZ 173 was approved on February 1, 1991 (Board Order 503, 56 FR 5384, 2/11/91) and includes subzone status for the manufacturing plant of Lamb-Grays Harbor Company (Subzone 173A) in Hoquiam. The general-purpose zone currently consists of five sites (589 acres) in Grays Harbor County: *Site 1* (292 acres)—PGH Port Industrial area, including a marine terminal complex, Aberdeen and Hoquiam; *Site 2* (45 acres)—PGH Industrial Development District No.1, Harbor Navigation Channel, Hoquiam; *Site 3* (132 acres)—Bowerman Airfield and adjacent industrial park, Grays Harbor County; *Site 4* (117 acres)—PGH industrial parcel on State Highway 105, Westport Marina, Westport; and, *Site 5* (3 acres)—Westport Marina, Main Dock, Westport.

The applicant is now requesting authority to expand its general-purpose zone to enlarge Site 1 and to add 2 new sites in Grays Harbor County. Site 1 will be expanded from 292 acres to 367 acres at the PGH-Port Industrial Area site in Hoquiam and Aberdeen. The two new proposed sites are as follows: *Proposed Site 6* (150 acres)—PGH Terminal 3, Marine Terminal and Industrial Park, 616 Airport Way and 400 Airport Way, Hoquiam; and, *Proposed Site 7* (440 acres)—Satsop Development Park, 471 Lambert Road, Elma. Expanded Site 1 and Proposed Site 3 are owned by PGH and Proposed Site 2 is owned by the Grays Harbor Public Development Authority. No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is September 12, 2000. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 27, 2000).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Port of Grays Harbor, 111 S. Wooding Street, Aberdeen, WA 98520.
Office of the Executive Secretary, Foreign-Trade Zones Board, Room 4008, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: July 10, 2000.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 00–17906 Filed 7–13–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Aadministration

[Application No. 00–00003]

Export Trade Certificate of Review

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of Issuance of an Export Trade Certificate of Review.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to North American Fruit Trading Alliance, L.L.C. (''NAFTA''). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, 202–482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1999).

The Office of Export Trading Company Affairs (''OETCA'') is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305 (a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

1. Products

Processed red cherries (prunus cerasus); cherry products including but not limited to cherry pie filling, water pack cherries, cherry juice concentrate, dried cherries, frozen pack cherries, individually quick frozen cherries, cherry sausage, cherry jams, jellies and sauces.

Processed sweet cherries including but not limited to individually quick frozen and stored in freezer (IQF); cherries canned in water, light syrup, heavy syrup, extra heavy syrup or as a pie fill; and juice from sweet cherries.

2. Technology Rights

Patents, trademarks, service marks, copyrights, trade secrets, know-how, and semiconductor mask works, involving cherry processing.

3. Export Trade Facilitation Services (as they Relate to the Export of Products and Technology Rights)

Trade promotion, marketing, sales, and transportation services (including packing, transportation, wharfing and handling, trade documentation, freight forwarding, storage, and customs clearance).

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Members (Within the Meaning of Section 325.2(1) of the Regulations)

Graceland Fruit, Inc., Frankfort, MI; Burnette Foods, Inc., Elk Rapids, MI; Milne Fruit Products, Inc., Prosser, WA (Controlling Entity: Ocean Spray Cranberries, Inc., Lakeville, MA); and Northern Michigan Fruit Co., Omena, MI.

Export Trade Activities and Methods of Operation

NAFTA and its Members may engage in the following activities with respect to Export Markets:

1. Negotiate and enter into agreements with buyers in the Export Markets;
2. Negotiate and enter into agreements with foreign governments and other persons in the Export Markets regarding the quantities, time periods, prices, terms, and conditions upon which the Members will export Products and/or Technology Rights through NAFTA;
3. Allocate export sales and/or Export Markets among the Members on the basis of each Member's commitment of Products and/or Technology Rights for export;
4. Establish prices and terms of sale for the Export Markets;
5. Use the NAFTA or other common brand or label;
6. Negotiate and enter into agreement, on behalf of and with the advice of the Members, for the provision of Export Trade Facilitation Services (including trade shows, advertising, and contract marketing services);
7. Share among the Members the cost of Export Trade Facilitation Services;
8. Enter into exclusive distribution agreements in Export Markets for Products and/or Technology Rights with non-Members; ''Exclusive'' means that the non-Member distributor may agree not to represent any person or firms other than NAFTA in the export of Products and/or Technology Rights in any Export Markets; and/or NAFTA may agree not to export Products and/or Technology Rights in any Export Market through any distributor other than that non-Member distributor;
9. Advise and cooperate with the United States Government or any agency of the United States Government in establishing procedures regulating the export of Products and/or Technology Rights; and
10. Conduct product research and design for Products (and develop, obtain, and license associated Technology Rights) only when conducted exclusively for export, including meeting foreign regulatory requirements and foreign buyers specifications, and identifying and designing for foreign buyer preferences; provided, however, that the Export Trade Activities and Methods of Operation do not cover activity that relates to the use of Technology Rights for the U.S. domestic market.

Definition

''Supplier'' means a person, including each member, who produces, provides, or sells Products, Technology Rights, or Export Trade Facilitation Services.

''Member'' means a person who has membership in NAFTA and who has been certified as a ''Member'' within the meaning of Section 325.2(l) of the Regulations.

Terms and Conditions of Certificate

1. In engaging in Export Trade Activities and Methods of Operation, neither NAFTA nor any Member shall intentionally disclose, directly or indirectly, to any other Member or Supplier any information that is about its or any other Member's or Supplier's costs, production, capacity, inventories, domestic prices, domestic sales, terms of domestic marketing or sale, or U.S. business plans, strategies, or methods,

unless (1) such information is already generally available to the trade or public, or (2) the information disclosed is a necessary term or condition (*e.g.,* price, time required to fill an order, etc.) Of an actual or potential bona fide sale and the disclosure is limited to the prospective purchasing Member.

2. Meetings at which NAFTA allocates export sales among Members and establishes export prices shall not be open to the public.

3. Participation by a Member in any Export Trade Activity or Method of Operation under this Certificate shall be entirely voluntary as to that Member, subject to the honoring of contractual commitments for sales of Products, Services or Technology Rights in specific export transactions. A Member may withdraw from coverage under this Certificate at any time by giving written notice to NAFTA, a copy of which NAFTA shall promptly transmit to the Secretary of Commerce and the Attorney General.

4. NAFTA and the Members will comply with requests made by the Secretary of Commerce on behalf of the Secretary or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of section 303(a) of the Act.

5. Each Member shall determine independently the quantities of Products it will offer to export or sell through NAFTA. NAFTA may not require any Member to accept any order for sale or to export any minimum quantity of Products.

Protection Provided by the Certificate

This Certificate protects NAFTA, its Members and their directors, officers, and employees acting on their behalf, from private treble damage actions and governmental criminal and civil suits under U.S. federal and state antitrust laws for the export conduct specified in the Certificate and carried out during its effective period in compliance with its terms and conditions.

A copy of this certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

Dated: July 11, 2000.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

[FR Doc. 00–17909 Filed 7–13–00; 8:45 am]

BILLING CODE 3510–DR–U

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 00–00002]

Export Trade Certificate of Review

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of Issuance of an Export Trade Certificate of Review.

SUMMARY: The Department of Commerce issued an Export Trade Certificate of Review to Consol Energy, Inc. (''CEI'') on June 30, 2000. This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, 202–482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (l997). The Office of Export Trading Company Affairs (''OETCA'') is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305 (a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

1. Product

Bituminous Coal.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

CEI and its Member may engage in the following activities with respect to Export Markets:

1. Gather and share market intelligence about CEI's and Member's mutual international competition and the purchasing decisions made by foreign buyers in the Export Markets;

2. Allocate export market opportunities between CEI and Member. As sales opportunities arise in foreign countries, CEI and Member may jointly determine which one of them will bid for the business. CEI and Member will not compete against each other with respect to export market opportunities assigned to the other;

3. Jointly determine the price at which the Product will be sold for each such foreign business opportunity;

4. Predetermine which of CEI's or Member's coal production sources would be used for each foreign business opportunity;

5. Solicit non-Member Suppliers of bituminous coal as necessary to meet the quantities and/or specifications required by a particular foreign business opportunity;

6. Jointly develop logistical arrangements for the export of bituminous coal to predetermined markets, including jointly arranging shipping schedules and negotiating rates with

Definitions

1. ''Member'' (within the meaning of Section 325.2(1) of the Regulations) means AMCI Export Corporation.

2. ''Non-Member Supplier'' means a person, not a Member of the Certificate, who produces, provides, or sells bituminous coal.

Terms and Conditions of Certificate

1. In engaging in Export Trade Activities and Methods of Operation, neither CONSOL Energy Inc. nor its Member shall intentionally disclose, directly or indirectly, to each other (including parent companies, subsidiaries, or other entities related to CONSOL Energy Inc. or the Member) or to any non-Member Suppliers any information regarding CONSOL Energy Inc.'s or Member's costs, production, inventories, domestic prices, domestic sales, capacity to produce Products for domestic sale, domestic orders, terms of domestic marketing or sale, or U.S. business plans, strategies, or methods, unless such information is already

generally available to the trade or public.

2. CONSOL Energy Inc. and its Member shall determine independently the quantities of Product each will offer to export. Neither may require the other to export any minimum quantity of Product.

3. Any agreements, discussions, or exchanges of information under this Certificate relating to quantities of Products available for Export Markets, product specifications or standards, export prices, product quality or other terms and conditions of export sales (other than export financing) shall be in connection only with actual or potential bona fide export transactions or opportunities and shall include only CONSOL Energy, Inc. and the Member.

4. Participation by CONSOL Energy, Inc. and the Member in any Export Trade Activity or Method of Operation under this Certificate shall be entirely voluntary, subject to the honoring of contractual commitments for sales of Products in specific export transactions.

5. CONSOL Energy Inc. and the Member will comply with requests made by the Secretary of Commerce on behalf of the Secretary of Commerce or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary of Commerce believes that the information or documents are required to determine that the Export Trade, Export Trade Activities, and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of section 303 (a) of the Act.

A copy of this certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility Room 4102, U.S. Department of Commerce, l4th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: July 6, 2000.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

[FR Doc. 00–17910 Filed 7–13–00; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071100C]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: American Fisheries Act: Vessel and Processor Permit Applications.

Form Number(s): None.

OMB Approval Number: 0648–0393.

Type of Request: Regular submission.

Burden Hours: 83.

Number of Respondents: 141.

Average Hours Per Response: 2 hours for a permit application, 30 minutes for a replacement vessel application.

Needs and Uses: The American Fisheries Act (AFA) established an allocation program for the pollock fishery of the Bering Sea and Aleutian Islands Management Area (BSAI). NOAA issued an emergency interim rule to give immediate effect to all AFA-mandated management measures. Under the AFA, only vessels and processors that meet specific qualifying criteria are eligible to fish for and process pollock in the BSAI. The BSAI pollock quota is suballocated to groups of vessel owners who form fishing vessel cooperatives under the AFA. NOAA administers new AFA fishing, processing, and cooperative permits for the BSAI pollock fishery through application form requirements for the participants to identify and permit the vessels and processors that are eligible to participate in the BSAI pollock fishery by requiring the owners of vessels and processors to submit evidence of their qualification to participate in the BSAI pollock fishery.

Affected Public: Business and other for-profit organizations.

Frequency: Annual, every four years, and on occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395-3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482-3272, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at lengelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: July 7, 2000.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–17896 Filed 7–13–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Alcoa Point Comfort/Lavaca Bay NPL Site, Point Comfort, Texas: Notice of Availability and Request for Comments on a Draft Damage Assessment and Restoration Plan/Environmental Assessment for Ecological Injuries and Service Losses

AGENCIES: National Oceanic and Atmospheric Administration (NOAA), Commerce; United States Department of the Interior (DOI); Texas Parks and Wildlife Department (TPWD); Texas General Land Office (TGLO); Texas Natural Resources and Conservation Commission (TNRCC).

ACTION: Notice of availability of a Draft Damage Assessment and Restoration Plan and Environmental Assessment for ecological injuries and service losses associated with the Alcoa Point Comfort/Lavaca Bay NPL Site, and of a 30-day period for public comment on the draft plan beginning July 14, 2000.

SUMMARY: Pursuant to 43 CFR 11.32 and 11.81—.82, notice is hereby given that a document entitled, ''Draft Damage Assessment and Restoration Plan and Environmental Assessment for the Point Comfort/Lavaca Bay NPL Site Ecological Injuries and Service Losses'' (Draft DARP/EA) is available for public review and comment. This document has been prepared by the state and federal natural resource trustee agencies listed above to address natural resource injuries and resource services losses of an ecological nature attributable to releases of hazardous substances from the Alcoa Point Comfort/Lavaca Bay NPL Site (Site). This Draft DARP/EA presents the Trustees' assessment of the natural resource injuries and service losses attributable to the Site, and their proposed plan to compensate for those losses by restoring ecological resources and services. In an effort to expedite

completion of the restoration planning process for this Site, the current document also includes an evaluation of the terrestrial resource injuries and ecological losses after 1999, and their corresponding restoration requirements, based on an anticipated final remedy. The need for a future Draft DARP/EA to complete restoration planning will be determined based on the final remedy decision for the Site and the consistency of this evaluation with that decision. The Trustees will consider comments received during the public comment period, including this evaluation, before finalizing the DARP/EA for these ecological losses.

DATES: Comments on the Draft DARP/EA must be submitted in writing on or before August 14, 2000.

ADDRESSES: Requests for copies of the Draft DARP/EA should be sent to Richard Seiler of TNRCC, MC142, P.O. Box 13087, Austin, TX 78711–3087 or John Kern of NOAA, 9721 Executive Center Drive North, Suite 134, St. Petersburg, FL 33702. Written comments on the plan should be sent either to Richard Seiler of TNRCC or John Kern of NOAA at the addresses listed above.

SUPPLEMENTARY INFORMATION: The Alcoa Point Comfort/Lavaca Bay NPL Site is located in Point Comfort, Calhoun County, Texas and encompasses releases of hazardous substances from Alcoa's Point Comfort Operations facility. Between 1948 and the present, Alcoa has constructed and operated several types of manufacturing processes at this facility, including aluminum smelting, carbon paste and briquette manufacturing, gas processing, chlor-alkali processing, and alumina refining. Past operations at the facility have resulted in the release of hazardous substances into the environment, including through the discharge of mercury-containing wastewater into Lavaca Bay from 1966 to 1970 and releases of mercury into the bay through a groundwater pathway. In April 1988, the Texas Department of Health (TDH) issued a ''closure order'' prohibiting the taking of finfish and crabs for consumption from a specified area of Lavaca Bay near the facility due to elevated mercury concentrations found in these species.

The Alcoa Point Comfort/Lavaca Bay Site was added to the National Priorities List (NPL), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9601 *et seq.*, on March 25, 1994 (59 FR 8724; February 23, 1994). The Site was listed primarily due to the presence of mercury in several species of finfish and crabs in Lavaca Bay, the fishing closure imposed by TDH, and the presence of mercury and other hazardous substances in bay sediments adjacent to the facility. Alcoa, the State of Texas and the U.S. Environmental Protection Agency (EPA) signed an Administrative Order on Consent (AOC) under CERCLA in March 1994 for the conduct of a remedial investigation and feasibility study (RI/FS) for the Site.

NOAA, DOI, TPWD, TGLO and TNRCC (collectively, the Trustees) are designated natural resource trustees under section 107(f) of CERCLA, section 311 of the Federal Water Pollution and Control Act (FWPCA), 33 U.S.C. 1321, and other applicable federal or state laws, including Subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR 300.600—300.615. The Trustees are authorized to act on behalf of the public under these authorities to protect and restore natural resources injured or lost as a result of discharges or releases of hazardous substances.

Paralleling the RI/FS process for the Site, the Trustees have undertaken an assessment of the natural resource injuries and service losses attributable to hazardous substances at the Site. The assessment for this Site has been aided and supported by Alcoa's cooperation pursuant to a Memorandum of Agreement between Alcoa and the Trustees, which was effective January 14, 1997. The Draft DARP/EA released today has been developed under the cooperative assessment framework outlined in the MOA. It is focused on natural resource injuries or services losses of an ecological nature caused by the hazardous substances at the Site based on known contamination and response actions initiated at the Site as of the end of 1999. The Draft DARP/EA released today embodies the second stage of the assessment and restoration planning process for the Site. The first stage focused on the recreational fishing service losses resulting from the closure area and is covered by a Draft DARP/EA for Recreational Service Losses released on September 28, 1999, and a Revised Draft DARP/EA for Recreational Service Losses released on May 12, 2000. Finalization of the DARP/EA for Recreational Service Losses is anticipated to occur in July 2000.

The Draft DARP/EA released today identifies the information and methods being used to define the natural resource injuries and losses of an ecological nature, including the scale of restoration actions, and identifies the restoration actions which are preferred for use to restore, replace or acquire resources or services equivalent to those lost. The current document also includes an evaluation of the terrestrial resource injuries and remaining ecological losses, including their corresponding restoration requirements, based on an anticipated final remedy. If the final remedy differs from that which the Trustees' have anticipated, then the analysis may not be appropriate and a third and final stage Draft DARP/EA may be required. However, if the analysis is consistent with the actual choice of final remedy, then by including this information for public review in the current document, there will be no need to develop any further Draft DARP/EAs to complete the assessment and restoration planning process for this Site.

FOR FURTHER INFORMATION CONTACT: Richard Seiler at (512) 239–2523, email: rseiler@tnrcc.state.tx.us or John Kern, at (727) 570–5391 x 158, email: john.kern@noaa.gov

Dated: July 10, 2000.

Captain Ted I. Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 00–17833 Filed 7–13–00; 8:45 am]

BILLING CODE 3510–JE–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071000A]

Marine Mammals; File No. 782–1446

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

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that the Alaska Fisheries Science Center, National Marine Mammal Laboratory, 7600 Sand Point Way, NE, Seattle, WA 98115 has been issued an amendment to scientific research Permit No. 782–1446.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Alaska Region, National Marine Fisheries Service, NOAA, P.O. Box. 21668, Juneau, AK 99802–1668 (907/586–7221); and

Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand

Point Way, NE, BIN C15700, Seattle, WA 98115–0070 (206/526–6150).

FOR FURTHER INFORMATION CONTACT: Simona Roberts or Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: On May 22, 2000, notice was published in the **Federal Register** (65 FR 32077) that an amendment of Permit No. 782–1446, issued May 8, 1998 (63 FR 27265), had been requested by the above-named organization. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Permit No. 782–1446 authorizes the permit holder to annually conduct aerial, ground and vessel surveys and capture and tagging studies for stock assessment of harbor seals (*Phoca vitulina*), California sea lions (*Zalophus californianus*), Steller sea lions (*Eumetopias jubatus)*, and northern elephant seals (*Mirounga angustirostris*).

The amendment now authorizes the chemical immobilization of 6 adult male California sea lions in Oregon, Washington, and California for the removal of Satellite-Linked Time Depth Recorders.

Dated: July 10, 2000.

Ann Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–17893 Filed 7–13–00; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Singapore; Republication

June 30, 2000.

Editorial Note: FR Doc. 00–17161 was originally scheduled to be published in the issue of Friday, July 7, 2000, at page 41962. It was inadvertently omitted. It is published below in its entirety.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: July 7, 2000.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for carryover, carryforward and swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Also see 64 FR 54874, published on October 8, 1999.

William J. Dulka,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 30, 2000.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 4, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore and exported during the twelve-month period which began on January 1, 2000 and extends through December 31, 2000.

Effective on July 7, 2000, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
222	702,393 kilograms.
331	657,384 dozen pairs.
338/339	1,728,914 dozen of which not more than 1,053,038 dozen shall be in Category 338 and not more than 1,127,744 dozen shall be in Category 339.
347/348	1,362,563 dozen of which not more than 846,912 dozen shall be in Category 347 and not more than 621,213 dozen shall be in Category 348.
604	1,072,871 kilograms.
639	4,123,826 dozen.
642	354,086 dozen.
648	1,765,424 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William J. Dulka,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Editorial Note: FR Doc. 00–17161 was originally scheduled to be published in the issue of Friday, July 7, 2000 at page 41962. It was inadvertently omitted due to typesetting errors.

[FR Doc. 00–17161 Filed 7–6–00; 8:45 am]

BILLING CODE 1505–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Form Number, and OMB Number: Professional Qualifications, Medical and Peer Reviewers; CHAMPUS For 780; OMB Number 0720–0005.

Type of Request: Reinstatement.

Number of Respondents: 60.

Responses Per Respondent: 1.

Annual Responses: 60.

Average Burden Per Response: 30 minutes.

Annual Burden Hours: 30

Needs and Uses: The information collection requirement is necessary to obtain and record the professional qualifications of medical and peer reviewers utilized within CHAMPUS. The form is included as an exhibit in an appeal or hearing case file as evidence of the reviewer's professional

qualifications to review the medical documentation contained in the case file. Respondents are medical professionals who provide medical and peer review of cases appealed to the Office of Appeals and Hearings, TRICARE Management Activity.

Affected Public: Individuals or households; Business or Other For-Profit.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Allison Eydt.

Written comments and recommendations on the proposed information collection should be sent to Ms. Eydt at the Office of Management and Budget, Desk Officer for DoD Health Affairs, Room 10235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: July 10, 2000.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–17849 Filed 7–13–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the United States Commission on National Security/21st Century

AGENCY: Department of Defense, Office of the Undersecretary of Defense (Policy).

ACTION: Notice of closed meeting.

SUMMARY: The United States Commission on National Security/21st Century will meet in closed session on July 25–26, 2000. The Commission was originally chartered by the Secretary of Defense on 1 July 1998 (charter revised on 18 August 1999) to conduct a comprehensive review of the early twenty-first century global security environment; develop appropriate national security objectives and a strategy to attain these objectives; and recommend concomitant changes to the national security apparatus as necessary. This meeting is being announced less than fifteen days before the meeting dates dues to scheduling difficulties.

The Commission will meet in closed session on July 25–26, 2000, to receive updates on Phase Three research and analysis and to provide overall guidance on the structure and content of the Phase Three report. By Charter, the Phase Three report is to be delivered to the Secretary of Defense no later than February 16, 2001.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended [5 U.S.C., Appendix II], it is anticipated that matters affecting national security, as covered by 5 U.S.C. 552b(c)(1)(1988), will be presented throughout the meeting, and that, accordingly, the meeting will be closed to the public.

DATES: Tuesday and Wednesday, July 25–26, 2000, 8:30 a.m.–5 p.m.

ADDRESSES: The Airlie Center, 6809 Airlie Road, Warrenton, VA 20187.

FOR FURTHER INFORMATION CONTACT: Keith A. Dunn, National Security Study Group, Suite 532, Crystal Mall 3, 1931 Jefferson Davis Highway, Arlington, VA 22202–3805. Telephone 703–602–4175.

Dated: July 10, 2000.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 00–17850 Filed 7–13–00; 8:45 am]

BILLING CODE 5000–01–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Membership of the Defense Logistics Agency (DLA) Senior Executive Service (SES) Performance Review Board (PRB)

AGENCY: Defense Logistics Agency, Department of Defense.

ACTION: Notice of membership—2000 DLA PRB (Amended).

SUMMARY: This notice amends the appointment of members to the Defense Logistics Agency Senior Executive Service (SES) Performance Review Board (PRB). The publication of PRB composition is required by 5 U.S.C. 4314(c)(4). The PRB provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations to the Director, Defense Logistics Agency, with respect to pay level adjustments and performance awards, and other actions related to management of the SES cadre.

EFFECTIVE DATE: July 1, 2000.

ADDRESSES: Defense Logistics Agency, 8725 John J. Kingman Road, STE 2533, Fort Belvoir, Virginia 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Donna Coward, Workforce Effectiveness and Development Group, Human Resources, Defense Logistics Agency, Department of Defense, (703) 767–6427.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are the names and titles of DLA career executives appointed to serve as a members of the SES PRB. Members will serve a 2-year term, effective July 1, 2000.

PRB Chair: Mr. Gary Thurber, Executive Director,

Members: Mr. Frank Lotts, Deputy Director, Logistics Operations, Ms. Phyllis Campbell, Deputy Commander, Defense Distribution Center, Dr. Linda Furiga, Comptroller.

Gary S. Thurber,

Executive Director, Defense Logistics Agency.

[FR Doc. 00–17853 Filed 7–13–00; 8:45 am]

BILLING CODE 3620–01–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent to Announce a Determination of Surplus in the Federal Register

AGENCY: U.S. Army Corps of Engineers, Sacramento District, DoD.

ACTION: Dispose of surplus property.

SUMMARY: In accordance with Public Laws 103–421, 100–526 and 103–337, this is a Notice of Availability for Surplus Land, Buildings and Utilities located at Sierra Army Depot, Herlong, California. This notice identifies the surplus real property located at Sierra Army Depot (SIAD), Herlong, California. SIAD is located approximately 55 miles north northwest of Reno, Nevada just north of U.S. Highway 395. SIAD is a base realignment facility and major portions of the installation are being retained for active missions.

The surplus real property consists of approximately 3661 acres. The current range of uses include: Airport, light industrial, storage, and commercial facilities; water, sanitary sewer and electric distribution systems.

Notices of interest must be submitted to the appropriate Federal Agency as specified in the Notice of Surplus Determination within 20 days from June 27, 2000 with a copy forwarded to Lassen County Local Reuse Authority, Attention: Ms. Tricia Stewart, Project Coordinator, 815 Cottage Street, Susanville, California 96130 and Mr. Ramon Aberasturi, U.S. Army Corps of Engineers, Sacramento District (CESPK–RE–MC), 1325 J Street, Sacramento, California.

FOR FURTHER INFORMATION CONTACT: For more information regarding a particular

building or parcel (*i.e.,* acreage, floor plans, existing utilities, exact street address), contact Ms. Lori McDonald, SIAD PAO at (530) 827–4488 or regarding the Notice of Surplus Determination, contact Mr. Ramon Aberasturi, Realty Specialist, (916) 557–6865.

Keneth L. Fox,

Chief, Management and Disposal Branch Real Estate Division.

[FR Doc. 00–17852 Filed 7–13–00; 8:45 am]

BILLING CODE 3710–EZ–M

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 Reaching Out to Families who are Homeless with Young Children with Disabilities sponsored by the Office of Special Education Programs and Rehabilitative Services, will be held on Thursday September 14, from 9:00 a.m.–12:00 noon in the Barnard Auditorium, U.S. Department of Education, 400 Maryland Ave. S.W., Washington, DC 20202. The meeting is open to the public.

DATE AND TIME: FICC Meeting: Thursday, September 14, 2000 from 1:30 p.m. to 5:00 p.m.

ADDRESSES: U.S. Department of Education, Barnard Auditorium, 400 Maryland Avenue, S.W., 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, S.W., 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 for 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, S.W., 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. 00–17820 Filed 7–13–00; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL00–9–001 and ER99–2331–002]

Cherokee County Cogeneration Partners, L.P., v. Duke Energy Corporation and Duke Energy Corporation; Notice of Filing

July 10, 2000.

Take notice that on June 30, 2000, Duke Energy Corporation (Duke), tendered for filing a Stipulation and Settlement Agreement (Settlement) between Duke and Cherokee County Cogeneration Partners, L.P. (Cherokee), an Explanatory Statement and a revised Operating Agreement. Duke states that the Settlement is the Commission-jurisdictional portion of a comprehensive resolution of disputes and litigation between Duke and Cherokee.

Duke states that copies of its filing have been mailed to each person designated on the official service list in this proceeding.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before July 20, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–17815 Filed 7–13–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–3068–000]

FPL Energy Cape, LLC; Notice of Filing

July 10, 2000.

Take notice that on June 29, 2000, FPL Energy Cape, LLC, 100 Middle Street, Portland Maine 04101, tendered for filing with the Federal Energy Regulatory Commission an application for approval of rate schedule under which they may make wholesale sales of electric energy, capacity, and certain ancillary services at market-based rates pursuant to Section 205 of the Federal Power Act, Part 35 of the Commission's Regulations and Rules 203 and 205 of the Commission's Rules of Practice and Procedure.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before July 20, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–17819 Filed 7–13–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–375–000]

Panhandle Eastern Pipe Line Company; Notice of Tariff Filing

July 7, 2000.

Take notice that on June 30, 2000, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, revised tariff sheets as listed on Appendix A attached to the filing, to be effective March 27, 2000 and August 1, 2000.

Panhandle states that the purpose of this filing is to comply with the Commission's Regulation of Short-term Natural Gas Transportation Service, and Regulation of Interstate Natural Gas Transportation Services in Docket Nos. RM98–10–000 and RM98–12–000 issued on February 9, 2000, 90 FERC ¶ 61,109 (Order No. 637) as clarified in Docket Nos. RM98–10–001, *et al.* issued on May 19, 2000, 91 FERC ¶ 61,169 (Order NO. 637–A). Specifically, the proposed changes revise the applicable sections of the General Terms and Conditions of Panhandle's tariff to remove the price cap for short-term capacity releases until September 30, 2002 and to modify the applicability of the right of first refusal as directed by Order Nos. 637 and 637–A.

Panhandle states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

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).

David P. Boergers,

Secretary.

[FR Doc. 00–17862 Filed 7–13–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1864–005]

Upper Peninsula Power Company; Notice of Site Visit

July 10, 2000.

The Federal Energy Regulatory Commission (Commission) has received an application for relicense of the existing Bond Falls Hydroelectric Project No. 1864–005. The Bond Falls Project is located on the Ontonagon River system in the western part of Michigan's Upper Peninsula and a small portion of neighboring Wisconsin, and is owned and operated by Upper Peninsula Power Company (UPPCO).

On June 18, 1996, the Commission issued a notice that the project was ready for environmental analysis. A site visit was held on October 10 and 11, 1995, and scoping meetings were held on January 10 and 11, 1996. A site visit and public meetings to discuss a draft Offer of Settlement were held on May 25 and 26, 1999. Since then the Offer of Settlement has been finalized and the Commission's staff assigned to this project has changed. Therefore, it is necessary that an additional site visit be conducted prior to completion of environmental analysis.

The Commission's staff will visit the project site on Wednesday, July 19 and Thursday, July 20, 2000. The site visit will begin during the early afternoon of July 19 from the parking lot of the AmericInn, Watersmeet, Michigan, and continue on July 20 from the same location. Interested individuals, organizations, and agencies are invited to attend the site visit to gain a better understanding of the existing project. People interested in attending the site visit should provide their own transportation. Please contact the UPPCO representative, Mr. Robert Meyers, at (906) 485–2419 to be included on the site visit and to obtain specific meeting times for July 19 and 20.

If you have any questions please contact Mr. Patrick Murphy at (202) 219–2659.

David P. Boergers,

Secretary.

[FR Doc. 00–17864 Filed 7–13–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER00–1721–001 and ER00–1737–001]

Virginia Electric and Power Company; Notice of Filing

July 10, 2000.

Take notice that on June 30, 2000, Virginia Electric and Power Company, tendered for filing revised tariff sheets in compliance with the Commission's order issued May 31, 2000 in Virginia

Electric and Power Company, 91 FERC ¶ 61,209 (2000). The Company requests that the Commission accept these compliance tariff sheets for filing and make them effective June 1, 2000, the date the Commission permitted the modified OATT and the modified market-based sales tariff to become effective.

Copies of the filing were served upon the office service list compiled by the Secretary is this proceeding.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before July 21, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–17818 Filed 7–13–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–36–000]

Guardian Pipeline, L.L.C.; Notice of Availability of the Draft Environmental Impact Statement for the Proposed Guardian Pipeline Project

July 10, 2000.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this draft environmental impact statement (draft EIS) on natural gas pipeline facilities proposed by Guardian Pipeline, L.L.C. (Guardian) in the above-referenced docket.

The draft EIS was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures as recommended, would have limited adverse environmental impact. The draft EIS evaluates alternatives to the proposal, including system alternatives; route alternatives; and minor route variations.

The draft EIS assesses the potential environmental effects of the construction and operation of the following facilities in Illinois and Wisconsin:

- 140.2 miles of 36-inch diameter pipeline extending from Joliet, Illinois to Ixonia, Wisconsin;
- 8.5 miles of 16-inch-diameter lateral pipeline in Walworth and Waukesha Counties, Wisconsin (Eagle Lateral);
- A total of 0.16 mile of 30, 24, and 16-inch-diameter pipeline to connect the project to existing pipeline systems in Will County, Illinois;
- One 25,080-horsepower compressor station (Joliet Compressor Station) in Will County, Illinois;
- Seven new meter stations; and
- Associated pipeline facilities, including eight mainline valves.

Wisconsin Gas Company (WGC) also proposes to construct about 35 miles of 30 –, 24 –, and 16–inch diameter pipeline (WGC Lateral Line Project) extending eastward from the northern terminus of the Guardian Pipeline in Wisconsin. WGC's Lateral Line Project is under the jurisdiction of the Public Service Commission of Wisconsin (PSCW). Although these facilities are not under the jurisdiction of the FERC, they are analyzed in this draft EIS. The PSCW is participating in the EIS process as a cooperating agency, as is the Wisconsin Department of Natural Resources (WIDNR). FERC is coordinating the public comment process on the draft EIS and will share any comments on the WGC Lateral Line Project with the PSCW and WIDNR.

The purpose of the Guardian Pipeline Project is to transport up to 750,000 decatherms per day of natural gas from the Chicago Hub to markets in northern Illinois and Wisconsin. According to Guardian, the project would:

- Introduce a competitive alternative natural gas pipeline to markets in northern Illinois and Wisconsin;
- Provide area shippers with access to competing providers of transportation, storage, and related services at or upstream of the Chicago Hub; and
- Contribute toward increasing electric reliability in the upper Midwest by providing additional pipeline capacity to meet the growth in gas-fired electric generation plants.

Comment Procedures and Public Meetings

Any person wishing to comment on the draft EIS may do so. To ensure consideration of your comments on the proposal in the final EIS, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your comments to: Secretary, Federal Regulatory Energy Commission, 888 First St., N.E., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the DEER Gas Group 1, PJ 11.1;
- Reference Docket No. CP00–36–000; and
- Mail your comments so that they will be received in Washington, DC on or before August 28, 2000.

In addition to written comments, we will hold four public meetings in the project area to receive comments on the draft EIS. All meetings will begin at 7 p.m., and are scheduled as follows:

August 14, 2000

Joliet, Illinois, Fireside Resort Hotel, 4200 West Jefferson, (815) 725–0111

DeKalb, Illinois, Northern Illinois University, Holmes Student Center, Normal & Lucinda Roads, (815) 753–1744

August 15, 2000

Delavan, Wisconsin, Lake Lawn Lodge, 2400 East Geneva St., (800) 338–5253

Oconomowoc, Wisconsin, Olympia Conference Center, 1350 Royale Mile Road, (800) 558–9573

Interested groups and individuals are encouraged to attend and present oral comments on the environmental impact described in the draft EIS. Transcripts of the meetings will be prepared.

After these comments are reviewed, any significant new issues are investigated, and modifications are made to the draft EIS, a final EIS will be published and distributed by the staff. The final EIS will contain the staff's responses to timely comments filed on the draft EIS.

Comments will be considered by the Commission but will not serve to make the commenter a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).

Anyone may intervene in this proceeding based on this draft EIS. You must file your request to intervene as specified above. You do not need intervener status to have your comments considered.

This draft EIS has been placed in the public files of the FERC and is available for public inspection at: Federal

Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, N.E., Washington, D.C. 20426, (202) 208–1371.

A limited number of copies are available from the Public Reference and Files Maintenance Branch identified above. In addition, copies of the draft EIS have been mailed to Federal, state, and local agencies, public interest groups, individuals who have requested the draft EIS, newspapers, and parties to this proceeding.

Additional information about the proposed project is available from Paul McKee in the Commission's Office of External Affairs, at (202) 208–1088 or on the FERC Internet website (www.ferc.fed.us) using the ''RIMS''link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. Or assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

David P. Boergers,

Secretary.

[FR Doc. 00–17816 Filed 7–13–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–165–000]

Transcontinental Gas Pipeline Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Sundance Expansion Project, Request for Comments on Environmental Issues, and Schedule to Hold Site Visits

July 10, 2000.

The staff of the Federal Energy Regulatory Commission (FERC or Commission will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Sundance Expansion Project (Sundance Project) involving construction and operation of facilities by Transcontinental Gas Pipe Line Company (Transco) in several counties in North Carolina, Georgia, Alabama, and Mississippi.[1] These facilities would consist of about 38 miles of 42- and 48-inch diameter pipeline, 41,225 horsepower (hp) of additional compression, piping modification at one compressor station, and installation of gas coolers at another compressor station. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility on My Land? What Do I Need to Know?'' was attached to the project notice Transco provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet website (ww.ferc.fed.us).

Summary of the Proposed Project

Transco wants to expand the capacity of its mainline pipeline facility in Mississippi, Alabama, Georgia, and North Carolina to transport an additional 236,383 dekatherms per day of natural gas to 12 shippers. Transco seeks authority to construct and operate the following facilities:

- 12.03 miles of 42-inch diameter pipeline loop from milepost 772.81 on transco's mainline in Clark County, Mississippi to milepost 784.84 in Choctaw County, Alabama (the ''Desoto loop'');
- 9.36 miles of 48-inch diameter pipeline loop from milepost 851.46 on Transco's main line in Dallas County, Alabama to milepost 860.82 in Perry County, Alabama (the ''Summerville loop'');
- Piping modifications at Transco's existing Compressor Station No. 105, located in Coosa County, Alabama;
- 8.97 miles of 42-inch diameter pipeline loop from milepost 1247.03 on Transco's mainline in Cleveland County, North Carolina to milepost 1256.00 in Gaston County, North Caroline (the ''Kings Mountain loop'');
- 7.67 miles of 42-inch diameter pipeline loop from milepost 1287.11 on Transco's mainline to milepost 1294.78 in Iredell County, North Carolina (the ''Mooresville loop''):
- One new 18,975 horsepower compressor unit, and the uprating of an existing 15,000 horsepower compression unit, and an existing 16,500 horsepower compressor unit to 18,975 horsepower each at Transco's existing Compressor Station No. 115, located in Coweta County, Georgia. The proposed Sundance project will increase the total certificated compression at this station to 56,425 horsepower;
- One new 15,000 horsepower compression unit, and the uprating of an existing 4,000 horsepower compression unit to 4,800 horsepower at Transco's existing Compressor Station No. 125, located in Walton County, Georgia. The proposed Sundance project will increase the total certificated compression at this station to 38,800 horsepower; and
- Gas coolers at Transco's existing Compressor Station No. 150, located in Iredell County, North Carolina.

The general location of the project facilities is shown in appendix 1.[2]

Land Requirements for Construction

Construction of the proposed pipeline additions would require about 516.4 acres of land. Following construction, about 164.9 acres would be maintained as new pipeline right of way. The remaining 351.5 acres of land would be restored and allowed to revert to its former use.

Installation of new facilities at the four existing compressor stations would require a total of about 8.1 acres of land area. However, no increase in land area would be required during operation of these facilities.

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[1] Transco's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commissions' regulations.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the ''RIMS'' link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, N.E., Washington, D.C. 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their area of concern.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section at the beginning of page 6.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Transco. This preliminary list of issues may be changed based on your comments and our analysis.

- Geology and Soils
  - —Erosion control and right-of-way restoration.
  - —Potential for mixing of topsoil and subsoil.
- Water Resources and Wetlands
  - —A total of 85 perennial water bodies would be crossed.
  - —A total of 61 wetlands, including 7.18 acres of forested and 5.76 acres of non-forested wetlands along the pipeline construction right of way, would be crossed.
- Biological Resources
  - —Impacts on 24 federally threatened and/or endangered species that may be present in the project area.
  - —Impacts on about 213 acres of upland forest and scrub-shrub habitat.
- Cultural Resources
  - —Impacts on prehistoric and historic sites
  - —Native American concerns
- Land Use
  - —Impacts on about 226 acres of rangeland.
  - —Impacts on residential areas.
  - —Visual effects of the aboveground facilities on surrounding areas.
  - —Impacts on 15 residents within 50 feet of the proposed construction area.
- Air and Noise Quality
  - —Impacts on local air and noise environment as a result of operation of the new compressor upgrades.
- Alternatives
  - —Evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.
- Nonjurisdictional Facilities
  - —We have made a preliminary decision to not address the impacts of the nonjurisdictional facilities. We will briefly describe their location and status in the EA.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations/routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas/Hydro Group.
- Reference Docket No. CP00–165–000.
- Mail your comments so that they will be received in Washington, DC on or before August 31, 2000.

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2). Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from Mr. Paul McKee of the Commission's Office of External Affairs at (202) 208–1088 or on the FERC website (www.ferc.fed.us) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Schedule of Site Visits

The Commission staff will be conducting an environmental site visit

of each facility proposed for the Sundance Expansion project during the week beginning on August 14 and continuing through August 18, 2000. The following list specifies the time and location to meet staff at each project facility.

Monday, August 14, 2000

Mooresville Loop: Noon, First United Methodist Church parking lot, Hwy. 115 at Fairview Road, Mt. Mourne, NC.

Tuesday, August 15, 2000

Kings Mountain Loop: 9 a.m., Ramada Inn Limited parking lot, 728 York Road, Kings Mountain, NC.

Wednesday, August 16, 2000

Transco's Compressor Station 125: 9 a.m., 1001 James Huff Road, Monroe, GA.

Transco's Compressor Station 115: 1 p.m., 510 Keith Road, Newnan, GA.

Thursday, August 17, 2000

Transco's Compressor Station 105: 9 a.m., 235 Hwy. 22 East, Rockford, AL.

Summerfield Loop: 1 p.m., Black Belt Regional Research and Extension Center, Main Building parking lot, County Road 58, 0.3-mile west of County Road 45, Marion Junction, AL.

Friday, August 18, 2000

DeSoto Loop: 9 a.m., First United Methodist Church parking lot, 203 E. Franklin Street, Quitman, MS.

Anyone interested in participating in the site visit may contact Mr. Paul McKee of the Commission's Office of External Affairs at (202) 208–1088 with any questions, or to obtain updates on the above schedule should changes occur while staff is en route to the meeting locations. Participants must provide their own transportation.

David P. Boergers,

Secretary.

[FR Doc. 00–17817 Filed 7–13–00; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6609–1]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or www.epa.gov/oeca/ofa.

Weekly Receipt of Environmental Impact Statements Filed July 3, 2000 Through July 7, 2000 Pursuant to 40 CFR 1506.9

EIS No. 000231, FINAL EIS, BLM, OR, John Day River Proposed Management Plan, Implementation, Two Rivers and John Day Resource Management Plan Amendments, John Day River Basin, Gilliam, Grant, Wheeler, Crook, Harney, Jefferson, Morrow, Sherman, Umatilla, Union and Wasco Counties, OR, Due: August 14, 2000, Contact: Mike William (541) 416–6862.

EIS No. 000232, FINAL EIS, IBR, CA, Contra Costa Water District Multi-Purpose Pipeline (MPP) Project, Construction and Operation of Raw Water Delivery System, Contra Costa Canal, COE Section 10 and 404 Permits, Contra Costa County, CA, Due: August 14, 2000, Contact: Bob Eckart (916) 978–5051.

EIS No. 000233, FINAL EIS, NPS, NJ, Great Egg Harbor National Scenic and Recreation River, Comprehensive Management Plan, Implementation, Atlantic Gloucester, Camden and Cape May Counties, NJ, Due: August 14, 2000, Contact: Mary Vavra (215) 597–9115.

EIS No. 000234, DRAFT EIS, APH, Importation of Unmanufactured Wood Articles from Mexico, With Consideration for Cumulative Impact of Methyl Bromide Use, Due: August 28, 2000, Contact: Gene W. Kersey (301) 734–7495.

EIS No. 000235, DRAFT EIS, FHW, TX, US Highway 183 Alternate Project, Improvements from RM–620 to Approximately Three Miles North of the City of Leander, Williamson County, TX, Due: August 28, 2000, Contact: Walter Waidelich (512) 916–5511.

EIS No. 000236, FINAL EIS, FAA, OH, Cleveland Hopkins International Airport, To Provide Capacity, Facilities, Highway Improvements and Enhancement to Safety, Funding, Cugahoga County, OH, Due: August 14, 2000, Contact: Ernest P. Gubry (734) 487–7280.

EIS No. 000237, DRAFT EIS, COE, NC, Dare County Beaches (Bodie Island Portion) Hurricane Wave Protection and Beach Erosion Control, The towns of Nags Head, Kill Devil Hills, Kitty Hawk, Dare County, NC , Due: August 28, 2000, Contact: Charles Wilson (910) 251–4746.

EIS No. 000238, FINAL EIS, FHW, UT, Legacy Parkway Project, Construction from I–215 at 2100 North in Salt Lake City to I–15 and US 89 near Farmington, Funding and COE Section 404 Permit, Salt Lake and Davis Counties, UT, Due: September 05, 2000, Contact: Gregory Punske (801) 963–0182.

EIS No. 000239, DRAFT EIS, IBR, AZ, NV, CA, Colorado River Interim Surplus Criteria, To Determine Water Surplus for use within the States Arizona, California and Nevada (from 2001 through 2015), Colorado River Basin, AZ, CA and NV, Due: September 08, 2000, Contact: Dave Curtis (702) 293–8132.

EIS No. 200240, DRAFT EIS, USN, VA, Marine Corps Heritage Center (MCHC) Complex, Construction and Operation at Marine Corps Base (MCB) Quantico, VA, Due: August 28, 2000, Contact: Hank Riek (202) 685–3064.

EIS No. 000241, FINAL EIS, AFS, ID, Silver Creek Integrated Resource Project, Implementation, Middle Fork Payette River, Boise National Forest, Boise and Valley Counties, ID, Due: August 14, 2000, Contact: Chris Worth (208) 365–7000.

EIS No. 000242, DRAFT EIS, FRC, IL, WI, Guardian Pipeline Project, Propose to Construct and Operate an Interstate Natural Gas Pipeline that would extend from Joliet (Will County), IL and Ixonia (Jefferson County), WI, Due: August 28, 2000, Contact: Paul McKee (202) 208–1088.

Dated: July 11, 2000.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 00–17923 Filed 7–13–00; 8:45 am]

BILLING CODE 6560–60–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6609–2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in **Federal Register** dated April 14, 2000 (65 FR 20157).

Draft EISs

ERP No. D–FAA–E51047–NC Rating EO2, Piedmont Triad International Airport, Construction and Operation, Runway 5L/23R and New Overnight Express Air Cargo Sorting and Distribution Facility, and Associated Developments, Funding, NPDES and COE Section 404 Permit, City of Greensboro, Guilford County, NC.

Summary: EPA expressed environmental objections since the EIS did not fully describe the proposed air cargo operations and the associated potential noise impacts. EPA requested that there be specific commitments to both avoid or reduce air cargo operational noise.

ERP No. D–GSA–B80007–MA Rating LO, U.S. Courthouse Springfield, Construction, Hampden County, MA.

Summary: EPA had no objections to the project.

ERP No. D–IBW–G29002–00 Rating EC2, El Paso—Las Cruces Regional Sustainable Water Project, To Secure Future Drinking Water Supplies, United States and New Mexico.

Summary: EPA expressed concern regarding potential impacts to water/terrestrial resources, habitats, air quality, cultural resources and socioeconomics. EPA requested the final document include additional information and mitigation measures on these issues.

Final EISs

ERP No. F–AFS–J65288–CO Uncompahgre National Forest Travel Plans Revision, Implementation, Grand Mesa, Uncompahgre and Gunnison National Forests, Garrison, Hinsdale Mesa, Montrose, Ouray and San Juan Counties, CO.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–FAA–B51018–CT Tweed-New Haven Airport Runway Safety Area and Taxiway Improvements, Safety Improvements to Runway 2/20 and Taxiways 'B' and 'E', Funding, COE Section 10 and 404 Permits, New Haven County, CT.

Summary: EPA has no objections to the project.

ERP No. F–HUD–K80040–CA City of Monterey Park Project, Construction and Operation of the Monterey Park Towne Plaza, North of the Pomona Freeway and west of Paramount Boulevard, Los Angeles County, CA.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–USA–K26001–HI Schofield Barracks Wastewater Treatment Plant (WWTP), Effluent Treatment and Disposal, NPDES Permit and COE Section 404 Permit, City of County of Honolulu, Oahu, HI.

Summary: No formal comment letter was sent to the preparing agency.

Dated: July 11, 2000.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 00–17924 Filed 7–13–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00439B; FRL–6597–4]

Pesticide Program Dialogue Committee (PPDC); Inert Disclosure Stakeholder Workgroup; Notice of Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: This notice announces a conference call meeting of the Inert Disclosure Stakeholder Workgroup. The workgroup was established to advise the Pesticide Program Dialogue Committee on ways of making information on inert ingredients more available to the public while working within the mandates of the Federal Insecticide, Fungicide, and Rodenticide Act and related confidential business information concerns.

DATES: The meeting will be held by conference call on Tuesday, July 25, 2000, from noon to 3 p.m.

ADDRESSES: Members of the public may listen to the meeting discussions on site at: Crystal Mall #2, Conference Room 1123, 1921 Jefferson Davis Hwy., Arlington, VA. Seating is limited and will be available on a first come first serve basis.

FOR FURTHER INFORMATION CONTACT: By mail: Cameo Smoot, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Office location, telephone number, and e-mail address: 11th Floor, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA; (703) 305–5454; smoot.cameo@epa.gov.

SUPPLEMENTARY INFORMATION: The Inert Disclosure Stakeholder Workgroup is composed of participants from the following sectors: Environmental/public interest and consumer groups; industry and pesticide users; Federal, State, and local governments; the general public; academia and public health organizations.

The Inert Disclosure Stakeholder Workgroup will advise EPA, through the Pesticide Program Dialogue Committee (PPDC), on potential measures to increase the availability to the public of information about inert ingredients (also called ''other ingredients'') under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Among the factors the workgroup has been asked to consider in preparing its recommendations are: Existing law regarding inert ingredients and confidential business information (CBI); current Agency processes and policies for disseminating inert ingredient information to the public, including procedures for the protection of CBI; informational needs for a variety of stakeholders; and business reasons for limiting the disclosure of inert ingredient information.

The Inert Disclosure Stakeholder Workgroup meeting is open to the public. Written public statements are welcome and should be submitted to the OPP administrative docket OPP–00439A. Any person who wishes to file a written statement can do so before or after the conference call. These statements will be provided to the workgroup members for their information.

How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper handling by EPA, it is imperative that you identify docket control number OPP–00439A in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments and/or data electronically by e-mail to: ''opp-docket@epa.gov,'' or you can submit a computer disk as described in items 1 and 2 above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00439A. Electronic comments may also be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: July 5, 2000.

Joseph J. Merenda,

Acting Director, Office of Pesticide Programs.

[FR Doc. 00–17993 Filed 7–12–00; 11:44 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–420478; FRL–6550–6]

South Dakota State Plan for Certification of Applicators of Restricted Use Pesticides; Notice of Intent to Amend Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State of South Dakota has submitted to EPA a proposed amendment to their State Certification Plan which would allow the use of M-44 Sodium Cyanide Devices by both commercial and private applicators to control coyotes (*Canis latrans*) that prey upon livestock and poultry. The proposed amendment establishes new requirements for the training, certification, recertification, and recordkeeping of individuals that use M-44 Sodium Cyanide Devices. Notice is hereby given of the intention of the Regional Administrator, Region VIII, to approve the revised South Dakota State Plan for the Certification of Applicators of Restricted Use Pesticides. EPA is soliciting comments on the proposed amendments.

DATES: Comments, identified by docket control number OPP–42078, must be received on or before August 28, 2000.

ADDRESSES: Copies of the amended South Dakota State Certification Plan are available for public inspection, see Unit I.B. of the **SUPPLEMENTARY INFORMATION** for locations.

FOR FURTHER INFORMATION CONTACT: By mail: Ron Schiller, Environmental Protection Agency, Region VIII, Mail Code 8P–P3T, 999 18th St., Suite 500, Denver, CO, 80202; telephone number: (303) 312–6017; e-mail address: schiller.ron@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of particular interest to those involved in ranching and certain types of food production. Other types of entities could also be affected. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

To obtain copies of the proposed amendment to the South Dakota State Certification Plan or additional information, contact:

1. Ron Schiller at the address/telephone number listed under **FOR FURTHER INFORMATION CONTACT**.

2. Tim Hagen, South Dakota Department of Agriculture, Division of Agricultural Services, Foss Building, 523 East Capitol, Pierre, SD 57501; telephone number: (605) 773–4432; e-mail address: Tim.Hagen@state.sd.us

3. John MacDonald: By mail: Office of Pesticide Programs, Field and External Affairs Division (7506C), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 1121, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202; telephone number: (703) 305–7370; e-mail: macdonald.john@epa.gov.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically to Ron Schiller at the address listed under **FOR FURTHER INFORMATION CONTACT**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–42078 in the subject line on the first page of your response. Electronic comments can be submitted by e-mail, or you can submit a computer disk. When submitting comments electronically do not submit any information that you would consider to be CBI. Avoid the use of special characters and any form of encryption. All comments in electronic form must be identified by docket control number OPP–42078.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is EPA Taking?

EPA has reviewed the revised South Dakota State Certification Plan and finds it in compliance with FIFRA and 40 CFR part 171 and is announcing its intention to approve the amended Plan and seeks public comment.

List of Subjects

Environmental protection.

Dated: June 29, 2000.

Patricia D. Hull,

Acting Regional Administrator, Region VIII.

[FR Doc. 00–17879 Filed 7–13–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6736–2]

Middlefield-Ellis-Whisman Superfund Site Proposed Notice of Administrative Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (CERCLA), 42 U.S.C. 9600 *et seq.,* notice is hereby given that a proposed Agreement and Covenant Not to Sue (Prospective Purchaser Agreement) associated with the Middlefield-Ellis-Whisman (MEW) Superfund Site was executed by the United States Environmental Protection Agency (EPA) on February 29, 2000. The proposed Prospective Purchaser Agreement would resolve certain potential claims of the United States under sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a) against Haury Properties IV, a California limited liability company (the Purchaser). The Purchaser plans to acquire a 1.17 acre parcel located at 405 National Avenue, Mountain View, California, within the MEW Superfund Site, for the purposes of redeveloping and leasing commercial office space. The proposed settlement would require the Purchaser to pay EPA a one-time payment of $75,000.

For thirty (30) calendar days following the date of publication of this notice, EPA will receive written comments relating to the proposed settlement. If requested prior to the expiration of this public comment period, EPA will provide an opportunity for a public meeting in the affected area. EPA's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105.

DATES: Comments must be submitted on or before August 14, 2000.

ADDRESSES: The proposed Prospective Purchaser Agreement and additional background documents relating to the settlement are available for public inspection at the U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105. A copy of the proposed settlement may be obtained from William Keener, Assistant Regional Counsel (ORC–1), Office of Regional Counsel, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105. Comments should reference ''Haury Properties PPA, MEW Superfund Site'' and ''Docket No. 2000–05'' and should be addressed to William Keener at the above address.

FOR FURTHER INFORMATION CONTACT: William Keener, Assistant Regional Counsel (ORC–1), Office of Regional Counsel, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; phone: (415) 744–1356; fax (415) 744–1041; e-mail: *keener.bill@epa.gov.*

Dated: July 7, 2000.

Keith Takata,

Director, Superfund Division, Region IX.

[FR Doc. 00–17874 Filed 7–13–00; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

July 7, 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 September 12, 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 No.: 3060–0105.

Title: Licensee Qualification Report.

Form No.: FCC 430.

Type of Review: Revision of currently approved collection.

Respondents: Businesses or other for-profit, not-for-profit institutions.

Number of Respondents: 1500.

Estimated Hours Per Response: 2 hours.

Frequency of Response: Reporting, on occasion and annually.

Cost to Respondents: $0.

Estimated Total Annual Burden: 3000 hours.

Needs and Uses: FCC Form 430 is filed by new applicants or annually by licensees if substantial changes occur in the organizational structure to provide information concerning corporate structure, alien ownership, and character of applicant or licensee. FCC 430 is also filed by applicants soliciting authority for assignment or transfer of control. The information will be used by the Commission to determine whether the applicant is legally qualified to become or remain a licensee, as required by the Communications Act.

OMB Control No.: 3060–0599.

Title: Implementation of Sections 3(n) and 332 of the Communications Act.

Form No.: N/A.

Type of Review: Extension.

Respondents: Business or other for-profit (P), Not-for-profit institutions, and State, Local or Tribal Government.

Number of Respondents: 10.

Estimated Time Per Response: 1.66 hours.

Frequency of Response: On occasion.

Total Annual Burden: 10.

Total Annual Cost: 4,854.00.

Needs and Uses: The information collected will create regulatory symmetry among similar mobile services. The symmetrical regulatory structure will promote competition in the mobile services marketplace and will serve the interests of consumers while also benefiting the national economy.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–17847 Filed 7–13–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3154–EM]

New Mexico; Amendment No. 7 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency disaster for the State of New Mexico (FEMA–3154–EM), dated May 10, 2000, and related determinations.

EFFECTIVE DATE: July 7, 2000.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this emergency is closed effective July 7, 2000.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program).

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 00–17898 Filed 7–13–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1332–DR]

Wisconsin; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Wisconsin (FEMA–1332–DR), dated June 23, 2000, and related determinations.

EFFECTIVE DATE: July 5, 2000.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective July 5, 2000.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 00–17897 Filed 7–13–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL HOUSING FINANCE BOARD

[No. 2000–N–4]

Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Board (Finance Board) is announcing the Federal Home Loan Bank (Bank) members it has selected for the 2000–02 second quarter review cycle under the Finance Board's community support requirement regulation. This notice also prescribes the deadline by which Bank members selected for review must submit Community Support Statements to the Finance Board.

DATES: Bank members selected for the 2000–02 second quarter review cycle under the Finance Board's community support requirement regulation must submit completed Community Support Statements to the Finance Board on or before August 28, 2000.

ADDRESSES: Bank members selected for the 2000–02 second quarter review cycle under the Finance Board's community support requirement regulation must submit completed Community Support Statements to the Finance Board either by regular mail at the Office of Policy, Research and Analysis, Program Assistance Division, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006, or by electronic mail at FITZGERALDE@FHFB.GOV.

FOR FURTHER INFORMATION CONTACT: Emma J. Fitzgerald, Program Analyst, Office of Policy, Research and Analysis, Program Assistance Division, by telephone at 202/408–2874, by electronic mail at FITZGERALDE@FHFB.GOV, or by regular mail at the Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006. A telecommunications device for deaf persons (TDD) is available at 202/408–2579.

SUPPLEMENTARY INFORMATION:

I. Selection for Community Support Review

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires the Finance Board to promulgate regulations establishing standards of community investment or service Bank members must meet in order to maintain access to long-term advances. *See* 12 U.S.C. 1430(g)(1). The regulations promulgated by the Finance Board must take into account factors such as the Bank member's performance under the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. 2901 *et seq.*, and record of lending to first-time homebuyers. *See* 12 U.S.C. 1430(g)(2). Pursuant to the requirements of section 10(g) of the Bank Act, the Finance Board has promulgated a community support requirement regulation that establishes standards a Bank member must meet in order to maintain access to long-term advances, and review criteria the Finance Board must apply in evaluating a member's community support performance. *See* 12 CFR part 944. The regulation includes standards and criteria for the two statutory factors—CRA performance and record of lending to first-time homebuyers. 12 CFR 944.3. Only members subject to the CRA must meet the CRA standard. 12 CFR 944.3(b). All members, including those not subject to CRA, must meet the first-time homebuyer standard. 12 CFR 944.3(c).

Under the rule, the Finance Board selects approximately one-eighth of the members in each Bank district for community support review each calendar quarter. 12 CFR 944.2(a). The Finance Board will not review an institution's community support performance until it has been a Bank member for at least one year. Selection for review is not, nor should it be construed as, any indication of either the financial condition or the

community support performance of the member.

Each Bank member selected for review must complete a Community Support Statement and submit it to the Finance Board by the August 28, 2000 deadline prescribed in this notice. 12 CFR 944.2(b)(1)(ii) and (c). On or before July 28, 2000, each Bank will notify the members in its district that have been selected for the 2000–02 second quarter community support review cycle that they must complete and submit to the Finance Board by the deadline a Community Support Statement. 12 CFR 944.2(b)(2)(i). The member's Bank will provide a blank Community Support Statement Form, which also is available on the Finance Board's web site: WWW.FHFB.GOV. Upon request, the member's Bank also will provide assistance in completing the Community Support Statement.

The Finance Board has selected the following members for the 2000–02 second quarter community support review cycle:

Federal Home Loan Bank of Boston—District 1

Superior Savings of New England	Branford	Connecticut.
First FS & LA of East Hartford	East Hartford	Connecticut.
Enfield Federal Savings & Loan Association	Enfield	Connecticut.
Essex Savings Bank	Essex	Connecticut.
First International Bank	Hartford	Connecticut.
First City Bank	New Britain	Connecticut.
Citizens Bank	New London	Connecticut.
Cargill Bank	Putnam	Connecticut.
Auburn Savings & Loan	Auburn	Maine.
Augusta Federal Savings Bank	Augusta	Maine.
First National Bank of Bar Harbor	Bar Harbor	Maine.
First FS & LA of Bath	Bath	Maine.
Aroostook County FS & LA	Caribou	Maine.
Kennebunk Savings Bank	Kennebunk	Maine.
Skowhegan Savings Bank	Skowhegan	Maine.
Kennebec Federal Savings and Loan Association	Waterville	Maine.
North Middlesex Savings Bank	Ayer	Massachusetts.
Boston Private Bank & Trust Company	Boston	Massachusetts.
First Federal Savings Bank of Boston	Boston	Massachusetts.
First Trade Union Bank	Boston	Massachusetts.
Hyde Park Savings Bank	Boston	Massachusetts.
Investors Bank and Trust Company	Boston	Massachusetts.
Peoples Federal Savings Bank	Brighton	Massachusetts.
Cambridge Savings Bank	Cambridge	Massachusetts.
East Cambridge Savings Bank	Cambridge	Massachusetts.
Dedham Institution for Savings	Dedham	Massachusetts.
Eagle Bank	Everett	Massachusetts.
Citizens-Union Savings Bank	Fall River	Massachusetts.
Foxboro Federal Savings and Loan Association	Foxboro	Massachusetts.
Georgetown Savings Bank	Georgetown	Massachusetts.
First Essex Bank, FSB	Lawrence	Massachusetts.
Marblehead Savings Bank	Marblehead	Massachusetts.
Medford Co-operative Bank	Medford	Massachusetts.
Plymouth Savings Bank	Middleboro	Massachusetts.
Millbury Savings Bank	Millbury	Massachusetts.
Monson Savings Bank	Monson	Massachusetts.
Lawrence Savings Bank	North Andover	Massachusetts.
Warren Five Cents Savings Bank	Peabody	Massachusetts.
Saugus Co-operative Bank	Saugus	Massachusetts.
Scituate Federal Savings Bank	Scituate	Massachusetts.
Spencer Savings Bank	Spencer	Massachusetts.
Hampden Savings Bank	Springfield	Massachusetts.
Bristol County Savings Bank	Taunton	Massachusetts.
Middlesex Federal Savings	West Somerville	Massachusetts.
Federal Savings Bank	Dover	New Hampshire.
Bank of New Hampshire, N.A.	Farmington	New Hampshire.
Franklin Savings Bank	Franklin	New Hampshire.
Meredith Village Savings Bank	Meredith	New Hampshire.
Salem Co-operative Bank	Salem	New Hampshire.
First Brandon National Bank	Brandon	Vermont.
Vermont National Bank	Brattleboro	Vermont.
Howard Bank, N.A.	Burlington	Vermont.

Federal Home Loan Bank of New York—District 2

Liberty Bank	Avenel	New Jersey.
Pamrapo Savings Bank, S.L.A.	Bayonne	New Jersey.
National Bank of Sussex County	Branchville	New Jersey.
Farmers & Mechanics Bank	Burlington	New Jersey.
Freehold Savings and Loan Association	Freehold	New Jersey.
GSL Savings Bank	Guttenberg	New Jersey.
Oritani Savings Bank	Hackensack	New Jersey.
Investors Savings Bank	Millburn	New Jersey.
Millington Savings Bank	Millington	New Jersey.
Dollar Savings Bank	Newark	New Jersey.
Ocean City Home Bank	Ocean City	New Jersey.
Amboy National Bank	Old Bridge	New Jersey.
Ridgewood Savings Bank of New Jersey	Ridgewood	New Jersey.
OceanFirst Bank	Tom Rivers	New Jersey.
First Savings Bank, SLA	Woodbridge	New Jersey.
Brooklyn Federal Savings Bank	Brooklyn	New York.

Canisteo Savings and Loan Association	Canisteo	New York.
Elmira Savings and Loan, F.A	Elmira	New York.
The Upstate National Bank	Fayetteville	New York.
The National Bank of Geneva	Geneva	New York.
Glens Falls NB&T Company	Glens Falls	New York.
Maple City Savings and Loan Association	Hornell	New York.
Sunnyside FS&LA of Irvington	Irvington	New York.
The Lyons National Bank	Lyons	New York.
Maspeth Federal Savings & Loan Association	Maspeth	New York.
Massena Savings and Loan Association	Massena	New York.
Medina Savings and Loan	Medina	New York.
Cross County Federal Savings Bank	Middle Village	New York.
Provident Savings Bank, F.A	Montebello	New York.
Dime Savings Bank of New York, FSB	New York	New York.
The Berkshire Bank	New York	New York.
Carver Federal Savings Bank	New York	New York.
Ogdensburg FS&LA	Ogdensburg	New York.
Wilber National Bank	Oneonta	New York.
Union State Bank	Orangeburg	New York.
First Federal Savings Bank	Peekskill	New York.
First Tier Bank and Trust	Salamanca	New York.
Saratoga National Bank and Trust Company	Saratoga Springs	New York.
The National Bank of Stamford	Stamford	New York.
Yonkers Savings and Loan Association FA	Yonkers	New York.

Federal Home Loan Bank of Pittsburgh—District 3

Delaware National Bank	Georgetown	Delaware.
Artisans' Bank	Wilmington	Delaware.
Laurel Savings Bank	Allison Park	Pennsylvania.
Reliance Savings Bank	Altoona	Pennsylvania.
Investment Savings Bank	Altoona	Pennsylvania.
Peoples Home Savings Bank	Beaver Falls	Pennsylvania.
Pennwood Savings Bank	Bellevue	Pennsylvania.
Keystone Savings Bank	Bethlehem	Pennsylvania.
Columbia County Farmers National Bank	Bloomsburg	Pennsylvania.
The Bryn Mawr Trust Company	Bryn Mawr	Pennsylvania.
Community Bank, N.A	Carmichaels	Pennsylvania.
Charleroi Federal Savings Bank	Charleroi	Pennsylvania.
Citizens National Bank of Evans City	Evans City	Pennsylvania.
IGA Federal Savings	Feasterville	Pennsylvania.
Armstrong County Building & LA Ford City	Pennsylvania..	
Greenville Savings Bank	Greenville	Pennsylvania.
Grange National Bank	Laceyville	Pennsylvania.
Westmoreland FS&LA of Latrobe	Latrobe	Pennsylvania.
First National Bank of Leesport	Leesport	Pennsylvania.
Mifflin County Savings Bank	Lewistown	Pennsylvania.
First Citizens National Bank	Mansfield	Pennsylvania.
First National Bank of Mifflintown	Mifflintown	Pennsylvania.
First Federal Savings Bank	Monessan	Pennsylvania.
Parkvale Savings Bank	Monroeville	Pennsylvania.
Community State Bank of Orbisonia	Orbisonia	Pennsylvania.
Beneficial Mutual Savings Bank	Philadelphia	Pennsylvania.
FirsTrust Bank	Philadelphia	Pennsylvania.
Prudential Savings Bank	Philadelphia	Pennsylvania.
NorthSide Bank	Pittsburgh	Pennsylvania.
Workingmens Savings Bank	Pittsburgh	Pennsylvania.
Liberty Savings Bank, F.S.B	Pottsville	Pennsylvania.
Elk County Savings & Loan Association	Ridgway	Pennsylvania.
Scottdale Bank and Trust Company	Scottdale	Pennsylvania.
Sewickley Savings Bank	Sewickley	Pennsylvania.
Keystone State Savings Bank	Sharpsburg	Pennsylvania.
First National Bank of Slippery Rock	Slippery Rock	Pennsylvania.
Union National Bank and Trust Company	Souderton	Pennsylvania.
East Stroudsburg Savings Association	Stroudsburg	Pennsylvania.
Washington Federal Savings Bank	Washington	Pennsylvania.
First FS&LA of Greene County	Waynesburg	Pennsylvania.
Citizens & Northern Bank	Wellsboro	Pennsylvania.
West View Savings Bank	Wexford	Pennsylvania.
First Century Bank, N.A.	Bluefield	West Virginia.
Huntington Federal Savings Bank	Huntington	West Virginia.
Doolin Security Savings Bank FSB	New Martinsville	West Virginia.
United National Bank	Parkersburg	West Virginia.
One Valley Bank of Mercer County, Inc.	Princeton	West Virginia.
First FS&LA of Ravenswood	Ravenswood	West Virginia.
First Federal Savings Bank	Sistersville	West Virginia.
The Williamstown National Bank	Williamstown	West Virginia.

Federal Home Loan Bank of Atlanta—District 4

Delaware National Bank	Georgetown	Delaware.
Brantley Bank and Trust Company	Brantley	Alabama.
Bank of Carbon Hill	Carbon Hill	Alabama.
Heritage Bank	Decatur	Alabama
Robertson Banking Company	Demopolis	Alabama.
The Citizens Bank	Greensboro	Alabama.

City Bank of Hartford	Hartford	Alabama.
Security Federal Savings Bank	Jasper	Alabama.
Gulf Federal Bank, a FSB	Mobile	Alabama.
The Bank	Monroeville	Alabama.
The Citizens Bank	Moulton	Alabama.
Phenix-Girard Bank	Phenix City	Alabama.
Bank of Vernon	Vernon	Alabama.
Bank of Wedowee	Wedowee	Alabama.
Bank of Belle Glade	Belle Glade	Florida.
Community Bank of Manatee	Bradenton	Florida.
CommerceBank, N.A.	Coral Gables	Florida.
Peoples State Bank of Groveland	Groveland	Florida.
First State Bank of the Florida Keys	Key West	Florida.
International Finance Bank	Miami	Florida.
Charlotte State Bank	Port Charlotte	Florida.
First American Bank of Walton County	Santa Rosa Beach	Florida.
Bank of St. Augustine	St. Augustine	Florida.
Central Bank of Tampa	Tampa	Florida.
Florida Bank, N.A.	Tampa	Florida.
Wauchula State Bank	Wauchula	Florida.
ebank	Atlanta	Georgia.
Bank of Early	Blakely	Georgia.
Planters and Citizens Bank	Camilla	Georgia.
Claxton Bank	Claxton	Georgia.
First Clayton Bank and Trust Company	Clayton	Georgia.
Central Bank and Trust	Cordele	Georgia.
First Community Bank of Dawsonville	Dawsonville	Georgia.
Bank Atlanta	Decatur	Georgia.
Colony Bank Southeast	Douglas	Georgia.
Bank of Eastman	Eastman	Georgia.
Gilmer County Bank	Ellijay	Georgia.
Capital Bank	Fort Oglethorpe	Georgia.
Bank of Hiawassee	Hiawassee	Georgia.
Citizens Bank	Homerville	Georgia.
Farmers State Bank	Lincolnton	Georgia.
Peoples Bank	Lyons	Georgia.
Mount Vernon Bank	Mt. Vernon	Georgia.
The Citizens Bank	Nashville	Georgia.
Regions Bank	Newnan	Georgia.
Community Bank of Wilcox	Pitts	Georgia.
Greater Rome Bank	Rome	Georgia.
Georgia Central Bank	Social Circle	Georgia.
Citizens Security Bank	Tifton	Georgia.
Athens First Bank & Trust Company	Watkinsville	Georgia.
AmericasBank	Baltimore	Maryland.
Community First Bank	Baltimore	Maryland.
Homewood Federal Savings Bank	Baltimore	Maryland.
Mercantile Safe Deposit and Trust Company	Baltimore	Maryland.
Community Bank of Maryland	Bowie	Maryland.
Easton Bank and Trust Company	Easton	Maryland.
Jarrettsville Federal S&L Association	Jarrettsville	Maryland.
Maryland Bank and Trust Company	Lexington Park	Maryland.
First National Bank of North East	North East	Maryland.
North Arundel Federal Savings Bank, FSB	Pasadena	Maryland.
The East Carolina Bank	Engelhard	North Carolina.
Catawba Valley Bank	Hickory	North Carolina.
First Bank	Troy	North Carolina.
Loyal American Life Insurance Company	Cincinnati	Ohio.
Bank of Belton	Belton	South Carolina.
Sandhills Bank	Bethune	South Carolina.
The Peoples Bank of Iva	Iva	South Carolina.
Carolina Community Bank	Latta	South Carolina.
The Palmetto Bank	Laurens	South Carolina.
The Citizens Bank	Olanta	South Carolina.
First State Bank	Danville	Virginia.
F&M Bank—Northern Virginia	Fairfax	Virginia.
Powell Valley National Bank	Jonesville	Virginia.
Bank of Charlotte County	Phenix	Virginia.
Valley Bank, N.A.	Roanoke	Virginia.

Federal Home Loan Bank of Cincinnati—District 5

First Federal Bank for Savings	Ashland	Kentucky.
Bank of Edmonson County	Brownsville	Kentucky.
United Citizens Bank and Trust Company	Campbellsburg	Kentucky.
Citizens Bank & Trust Company	Campbellsville	Kentucky.
Farmers & Traders Bank	Campton	Kentucky.
Carrollton Federal Savings and Loan	Carrollton	Kentucky.
First National Bank	Central City	Kentucky.
Peoples Bank of Northern Kentucky	Crestview Hills	Kentucky.
Farmers National Bank	Cynthiana	Kentucky.
Central Kentucky Federal Savings Bank	Danville	Kentucky.
United Kentucky Bank of Pendleton County	Falmouth	Kentucky.
Columbia Federal Savings Bank	Ft. Mitchell	Kentucky.
Bank of Germantown	Germantown	Kentucky.
HNB Bank, N.A.	Harlan	Kentucky.

State Bank and Trust Company	Harrodsburg	Kentucky.
First Financial Bank	Harrodsburg	Kentucky.
First Federal Savings and Loan Association	Hazard	Kentucky.
Bank of Magnolia	Hodgenville	Kentucky.
Mid America Bank, FSB	LaGrange	Kentucky.
First Lancaster Federal Savings Bank	Lancaster	Kentucky.
Citizens National Bank	Lebanon	Kentucky.
Farmers Deposit Bank of Middleburg	Liberty	Kentucky.
Home Federal Bank	Middlesboro	Kentucky.
First State Bank of Pineville	Middlesboro	Kentucky.
Middlesboro Federal Bank	Middlesboro	Kentucky.
The Bank of Mt. Vernon	Mt. Vernon	Kentucky.
Peoples Bank Mt. Washington	Mt. Washington	Kentucky.
Family Bank, FSB	Paintsville	Kentucky.
The Central Bank of North Pleasureville	Pleasureville	Kentucky.
First Bank and Trust Company	Princeton	Kentucky.
Bullitt County Bank	Shepardsville	Kentucky.
Liberty National Bank	Ada	Ohio.
The Bartlett Farmers Bank	Barlow	Ohio.
Industrial Savings and Loan Association	Bellevue	Ohio.
Bridgeport Savings and Loan Association	Bridgeport	Ohio.
Peoples Savings and Loan Company	Bucyrus	Ohio.
FNB of Southeastern Ohio	Caldwell	Ohio.
First Safety Bank	Cincinnati	Ohio.
Clifton Heights Loan and Building Company	Cincinnati	Ohio.
The Savings Bank	Circleville	Ohio.
The Peoples Bank Company	Coldwater	Ohio.
First City Bank	Columbus	Ohio.
Ohio Heritage Bank	Coshocton	Ohio.
Valley Savings Bank	Cuyahoga Falls	Ohio.
First Federal Savings and Loan	Defiance	Ohio.
Fidelity Federal Savings & Loan Association	Delaware	Ohio.
The Peoples Banking Company	Findlay	Ohio.
Heartland Bank	Gahanna	Ohio.
First FS&LA of Galion	Galion	Ohio.
The Home Building and Loan Company	Greenfield	Ohio.
Greenville FS&LA	Greenville	Ohio.
Home Federal Bank	Hamilton	Ohio.
First Federal Savings Bank of Ironton	Ironton	Ohio.
Lawrence Federal Savings Bank	Ironton	Ohio.
Liberty Federal Savings and Loan Association	Ironton	Ohio.
Ohio River Bank	Ironton	Ohio.
Kingston National Bank	Kingston	Ohio.
The Citizens Bank of Logan	Logan	Ohio.
Mechanics Savings Bank	Mansfield	Ohio.
Peoples FS&L of Massillon	Massillon	Ohio.
Metropolitan Bank and Trust Company	Mayfield Heights	Ohio.
Miami Savings and Loan Company	Miamitown	Ohio.
The Middlefield Banking Company	Middlefield	Ohio.
Nelsonville Home and Savings Association	Nelsonville	Ohio.
First FS&LA of Newark	Newark	Ohio.
Geauga Savings Bank	Newbury	Ohio.
Security Dollar Bank	Niles	Ohio.
The National Bank of Oak Harbor	Oak Harbor	Ohio.
Valley Central Savings Bank	Reading	Ohio.
The Citizens Banking Company	Sandusky	Ohio.
Peoples Federal Savings & Loan Association	Sidney	Ohio.
Commodore Bank	Somerset	Ohio.
Monroe Federal Savings and Loan Association	Tipp City	Ohio.
Van Wert Federal Savings Bank	Van Wert	Ohio.
Home Savings Bank of Wapakoneta	Wapakoneta	Ohio.
The Waterford Commercial & Savings Bank	Waterford	Ohio.
Adams County Building and Loan Company	West Union	Ohio.
Commerce National Bank	Worthington	Ohio.
Dollar Bank, FSB	Pittsburgh	Pennsylvania.
Bank of Bartlett	Bartlett	Tennessee.
Bank of Bolivar	Bolivar	Tennessee.
Farmers and Merchants Bank	Clarksville	Tennessee.
Farmers and Merchants Bank	Dyer	Tennessee.
First Citizens National Bank	Dyersburg	Tennessee.
Elizabethton Federal Savings Bank	Elizabethton	Tennessee.
Progressive Savings Bank	Jamestown	Tennessee.
Home Federal Bank of Tennessee	Knoxville	Tennessee.
First Central Bank	Lenoir City	Tennessee.
American Savings Bank	Livingston	Tennessee.
Volunteer Federal Savings and Loan	Madisonville	Tennessee.
First National Bank	McMinnville	Tennessee.
Jefferson Federal Savings and Loan Association	Morristown	Tennessee.
TNBank	Oak Ridge	Tennessee.
Union Planters Bank of N.W. TN, FSB	Paris	Tennessee.
Citizens Community Bank	Winchester	Tennessee.
First Federal Savings Bank of Angola	Angola	Indiana.
Peoples FSB of DeKalb County	Auburn	Indiana.
Peoples Federal Savings Bank	Aurora	Indiana.
Farmers and Mechanics FS&LA	Bloomfield	Indiana.
First State Bank	Bourbon	Indiana.

English State Bank	English	Indiana.
Home Loan Bank, FSB	Fort Wayne	Indiana.
Farmers Bank, Frankfort	Frankfort	Indiana.
Newton County Loan & Savings Association	Goodland	Indiana.
First Federal Savings & Loan	Greensburg	Indiana.
Lake FS&LA of Hammond	Hammond	Indiana.
HFS Bank, F.S.B	Hobart	Indiana.
Security Federal Savings Bank	Logansport	Indiana.
First Federal Savings Bank of Marion	Marion	Indiana.
Michigan City Savings & Loan	Michigan City	Indiana.
The First National Bank of Mitchell	Mitchell	Indiana.
First National Bank of Monterey	Monterey	Indiana.
First Merchants Bank, N.A	Muncie	Indiana.
Mutual Federal Savings Bank	Muncie	Indiana.
American Savings, FSB	Munster	Indiana.
Community Bank	Noblesville	Indiana.
First National Bank of Odon	Odon	Indiana.
Lincoln Federal Savings Bank	Plainfield	Indiana.
Harrington Bank, FSB	Richmond	Indiana.
First Parke State Bank	Rockville	Indiana.
Scottsburg Building & Loan Association	Scottsburg	Indiana.
Home Federal Savings Bank	Seymour	Indiana.
Owen Community Bank, SB	Spencer	Indiana.
First Farmers State Bank	Sullivan	Indiana.
Peoples Community Bank	Tell City	Indiana.
Terre Haute First National Bank	Terre Haute	Indiana.
1st American Bank	Vincennes	Indiana.
First Federal Savings Bank of Wabash	Wabash	Indiana.
First FS&LA of Washington	Washington	Indiana.
Home Building Savings Bank, FSB	Washington	Indiana.
Peoples National Bank	Washington	Indiana.
Bank of Wolcott	Wolcott	Indiana.
First Federal S&LA of Alpena	Alpena	Michigan.
Bank of Ann Arbor	Ann Arbor	Michigan.
Farmers State Bank Breckenridge	Breckenridge	Michigan.
Eaton Federal Savings Bank	Charlotte	Michigan.
Huron Community Bank	East Tawas	Michigan.
Hastings City Bank	Hastings	Michigan.
Bay Port State Bank	Pigeon	Michigan.
Kalamazoo County State Bank	Schoolcraft	Michigan.
Franklin Bank, N.A	Southfield	Michigan.
First National Bank of St. Ignace	St. Ignace	Michigan.
Northwestern Savings Bank and Trust	Traverse City	Michigan.

Federal Home Loan Bank of Chicago—District 7

West Pointe Bank and Trust Company	Belleville	Illinois.
he Belvidere National Bank & Trust Company	Belvidere	Illinois.
Central Illinois Bank	Bloomington	Illinois.
Citizens Savings Bank	Bloomington	Illinois.
American Enterprise Bank	Buffalo Grove	Illinois.
Farmers State Bank of Camp Point	Camp Point	Illinois.
Cornerstone Bank & Trust, N.A	Carrollton	Illinois.
First FSB—Champaign-Urbana	Champaign	Illinois.
Charleston Federal Savings and Loan Association	Charleston	Illinois.
Broadway Bank	Chicago	Illinois.
Central FS&LA of Chicago	Chicago	Illinois.
Columbus Savings Bank	Chicago	Illinois.
Fidelity Federal Savings Bank	Chicago	Illinois.
First Security Federal Savings Bank	Chicago	Illinois.
Liberty Bank for Savings	Chicago	Illinois.
Lincoln Park Savings Bank	Chicago	Illinois.
Mutual FS&LA of Chicago	Chicago	Illinois.
Universal Federal Savings Bank	Chicago	Illinois.
Collinsville Building and Loan Association	Collinsville	Illinois.
Home Federal S&LA of Collinsville	Collinsville	Illinois.
Covest Banc, NA	Des Plaines	Illinois.
First Federal Savings and Loan Association	Edwardsville	Illinois.
Forreston State Bank	Forreston	Illinois.
Hickory Point Bank and Trust, FSB	Forsyth	Illinois.
Marquette Bank Fulton	Fulton	Illinois.
Glenview State Bank	Glenview	Illinois.
Guardian Savings Bank FSB	Granite City	Illinois.
The First National Bank of Grant Park	Grant Park	Illinois.
The Granville National Bank	Granville	Illinois.
The Bradford National Bank of Greenville	Greenville	Illinois.
The Havana National Bank	Havana	Illinois.
Herrin Security Bank	Herrin	Illinois.
South End Savings, s.b	Homewood	Illinois.
The First National Bank of Jonesboro	Jonesboro	Illinois.
Eureka Savings Bank	La Salle	Illinois.
First State Bank of Western Illinois	La Harpe	Illinois.
First National Bank of Illinois	Lansing	Illinois.
Lisle Savings Bank	Lisle	Illinois.
First National Bank of Litchfield	Litchfield	Illinois.
West Suburban Bank	Lombard	Illinois.

First Security Bank	Macknaw	Illinois.
The First National Bank of Manhattan	Manhattan	Illinois.
Milford Building and Loan Association	Milford	Illinois.
Southeast National Bank of Moline	Moline	Illinois.
Nashville Savings Bank	Nashville	Illinois.
Northview Bank and Trust	Northfield	Illinois.
Illini State Bank	Oglesby	Illinois.
Peoples Bank and Trust of Pana	Pana	Illinois.
The Poplar Grove State Bank Poplar	Poplar Grove	Illinois.
Citizens First National Bank	Princeton	Illinois.
First Robinson Savings Bank, N.A.	Robinson	Illinois.
Alpine Bank of Illinois	Rockford	Illinois.
First FS&LA of Shelbyville	Shelbyville	Illinois.
The First National Bank	Vandalia	Illinois.
The International Bank of Amherst	Amherst	Wisconsin.
The First National Bank of Bangor	Bangor	Wisconsin.
The Bank of Brodhead	Brodhead	Wisconsin.
Bank of Deerfield	Deerfield	Wisconsin.
Meridian Capital Bank, N.A.	Edgar	Wisconsin.
Fox Valley Savings and Loan Association	Fond du Lac	Wisconsin.
National Exchange Bank and Trust	Fond du Lac	Wisconsin.
First Northern Savings Bank, S.A.	Green Bay	Wisconsin.
Park Bank	Holmen	Wisconsin.
Ixonia State Bank	Ixonia	Wisconsin.
First FSB La Crosse-Madison	La Crosse	Wisconsin.
Ladysmith FS&LA	Ladysmith	Wisconsin.
Markesan State Bank	Markesan	Wisconsin.
Fidelity National Bank	Medford	Wisconsin.
Merrill Federal S&LA	Merrill	Wisconsin.
Continental Savings Bank, S.A.	Milwaukee	Wisconsin.
Guaranty Bank, S.S.B.	Milwaukee	Wisconsin.
Lincoln Community Bank	Milwaukee	Wisconsin.
Bank of Elmwood	Racine	Wisconsin.
M&I Lakeview Bank	Sheboygan	Wisconsin.
Spencer State Bank	Spencer	Wisconsin.
First Bank	Tomah	Wisconsin.
The Farmers State Bank of Waupaca	Waupaca	Wisconsin.
Paper City Savings Association	Wisconsin Rapids	Wisconsin.

Federal Home Loan Bank of Des Moines—District 8

Brenton Savings Bank, FSB	Ames	Iowa.
First American Bank	Ames	Iowa.
Citizens Savings Bank	Anamosa	Iowa.
Community State Bank	Ankeny	Iowa.
Ashton State Bank	Ashton	Iowa.
Atkins Savings Bank	Atkins	Iowa.
Midwest FS&LA of Eastern Iowa	Burlington	Iowa.
Iowa Trust and Savings Bank	Centerville	Iowa.
First Security Bank and Trust	Charles City	Iowa.
Page County Federal Savings Association	Clarinda	Iowa.
First FSB of Creston, F.S.B.	Creston	Iowa.
State FS&LA of Des Moines	Des Moines	Iowa.
Principal Bank	Des Moines	Iowa.
Fidelity Bank and Trust	Dyersville	Iowa.
Community Savings Bank	Edgewood	Iowa.
First American Bank	Fort Dodge	Iowa.
Hampton State Bank	Hampton	Iowa.
Independence Federal Bank for Savings	Independence	Iowa.
Hawkeye State Bank	Iowa City	Iowa.
First Community Bank, FSB	Keokuk	Iowa.
Keokuk Savings Bank and Trust Company	Keokuk	Iowa.
Iowa State Savings Bank	Knoxville	Iowa.
Cedar Valley Bank & Trust	LaPorte City	Iowa.
Farmers and Merchants Savings Bank	Lone Tree	Iowa.
Keystone Savings Bank	Marengo	Iowa.
United Community Bank	Milford	Iowa.
New Albin Savings Bank	New Albin	Iowa.
City State Bank	Norwalk	Iowa.
Northwestern State Bank Orange City	Orange City	Iowa.
Clarke County State Bank	Osceola	Iowa.
First Trust and Savings Bank	Oxford	Iowa.
Citizens State Bank	Pocahontas	Iowa.
Citizens Bank	Sac City	Iowa.
American State Bank	Sioux Center	Iowa.
Solon State Bank	Solon	Iowa.
Northwest Federal Savings Bank	Spencer	Iowa.
First FSB of the Midwest	Storm Lake	Iowa.
Randall-Story State Bank	Story City	Iowa.
Waukee State Bank	Waukee	Iowa.
West Liberty State Bank	West Liberty	Iowa.
Viking Savings Association, F.A.	Alexandria	Minnesota.
First State Bank of Bigfork	Bigfork	Minnesota.
Brainerd S&LA, a FSB	Brainerd	Minnesota.
The Oakley National Bank of Buffalo	Buffalo	Minnesota.
State Bank in Eden Valley	Eden Valley	Minnesota.

Bank Midwest, Minnesota Iowa, N.A.	Fairmont	Minnesota.
The State Bank of Faribault	Faribault	Minnesota.
First Minnesota Bank, N.A.	Glencoe	Minnesota.
State Bank of Kimball	Kimball	Minnesota.
The First National Bank of Menahga	Menahga	Minnesota.
TCF National Bank Minnesota	Minneapolis	Minnesota.
Northern National Bank	Nisswa	Minnesota.
The First National Bank of Osakis	Osakis	Minnesota.
Valley State Bank of Oslo	Oslo	Minnesota.
First National Bank	Plainview	Minnesota.
The Goodhue County National Bank	Red Wing	Minnesota.
21st Century Bank	Rogers	Minnesota.
Minnwest Bank South	Slayton	Minnesota.
Citizens Independent Bank	St. Louis Park	Minnesota.
The First National Bank of St. Peter	St. Peter	Minnesota.
Tracy State Bank	Tracy	Minnesota.
Queen City Federal Savings Bank	Virginia	Minnesota.
Missouri Federal Savings Bank	Cameron	Missouri.
Southwest Missouri Bank	Carthage	Missouri.
First Bank	Creve Coeur	Missouri.
North American Savings Bank, FSB	Grandview	Missouri.
MCM Savings Bank, FSB	Hannibal	Missouri.
Bluff City Mutual Savings and Loan	Hannibal	Missouri.
First Federal Bank, F.S.B.	Kansas City	Missouri.
Laclede County Bank	Lebanon	Missouri.
Liberty Savings Bank, F.S.B.	Liberty	Missouri.
Clay County Savings and Loan Association	Liberty	Missouri.
First Home Savings Bank	Mountain Grove	Missouri.
Home S&LA of Norborne, F.A.	Norborne	Missouri.
Southern Missouri Bank & Trust Company	Poplar Bluff	Missouri.
Central Federal Savings & Loan Assn.	Rolla	Missouri.
Montgomery First National Bank	Sikeston	Missouri.
Guaranty Federal Savings Bank	Springfield	Missouri.
Midwest FS&LA of St. Joseph	St. Joseph	Missouri.
Provident Bank, FSB	St. Joseph	Missouri.
Bremen Bank and Trust Company	St. Louis	Missouri.
Lindell Bank and Trust	St. Louis	Missouri.
Southern Commercial Bank	St. Louis	Missouri.
BNC National Bank	Bismarck	North Dakota.
First Southwest Bank	Bismarck	North Dakota.
Ramsey National Bank & Trust Company	Devils Lake	North Dakota.
American State B&T of Dickinson	Dickinson	North Dakota.
Security State Bank	Dunseith	North Dakota.
First National Bank North Dakota	Grand Forks	North Dakota.
The National Bank of Harvey	Harvey	North Dakota.
Walhalla State Bank	Walhalla	North Dakota.
Dacotah Bank, Aberdeen	Aberdeen	South Dakota.
First Federal Bank, fsb	Beresford	South Dakota.
First Savings Bank	Beresford	South Dakota.
First National Bank in Brookings	Brookings	South Dakota.
Bryant State Bank	Bryant	South Dakota.
First Western Federal Savings Bank	Rapid City	South Dakota.

Federal Home Loan Bank of Dallas—District 9

First National Bank of Sharp County	Ash Flat	Arkansas.
Arkansas National Bank	Bentonville	Arkansas.
Heartland Community Bank	Camden	Arkansas.
Corning Savings and Loan	Corning	Arkansas.
Bank of Glenwood	Glenwood	Arkansas.
First State Bank of Gurdon	Gurdon	Arkansas.
First Arkansas Bank and Trust	Jacksonville	Arkansas.
Arkansas Bankers' Bank	Little Rock	Arkansas.
Diamond State Bank	Murfreesboro	Arkansas.
First National Bank	Paragould	Arkansas.
Peoples Bank of Paragould	Paragould	Arkansas.
Pocahontas Federal Savings and Loan Association	Pocahontas	Arkansas.
Bank of Rogers	Rogers	Arkansas.
Bank of Star City	Star City	Arkansas.
Bank of Waldron	Waldron	Arkansas.
First National Bank USA	Boutte	Louisiana.
Citizens Progressive Bank	Columbia	Louisiana.
Beauregard Federal Savings Bank	DeRidder	Louisiana.
Home Savings Bank, FSB	Lafayette	Louisiana.
First FS&LA of Lake Charles	Lake Charles	Louisiana.
Greater New Orleans Homestead	Metairie	Louisiana.
Minden Building and Loan Association	Minden	Louisiana.
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Algiers Homestead Association	New Orleans	Louisiana.
Dryades Savings Bank, F.S.B.	New Orleans	Louisiana.
Fifth District Savings & Loan Association	New Orleans	Louisiana.
Union Savings and Loan Association	New Orleans	Louisiana.
Plaquemine Bank and Trust Company	Plaquemine	Louisiana.
Rayne Building and Loan Association	Rayne	Louisiana.
Citizens Bank and Trust Company	Springhill	Louisiana.
First National Bank of Lucedale	Lucedale	Mississippi.

First National Bank of Ponotoc	Pontotoc	Mississippi.
Lamar Bank	Purvis	Mississippi.
North Central Bank For Savings	Winona	Mississippi.
Alamogordo Federal Savings and LA	Alamogordo	New Mexico.
First National Bank	Artesia	New Mexico.
The First National Bank of New Mexico	Clayton	New Mexico.
Matrix Capital Bank	Las Cruces	New Mexico.
First National Bank in Las Vegas	Las Vegas	New Mexico.
First Federal Bank	Roswell	New Mexico.
Charter Bank	Santa Fe	New Mexico.
Tucumcari Federal S& LA	Tucumcari	New Mexico.
United Bank and Trust	Abilene	Texas.
Alamo Bank of Texas	Alamo	Texas.
FirstBank Southwest NA	Amarillo	Texas.
First Savings Bank, FSB	Arlington	Texas.
Brenham National Bank	Brenham	Texas.
Texas Bank	Brownwood	Texas.
The First State Bank	Celina	Texas.
First National Bank of Chillicothe	Chillicothe	Texas.
First Bank of West Texas	Coahoma	Texas.
The First State Bank	Columbus	Texas.
First Bank of Conroe	Conroe	Texas.
First Commerce Bank	Corpus Christi	Texas.
Citizens National Bank	Crockett	Texas.
Cuero State Bank, ssb	Cuero	Texas.
Dalhart Federal Savings and Loan Association	Dalhart	Texas.
Preston National Bank	Dallas	Texas.
Mercantile Bank & Trust, FSB	Dallas	Texas.
First Prosperity Bank	El Campo	Texas.
Union State Bank	Florence	Texas.
Citizens National Bank	Fort Worth	Texas.
Colonial Savings, F.A.	Fort Worth	Texas.
Summit Community Bank N.A.	Fort Worth	Texas.
Guaranty National Bank	Gainesville	Texas.
National Bank	Gatesville	Texas.
Gilmer Savings Bank, FSB	Gilmer	Texas.
Gladewater National Bank	Gladewater	Texas.
Planters and Merchants State Bank	Hearne	Texas.
Houston Community Bank, N.A.	Houston	Texas.
Affiliated Bank	Hurst	Texas.
Justin State Bank	Justin	Texas.
City National Bank	Kilgore	Texas.
Farmers and Merchants State Bank	Krum	Texas.
Fayette Savings Bank, ssb	La Grange	Texas.
National Bank & Trust	La Grange	Texas.
Commerce Bank	Laredo	Texas.
Falcon National Bank	Laredo	Texas.
East Texas Professional Credit Union	Longview	Texas.
Longview Bank and Trust	Longview	Texas.
The First State Bank	Louise	Texas.
First Bank and Trust Company	Lubbock	Texas.
Lubbock National Bank	Lubbock	Texas.
Northeast National Bank	Mesquite	Texas.
City National Bank	Mineral Wells	Texas.
First National Bank of Mount Vernon	Mount Vernon	Texas.
First National Bank in Munday	Munday	Texas.
Morris County National Bank	Naples	Texas.
First Federal Community Bank	Paris	Texas.
Peoples National Bank— Paris	Paris	Texas.
Gulf Coast Educators Federal Credit Union	Pasadena	Texas.
PointBank, N.A.	Pilot Point	Texas.
Pilgrim Bank	Pittsburg	Texas.
Wood County National Bank	Quitman	Texas.
Robert Lee State Bank	Robert Lee	Texas.
Intercontinental National Bank	San Antonio	Texas.
Balcones Bank, S.S.B.	San Marcos	Texas.
Citizens State Bank	Sealy	Texas.
Southern National Bank of Texas	Sugar Land	Texas.
Heritage Savings Bank, ssb	Terrell	Texas.
The American National Bank of Texas	Terrell	Texas.
Citizens First Bank	Tyler	Texas.
Hill Bank and Trust Company	Weimar	Texas.
American National Bank	Wichita Falls	Texas.
Wilson State Bank	Wilson	Texas.
Fannin Bank	Windom	Texas.

Federal Home Loan Bank of Topeka—District

Vectra Bank Colorado—Alamosa	Alamosa	Colorado.
San Luis Valley Federal Bank	Alamosa	Colorado.
Collegiate Peaks Bank	Buena Vista	Colorado.
Pikes Peak National Bank	Colorado Springs	Colorado.
Community Banks of Colorado	Cripple Creek	Colorado.
Rocky Mountain Bank and Trust	Florence	Colorado.
First State Bank of Fort Collins	Fort Collins	Colorado.
First National Bank	Fort Collins	Colorado.

Gunnison Savings & Loan Association	Gunnison	Colorado.
American Bank	Loveland	Colorado.
Rio Grande Savings & Loan Association	Monte Vista	Colorado.
Montrose Bank	Montrose	Colorado.
FirsTier Bank	Northglenn	Colorado.
The First National Bank of Ordway	Ordway	Colorado.
Paonia State Bank	Paonia	Colorado.
The Minnequa Bank of Pueblo	Pueblo	Colorado.
Rocky Ford Federal Savings and Loan	Rocky Ford	Colorado.
Century Savings and Loan Association	Trinidad	Colorado.
Park State Bank	Woodland Park	Colorado.
Prairie State Bank	Augusta	Kansas.
First National Bank	Cimarron	Kansas.
Golden Belt Bank, FSA	Ellis	Kansas.
The Girard National Bank	Girard	Kansas.
Farmers Bank and Trust, N.A.	Great Bend	Kansas.
Central National Bank	Junction City	Kansas.
Argentine Federal Savings	Kansas City	Kansas.
Citizens Bank of Kansas, N.A.	Kingman	Kansas.
University National Bank	Lawrence	Kansas.
Mutual Savings Association, FSA	Leavenworth	Kansas.
The Citizens State Bank	Liberal	Kansas.
The Citizens State Bank	Moundridge	Kansas.
Midland National Bank	Newton	Kansas.
Bank of Blue Valley	Overland Park	Kansas.
Firstar Bank Midwest	Overland Park	Kansas.
Peoples Bank	Overland Park	Kansas.
Peabody State Bank	Peabody	Kansas.
The Bank of Perry	Perry	Kansas.
The Plains State Bank	Plains	Kansas.
The Peoples Bank	Pratt	Kansas.
First Bank Kansas	Salina	Kansas.
Security Savings Bank, F.S.B.	Salina	Kansas.
The Stockton National Bank	Stockton	Kansas.
First National Bank	Syracuse	Kansas.
The Bank of Tescott	Tescott	Kansas.
Silver Lake Bank	Topeka	Kansas.
Capitol Federal Savings Bank	Topeka	Kansas.
Southwest Bank, N.A.	Ulysses	Kansas.
Kendall State Bank	Valley Falls	Kansas.
The Bank of Commerce and Trust Company	Wellington	Kansas.
Garden Plain State Bank	Wichita	Kansas.
Commerce Bank, N.A.	Wichita	Kansas.
Community First National Bank	Alliance	Nebraska.
Western Heritage Credit Union	Alliance	Nebraska.
Farmers and Merchants National Bank	Ashland	Nebraska.
Beatrice National Bank and Trust Company	Beatrice	Nebraska.
Clarkson Bank	Clarkson	Nebraska.
Nebraska Energy Federal Credit Union	Columbus	Nebraska.
American Interstate Bank	Elkhorn	Nebraska.
The Genoa National Bank	Genoa	Nebraska.
Overland National Bank	Grand Island	Nebraska.
United Nebraska Bank	Grand Island	Nebraska.
First Federal Lincoln Bank	Lincoln	Nebraska.
NB of Commerce Trust and S.A.	Lincoln	Nebraska.
First National Bank of McCook	McCook	Nebraska.
Platte Valley National Bank	Morrill	Nebraska.
Otoe County Bank and Trust Company	Nebraska City	Nebraska.
The Nehawka Bank	Nehawka	Nebraska.
Enterprise Bank, N.A.	Omaha	Nebraska.
Platte Valley National Bank—Scottsbluff	Scottsbluff	Nebraska.
First National Bank	Sidney	Nebraska.
The Wymore State Bank	Wymore	Nebraska.
Anadarko Bank & Trust Company	Anadarko	Oklahoma.
Community Bank	Bristow	Oklahoma.
Oklahoma Bank and Trust Company	Clinton	Oklahoma.
American Bank of Oklahoma	Collinsville	Oklahoma.
Arvest United Bank	Del City	Oklahoma.
Citizens Bank	Edmond	Oklahoma.
First National Bank and Trust	Elk City	Oklahoma.
Bank of the Panhandle	Guymon	Oklahoma.
Legacy Bank ACB	Hinton	Oklahoma.
McCurtain County National Bank	Idabel	Oklahoma.
First State Bank	Keyes	Oklahoma.
City National Bank & Trust Company	Lawton	Oklahoma.
First National Bank in Marlow	Marlow	Oklahoma.
Community National Bank of Okarche	Okarche	Oklahoma.
First National Bank in Okeene	Okeene	Oklahoma.
BancFirst	Oklahoma City	Oklahoma.
Bankers Bank of Oklahoma City	Oklahoma City	Oklahoma.
Calhoun County Bank	Oklahoma City	Oklahoma.
National Bank of Commerce	Oklahoma City	Oklahoma.
Citizens Bank and Trust Company	Okmulgee	Oklahoma.
The Okmulgee Savings and Loan Association	Okmulgee	Oklahoma.
Bank of the Lakes, N.A.	Owasso	Oklahoma.
First State Bank	Porter	Oklahoma.

Farmers State Bank	Quinton	Oklahoma.
First National Bank and Trust Company	Shawnee	Oklahoma.
Triad Bank, N.A.	Tulsa	Oklahoma.
Valley National Bank	Tulsa	Oklahoma.
The First NB&TC of Vinita	Vinita	Oklahoma.
First American Bank, N.A.	Woodward	Oklahoma.
Federal Home Loan Bank of San Francisco—District 11		
Founders Bank of Arizona	Scottsdale	Arizona.
Trust Bank, F.S.B.	Arcadia	California.
Borrego Springs Bank NA	Borrego Springs	California.
Fullerton Community Bank	Fullerton	California.
Western Financial Bank	Irvine	California.
Scripps Bank	La Jolla	California.
Silvergate Bank	La Mesa	California.
Broadway FS&LA of Los Angeles	Los Angeles	California.
California Federal Bank, A FSB	Los Angeles	California.
Family Savings Bank, FSB	Los Angeles	California.
Founders National Bank of Los Angeles	Los Angeles	California.
Monterey County Bank	Monterey	California.
Standard Savings Bank, FSB	Monterey Park	California.
Capitol Thrift and Loan Association	Napa	California.
Cerritos Valley Bank	Norwalk	California.
Metropolitan Bank	Oakland	California.
Community Bank	Pasadena	California.
Bank of Petaluma	Petaluma	California.
El Dorado Savings Bank	Placerville	California.
Frontier State Bank	Redondo Beach	California.
Kings River State Bank	Reedley	California.
Life Bank	San Bernardino	California.
Sincere Federal Savings Bank	San Francisco	California.
East-West Bank	San Marino	California.
Bay View Bank, N.A.	San Mateo	California.
First FS&LA of San Rafael	San Rafael	California.
First Federal Bank of California	Santa Monica	California.
National Bank of the Redwoods	Santa Rosa	California.
Sunwest Bank	Tustin	California.
Desert Community Bank	Victorville	California.
First FS&LA of San Gabriel Valley	West Covina	California.
Citibank, FSB	New York	New York.
Washington Mutual Bank, FA	Seattle	Washington.
Federal Home Loan Bank of Seattle—District 12		
First Interstate Bank of Alaska, N.A.	Anchorage	Alaska.
First National Bank of Anchorage	Anchorage	Alaska.
Mt. McKinley Mutual Savings Bank	Fairbanks	Alaska.
Bank of Guam	Agana	Guam.
American Savings Bank, F.S.B.	Honolulu	Hawaii.
Mountain West Bank	Coeur D'Alene	Idaho.
Big Sky Western Bank	Big Sky	Montana.
First Security Bank of Bozeman	Bozeman	Montana.
Glacier Bank of Eureka	Eureka	Montana.
Heritage Bank, a F.S.B.	Great Falls	Montana.
Ravalli County Bank	Hamilton	Montana.
American Federal Savings Bank	Helena	Montana.
Glacier Bank, fsb	Kalispell	Montana.
Montana First National Bank	Kalispell	Montana.
Manhattan State Bank	Manhattan	Montana.
Stockman Bank of Montana	Miles City	Montana.
Western Security Bank	Missoula	Montana.
Bank of Astoria	Astoria	Oregon.
Security Bank	Coos Bay	Oregon.
Bank of Salem	Salem	Oregon.
Columbia River Bank	The Dalles	Oregon.
First Security Bank of Utah	Salt Lake City	Utah.
Cascade Bank	Everett	Washington.
InterWest Bank	Oak Harbor	Washington.
North Sound Bank	Poulsbo	Washington.
Raymond Federal Savings Bank	Raymond	Washington.
EvergreenBank	Seattle	Washington.
Washington Federal Savings	Seattle	Washington.
Sterling Savings Bank	Spokane	Washington.
Buffalo Federal Savings Bank	Buffalo	Wyoming.
Hilltop National Bank	Casper	Wyoming.
Big Horn Federal Savings Bank	Greybull	Wyoming

To encourage the submission of public comments on the community support performance of Bank members, on or before July 28, 2000, each Bank will notify its Advisory Council and nonprofit housing developers, community groups, and other interested parties in its district of the members selected for community support review in the 2000–02 second quarter review cycle. 12 CFR 944.2(b)(2)(ii). In reviewing a member for community

support compliance, the Finance Board will consider any public comments it has received concerning the member. 12 CFR 944.2(d). To ensure consideration by the Finance Board, comments concerning the community support performance of members selected for the 2000–02 second quarter review cycle must be delivered to the Finance Board on or before the August 28, 2000 deadline for submission of Community Support Statements.

By the Federal Housing Finance Board.

William W. Ginsberg,

Managing Director.

[FR Doc. 00–17134 Filed 7–13–00; 8:45 am]

BILLING CODE 6725–01–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 July 28, 2000.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. James Steve Daniels, Livingston, Tennessee; to retain voting shares of American BancShares Corporation, Livingston, Tennessee, and thereby indirectly retain voting shares of American Savings Bank, Livingston, Tennessee.

Board of Governors of the Federal Reserve System, July 10, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–17822 Filed 7–13–00; 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 August 7, 2000.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. First Home Bancorp, Inc., Seminole, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of First Home Bank, Seminole, Florida.

2. Integrity Bancshares, Inc., Alpharetta, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Integrity Bank, Alpharetta, Georgia (in organization).

B. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Jackass Creek Land & Livestock Company, Ennis, Montana; to acquire an additional 50.1 percent, for a total of 73.9, of the voting shares of First Boulder Valley Bank, Boulder, Montana.

Board of Governors of the Federal Reserve System, July 10, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–17824 Filed 7–13–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. 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 the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 28, 2000.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. UniCredito Italiano, S.p.A., Milan, Italy; to acquire The Pioneer Group, Inc., Boston, Massachusetts, and thereby engage in acting as investment and financial adviser to any person, pursuant to § 225.28(b)(6) of Regulation Y; acting as investment adviser to variable annuities investment fund, see Banque Nationale de Paris, 89 Fed. Res. Bull. 638 (1994); providing administrative services to mutual funds, see Lloyds TSB Group, plc, 84 Fed. Res. Bull. 116 (1998); acting directly or

indirectly as general partner or, managing member in, or otherwise controlling investment funds that invest in up to 5 percent of the voting securities and 25 percent of the nonvoting equity of companies under section 4(c)7 of the Bank Holding Company Act and The Dresdner Bank, A.G., 84 Fed. Res. Bull. 361, (1998), and The Bessemer Group, 82 Fed. Res. Bull. 569 (1996); acting as a commodity pool operator, see The Dresdner Bank, A.G., 84 Fed. Res. Bull. 361, (1998), and The Bessemer Group, 82 Fed. Res. Bull. 569 (1996); and conducting agency transactional services for customer investments, pursuant to § 225.28(b)(7) of Regulation Y.

Board of Governors of the Federal Reserve System, July 10, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–17823 Filed 7–13–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting; Notice

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System

TIME AND DATE: 10:00 a.m., Wednesday, July 19, 2000.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551

STATUS: Closed

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: July 12, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–17980 Filed 7–12–00; 10:28 am]

BILLING CODE 6210–01–P

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Notice of Intent To Seek Approval To Extend an Information Collection

AGENCY: Harry S. Truman Scholarship Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Truman Scholarship Foundation (Foundation) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment: The first was published in the **Federal Register** [May 10, 2000 (Volume 65, Number 91), page 30122–30123], and no comments were received. The Foundation is forwarding the proposed renewal submission to OMB for clearance simultaneously with the publication of this second notice.

COMMENTS: Comments regarding (a) Whether the 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 burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; or (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques for other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Harry S. Truman Scholarship Foundation, 725 17th Street, NW., Room 10235, Washington, DC 20503, and to Louis H. Blair, Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, NW., Washington, DC 20005 or send e-mail to *Lblair@truman.gov.*

DATES: Comments regarding this information collection is best assured of having their full effect if received on or before August 13, 2000. Copies of the submission may be obtained at 202–395–7433.

FOR FURTHER INFORMATION CONTACT: Louis H. Blair, Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, NW., Washington, DC 20005 or send e-mail to *Lblair@truman.gov.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Truman Scholar Payment Request Form.

OMB Approval Number. 3200–0005.

Proposed Project: The Foundation has been providing scholarships since 1977 in compliance with PL 93–642. This data collection instrument is used to collect essential information to enable the Truman Scholarship Foundation to determine the amount of funds to be disbursed to each Scholar in accordance with the Foundation's regulations, the institution's cost of attendance budget, and sources of scholarship support received by the Scholar.

A total response rate of 100% was provided by the 273 Truman Scholars who received Foundation support in FY 1999.

Estimate of Burden: The Foundation estimates that, on average, 0.2 hours per respondent will be required to complete the payment request for a total of 55 hours for all respondents.

Respondents: Individuals.

Estimated Number of Responses: 275 per year.

Estimated Total Annual Burden on Respondents: 55 hours.

Dated: July 11, 2000.

Louis H. Blair,

Executive Secretary.

[FR Doc. 00–17865 Filed 7–13–00; 8:45 am]

BILLING CODE 6820–AD–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality; Contract Review Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act as amended (5 U.S.C., Appendix 2), announcement is made of an Agency for Healthcare Research and Quality (AHRQ) Technical Review Committee (TRC) meeting. This TRC's charge is to provide review of contract proposals and recommendations to the Director, AHRQ, regarding the technical merit of proposals submitted in response to a Request for Proposals (RFPs) regarding ''Bioterrorism Initiative''. The RFP was published in the Commerce Business Daily on May 30, 2000.

The upcoming TRC meeting will be closed to the public in accordance with

the Federal Advisory Committee Act (FACA), section 10(d) of 5 U.S.C., Appendix 2, implementing regulations, and procurement regulations, 41 CFR 101–6.1023 and 48 CFR section 315.604(d). The discussions at this meeting of contract proposals submitted in response to the above-referenced RFP are likely to reveal proprietary and personal information concerning individuals associated with the proposals. Such information is exempt from disclosure under the above-cited FACA provision that protects the free exchange of candid views, and under the procurement rules that prevent undue interference with Committee and Department operations.

Name of TRC: The Agency for Healthcare Research and Quality—''Bioterrorism Initiative''.

Date: August 8, 2000 (Closed to the public).

Place: Agency for Healthcare and Quality, 6010 Executive Blvd., 3rd Floor, Conference Room A, Rockville, Maryland 20852.

Contact Person: Anyone wishing to obtain information regarding this meeting should contact William Baine, Center for Outcomes and Effectiveness Research, Agency for Healthcare Research and Quality, 6010 Executive Blvd., Suite 300, Rockville, Maryland 20852, 301–594–0524.

Dated: July 7, 2000.

John M. Eisenberg,

Director.

[FR Doc. 00–17809 Filed 7–13–00; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Agency for Toxic Substances and Disease Registry

[Program Announcement 01002]

Public Health Conference Support Grant Program; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) announce the availability of fiscal year (FY) 2001 funds for a grant program for Public Health Conference Support. This program addresses the health promotion and disease prevention objectives of ''Healthy People 2010''. This announcement is related to the focus areas of Arthritis, Osteoporosis, and Chronic Back Conditions, Cancer, Diabetes, Disability and Secondary Conditions, Educational and Community-Based Programs, Environmental Health, Heart Disease and Stroke, Immunization and Infectious Disease, Injury and Violence Prevention, Maternal, Infant and Child Health, Occupational Safety and Health, Oral Health, Physical Activity and Fitness, Public Health Infrastructure, Respiratory Disease, Sexually Transmitted Diseases, and Tobacco Use. For a complete description see: http://www.health.gov/healthypeople/Document/tableofcontents.htm.

Conferences on Access to Quality Health Services, Family Planning, Food Safety, Health Communications, Medical Product Safety, Mental Health and Mental Disorders, Nutrition and Overweight, Substance Abuse, and Vision and Hearing, are not priority focus areas of CDC or ATSDR, and should be directed to other Federal Agencies. HIV is not included in this Program Announcement.

The purpose of conference support funding is to provide partial support for specific non-federal conferences in the areas of health promotion and disease prevention information and education programs, and applied research.

Because conference support by CDC/ATSDR creates the appearance of CDC/ATSDR co-sponsorship, there will be active participation by CDC/ATSDR in the development and approval of the conference agenda. CDC/ATSDR funds will be expended only for approved portions of the conference.

The mission of CDC is to promote health and improve the quality of life by preventing and controlling disease, injury, and disability.

CDC supports local, State, academic, national, and international health efforts to prevent unnecessary disease, disability, and premature death, and to improve the quality of life. This support often takes the form of education, and the transfer of high quality research findings and public health strategies and practices through symposia, seminars, and workshops. Through the support of conferences and meetings in the areas of public health research, education, prevention research in program and policy development in managed care and prevention application, CDC is meeting its overall goal of dissemination and implementation of new cost-effective intervention strategies.

ATSDR focus areas are: (1) Health effects of hazardous substances in the environment; (2) disease and toxic substance exposure registries; (3) hazardous substance removal and remediation; (4) emergency response to toxic and environmental disasters; (5) risk communication; (6) environmental disease surveillance; and (7) investigation and research on hazardous substances in the environment.

The mission of ATSDR is to prevent both exposure and adverse human health effects that diminish the quality of life associated with exposure to hazardous substances from waste sites, unplanned releases, and other sources of pollution present in the environment.

ATSDR's systematic approaches are needed for linking applicable resources in public health with individuals and organizations involved in the practice of applying such research. Mechanisms are also needed to shorten the time frame between the development of disease prevention and health promotion techniques and their practical application. ATSDR believes that conferences and similar meetings that permit individuals to engage in hazardous substances and environmental health research, education, and application (related to actual and/or potential human exposure to toxic substances) to interact, are critical for the development and implementation of effective programs to prevent adverse health effects from hazardous substances.

B. Eligible Applicants

Applications may be submitted by public and private non-profit organizations. Public and private non-profit entities include but are not limited to State and local governments or their bona fide agents, voluntary associations, foundations, civic groups, scientific or professional associations, universities, and Federally-recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Only conferences planned for May 1, 2001 through September 30, 2002 are eligible to apply under this announcement.

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.

Applications for ATSDR support may be submitted by the official public health agencies of the States, or their bona fide agents. This includes the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Island, the Republic of Palau, and Federally-recognized Indian Tribal

governments. State organizations, including State universities, State colleges, and State research institutions must establish that they meet their respective State's legislature definition of a State entity or political subdivision to be considered an eligible applicant. Also eligible are nationally recognized associations of health professionals and other chartered organizations generally recognized as demonstrating a need for information to protect the public from the health effects of exposure to hazardous substances.

C. Availability of Funds

Approximately $1,100,000 may be available from CDC in FY 2001 to fund approximately 45 to 55 awards. It is expected that the average award will be $20,000. For FY 2001 awards will be made for three cycles A B & C each with a 12-month budget period within a 12-month project period. Funding estimates may change.

Approximately $50,000 is available from ATSDR in FY 2001 to fund approximately six awards. It is expected that the average award will be $8,000, ranging from $5,000 to $10,000. It is expected that the awards will begin on or about thirty days before the date of the conference and will be made for a 12-month budget period within a 12-month project period. Funding estimates may change.

D. Use of Funds

1. Funds may be used for direct cost expenditures: salaries; speaker fees (for services rendered); rental of necessary conference related equipment; registration fees; and transportation costs (not to exceed economy class fare) for non-Federal individuals.

2. Funds may be used for only those parts of the conference specifically supported by CDC or ATSDR as documented in the grant award.

3. Funds may not be used for the purchase of equipment; payments of honoraria (for conferring distinction); alterations or renovations; organizational dues; support entertainment or personal expenses; food or snack breaks; cost of travel and payment of a Federal employee; per diem or expenses for local participants (other than local mileage). Travel for federal employees will be supported by CDC/ATSDR. Travel for other Federal employees will be supported by the federal agency.

4. Funds may not be used for reimbursement of indirect costs.

5. CDC and ATSDR will not fund 100 percent of any conference proposed under this announcement. Part of the cost of the proposed conference must be supported with other than Federal funds.

6. CDC and ATSDR will not fund a conference after it has taken place.

7. Although the practice of handing out novelty items at meetings is often employed in the private sector to provide participants with souvenirs, Federal funds cannot be used for this purpose.

E. Program Requirements

Grantees must meet the following requirements:

1. The conference organizer(s) may use CDC's/ATSDR's name only in factual publicity for the conference. CDC/ATSDR involvement in the conference does not necessarily indicate support for the organizer's general policies, activities, or products or the content of speakers' presentations.

2. Any conference co-sponsored under this announcement shall be held in facilities that are fully accessible to the public as required by the Americans with Disabilities Act Accessibility Guidelines (ADAAG). Accessibility under ADAAG addresses accommodations for persons with sensory impairments as well as persons with physical disabilities or mobility limitations.

3. Manage all activities related to program content (e.g., objectives, topics, attendees, session design, workshops, special exhibits, speaker's fees, agenda composition, and printing). Many of these items may be developed in concert with assigned CDC or ATSDR project personnel.

4. Provide draft copies of the agenda and proposed ancillary activities to CDC or ATSDR for approval. All but 10 percent of the total funds awarded for the proposed conference will be restricted pending approval of a full final agenda by CDC or ATSDR. The remaining 90 percent of funds will be released by letter to the grantee upon the approval of the final agenda. CDC and ATSDR reserves the right to terminate co-sponsorship at any time.

5. Determine and manage all promotional activities (e.g., title, logo, announcements, mailers, press, etc.). CDC or ATSDR must review and approve any materials with reference to CDC or ATSDR involvement or support.

6. Manage all registration processes with participants, invitee, and registrants (*e.g.,* travel, reservations, correspondence, conference materials and handouts, badges, registration procedures, etc.).

7. Plan, negotiate, and manage conference site arrangements, including all audio-visual needs.

8. Analyze data from conference activities that pertain to the impact of prevention. Adequately assess increased knowledge, attitudes, and behaviors of the target audience.

F. Application Content

A letter of intent (LOI) is required for this Program Announcement.

Letter of Intent (LOI) Instructions

Interested applicants are required to submit an original and two copies of a two to three-page in-depth typewritten Letter of Intent (LOI). Use English only and avoid jargon and unusual abbreviations. Upon review of the LOI's, CDC or ATSDR will extend written invitations to perspective applicants to submit applications. CDC or ATSDR will accept applications by invitation only. Availability of funds may limit the number of applicants, regardless of merit, that receive an invitation to submit applications. The LOI should specifically describe the following required information:

1. Justification of the conference, including the problems it intends to clarify and the developments it may stimulate.

2. Title of the proposed conference—include the term ''Conference'', ''Symposium'',''Workshop'', or similar designation;

3. Location of conference—city, state, and physical facilities required for the conduct of the meeting;

4. Expected registration—the intended audience, approximate number and profession of persons expected to attend;

5. Date(s) of conference—inclusive dates of conference (LOIs without date of conference will be considered non-responsive to this program announcement and returned to the applicant without review);

6. Summary of conference format, projected agenda (including list of principal areas or topics to be addressed), including speakers or facilitator. In addition, information should be provided about all other national, regional, and local conferences held on the same or similar subject during the last three years; and also include on the first page:

a. the name of the organization,

b. primary contact person=s name,

c. mailing address,

d. telephone number,

e. and if available, fax number and e-mail address.

The LOI must include the estimated total cost of the conference and the percentage of the total cost (which must be less than 100 percent) being requested from CDC or ATSDR.

Requests for 100 percent funding will be considered non-responsive to this program announcement and will be returned to the applicant without review. No Appendices, booklets, or other documents accompanying the LOI will be considered.

An invitation to submit an application will be made on the basis of the proposed conference's relationship, as outlined in the LOI, to the CDC or ATSDR funding priorities and availability of funds. LOIs should be provided by over night mail service, or U.S. postal service.

The three page limitation (inclusive of letterhead and signatures), must be observed or the letter of intent will be returned without review.

Application

Applicants may apply to CDC or ATSDR for conference support only after their LOI has been reviewed by CDC and ATSDR and a written invitation, including an application form, has been received by the prospective applicant.

An invitation to submit an application does not constitute a commitment on the part of CDC or ATSDR to fund the application.

In addition to the following required information, use the information in the Program Requirements and Evaluation Criteria sections to develop the application content:

1. A project summary cover sheet that includes:
(a) name of organization
(b) name of conference
(c) location of conference
(d) date(s) of conference
(e) intended audience and number
(f) dollar amount requested
(g) total conference budget amount

2. A brief background of the organization—include the organizational history, purpose, and previous experience related to the proposed conference topic.

3. A clear statement of the need for and purpose of the conference. This statement should also describe any problems the conference will address or seek to solve, and the action items or resolutions it may stimulate.

4. An elaboration on the conference objectives and target audience. A list should be included of the principal areas or topics to be addressed. A proposed or final agenda must be included.

5. A clear description of the evaluation plan and how it will assess the accomplishments of the conference objectives. A sample of the evaluation instrument that will be used must be included and a step-by-step schedule and detailed operation plan of major conference planning activities necessary to attain specified objectives.

6. Biographical sketches are required for the individuals responsible for planning and implementing the conference. Experience and training related to conference planning and implementation as it relates to the proposed topic should be noted.

7. Letters of endorsement or support—Letters of endorsement or support for the sponsoring organization and its capability to perform the proposed conference activity.

8. Budget plan and justification—A clearly justified budget narrative that is consistent with the purpose, objectives, and operation plan of the conference. This will consist of a budget that includes the share requested from this grant as well as those funds from other sources, including organizations, institutions, conference income and/or registration fees.

General Instructions

The narrative should be no more than 12 double-spaced pages, printed on one side, with one-inch margins, and 12-point font. Use English only and avoid jargon and unusual abbreviations. Pages must be clearly numbered, and a complete index to the application and its appendices must be included. The original and two required copies of the application must be submitted unstapled and unbound. Materials which should be part of the basic plan should not be in the appendices.

Send LOIs and Applications to: Edna M. Green, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, Koger Center, Colgate Bldg., 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341.

G. Submission and Deadline for All Applicants

Letter of Intent (LOI)
Letter of Intent Due Dates:
Cycle A: October 2, 2000
For conferences May 1, 2001–April 30, 2002
Cycle B: January 2, 2001
For Conferences August 1, 2001–July 31, 2002
Cycle C: April 2, 2001
For Conferences November 1, 2001–September 30, 2002

The letter of intent (LOI) must be submitted on or before October 2, 2000, January 2, 2001 and April 2, 2001. The applicant must submit an original and two signed copies of the LOI to the Grants Management Specialist identified in the Where to Obtain Additional Information section of this announcement.

Application

Applicants invited to apply should also submit the original and two copies of PHS form 5161–1, (OMB Number 0937–0189). Forms are in the application kit. Forms are also available at: http://forms.psc.gov/forms/phs/ps5161-1.pdf

Application due dates	Earliest possible award dates
Cycle A: December 11, 2000.	April 1, 2001.
Cycle B: March 09, 2001.	July 1, 2001.
Cycle C: June 15, 2001.	September 30, 2001.

Deadline: Filing deadlines have now been imposed for all conference support grants and dates should be strictly followed by applicants to ensure that their LOI's are received in a timely manner.

There will be three Conference Support reviews per year and awards will be made in the months of April 2001, July 2001, and September 2001.

If your conference dates fall between Oct 1, 2000 to April 30, 2001 you should have applied under the previous program Announcement 00017 otherwise your LOI will be considered unresponsive to Cycle A under the 2001 Announcement.

If your Conference dates fall between May 1, 2001 to April 30, 2002 you can apply under Cycle A 2001.

If your Conference dates fall between August 1, 2001 to July 31, 2002 you can apply in Cycle B 2001.

If your Conference dates fall between November 1, 2001 to September 31, 2002 you can apply under Cycle C 2001. Letters of Intent and Applications shall be considered as meeting the deadline if they are either:

(a.) Received on or before the date, or

(b.) Postmarked on or before the deadline date and received in time for orderly processing. (Applicants must request a legibly dated U.S. Postal Service Postmark or obtain a legibly dated receipt from a commercial carrier or the 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.

H. Evaluation Criteria

Letter of Intent

A conference is a symposium, seminar, workshop, or any other organized and formal meeting lasting portions of one or more days, where persons assemble to exchange information and views or explore or clarify a defined subject, problem, or area of knowledge, whether or not a published report results from such meeting. The conference should support CDC or ATSDR's public health principles in furtherance of CDC's mission or ATSDR's mission. CDC will review the LOIs and compare conference objectives with our respective missions and funding priorities to determine if a full application will be invited. Less than thirty-three percent of LOI applicants are invited to submit full applications.

Application

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

Section 1.a., is ATSDR specific

Section 1.b., is CDC specific

Section 1.c., and all other sections in these criteria are applicable to both CDC and ATSDR,

1. Proposed Program and Technical Approach (25 points)

a. The public health significance of the proposed conference including the degree to which the conference can be expected to influence the prevention of exposure and adverse human health effects and diminished quality of life associated with exposure to hazardous substances from waste sites, unplanned releases and other sources of pollution present in the environment. (Applicable to ATSDR applications only).

b. The applicant's description of the proposed conference as it relates to specific non-Federal conferences in the areas of health promotion and disease prevention information/education programs (except mental health, and substance abuse), including the public health need of the proposed conference and the degree to which the conference can be expected to influence public health practices. Evaluation will be based also on the extent of the applicant's collaboration with other organizations serving the intended audience. (Applicable to all CDC applications except ATSDR)

c. The applicant's description of conference objectives in terms of quality, specificity, and the feasibility of the conference based on the operational plan.

2. Applicant's Capability (10 points) Adequacy of applicant's resources (additional sources of funding, organization's strengths, staff time, proposed physical facilities, etc.) available for conducting conference activities.

3. The Qualification of Program Personnel (20 points).

Evaluation will be based on the extent to which the application has described:

a. The qualifications, experience, and commitment of the principal staff person, and his/her ability to devote adequate time and effort to provide effective leadership.

b. The competence of associate staff persons, discussion leaders, speakers, and presenters to accomplish conference objectives.

c. The degree to which the applicant demonstrates the knowledge of nationwide and educational efforts currently underway which may affect, and be affected by, the proposed conference.

4. Conference Objectives (25 points)

a. The overall quality, reasonableness, feasibility, and logic of the designed conference objectives, including the overall work plan and timetable for accomplishment.

b. The likelihood of accomplishing conference objectives as they relate to disease prevention and health promotion goals, and the feasibility of the project in terms of the operational plan.

5. Evaluation Methods (20 points)

Evaluation instrument(s) for the conference should adequately assess increased knowledge, attitudes, and behaviors of the target audience.

6. Budget Justification and Adequacy of Facilities (not scored)

The proposed budget will be evaluated on the basis of its reasonableness; concise and clear justification; and consistency with the intended use of grant funds. The application will also be reviewed as to the adequacy of existing or proposed facilities and resources for conducting conference activities.

I. Other Requirements

Technical Reporting Requirements

Provide the Grants Management Office with original plus two copies of:

1. A Performance Report, or in lieu of a performance report, proceedings of the conference, no more than 90 days after the end of the budget/project period.

2. Financial status report, no more than 90 days after the end of the budget/project period.

The following additional requirements are applicable to this program. (See appendix 1)

AR–7 Executive Order 12372 Review

AR–8 Public Health System Reporting Requirements

AR–9 Paperwork Reduction Act Requirements

AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2010

AR–12 Lobbying Restrictions

AR–15 Proof of Non-Profit Status

AR–20 Conference Support

J. Authority and Catalog of Federal Domestic Assistance Number

The CDC program is authorized under Section 301 of the Public Health Service Act, [42 U.S.C. 241] as amended. The Catalog of Federal Domestic Assistance number is 93.283.

The ATSDR program is authorized under Sections 104(i)(14) and (15) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), [42 U.S.C. 9604(i)(14) and (15)]. The Catalog of Federal Domestic Assistance number is 93.161 for ATSDR.

K. Where To Obtain Additional Information

To receive additional written information, call 1–888-GRANTS4 (1–888–472–6874). You will be asked to leave your 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: Edna M. Green, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Koger Center, Colgate Bldg., 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341–3724, Telephone (770) 488–2743, Email address ecg4@cdc.gov,

See also the CDC home page on the Internet: http://www.cdc.gov/od/pgo/funding/01002.htm

For program technical assistance, contact: C.E. Criss Crissman, Resource Analysis Specialist, Office of the Director Extramural Services Activity, Public Health Practice Program Office (PHPPO), Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE, MS K–38, Atlanta, Georgia 30341–3714, Telephone (770) 488–2513, Email address cec1@cdc.gov

Dated: July 7, 2000.

Mary Anne Bryant,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Agency for Toxic Substances and Disease Registry.

[FR Doc. 00–17846 Filed 7–13–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement Number 00102]

Announcement of a Cooperative Agreement With the Hispanic-Serving Health Professions Schools (HSHPS), Inc. To Enhance Research, Infrastructure, and Capacity Building

A. Purpose

The Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) announce the availability of fiscal year (FY) 2000 funds for a cooperative agreement program with the Hispanic-Serving Health Professions Schools, Inc. (HSHPS). The purpose of the program is to assist the HSHPS in developing the commitment and capacity of their member institutions to promote education, development, research, leadership and community partnerships that enhance the health status of Hispanics in the United States and enhance the participation of Hispanics in the health professions.

The CDC and ATSDR are committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2010'', a national activity to reduce morbidity and mortality and to improve the quality of life. This announcement is related to the 2010 objectives which specify improving the health of groups of people bearing a disproportionate burden of poor health as compared to the total population. Several themes distinguished ''Healthy People 2010'' from past efforts, reflecting the progress and experience of 10 years, as well as an expanded science base for developing health promotion and disease prevention objectives. The framework of ''Healthy People 2010'' consists of two broad goals which are to:

1. Increase quality and years of healthy life; and
2. Eliminate health disparities.

''Healthy People 2010'' is well established as the Nation's prevention goals and as a scorecard for monitoring health status. The new national goals and objectives for ''Healthy People 2010'' will build upon this foundation by establishing a small set of leading health indicators that could be presented to the general public and non-health professionals as an introduction to ''Healthy People''. ''Healthy People 2010'' will be a tool for monitoring America's health. For the conference copy of ''Healthy People 2010'' visit the internet site: <<http://www.health.gov/healthypeople>

The life expectancy of Americans has steadily increased. In 1979, when the first set of national health targets was published in ''Health People: The Surgeon General's Report on Health Promotion and Disease Prevention'', average life expectancy was 73.7 years. Based on current mortality experience, babies born in 1995 are expected to live 75.8 years. However, people have become increasingly interested in other health goals, such as preventing disability, improving functioning, and relieving pain and the distress caused by physical and emotional symptoms.

The proportion of the population who assess their current health status positively has not changed substantially during the past decade. In 1987, the percentage was 90.4 percent. During the same period, the percentage of the population reporting that they were limited in major activity due to chronic conditions actually increased from 18.9 percent in 1988, to 21.4 percent in 1995.

Eliminating disparities by the year 2010 will require new knowledge about the determinants of disease and effective interventions for prevention and treatment. It will also require improved access for all to the resources that influence health. Reaching this goal will necessitate improved collection and use of standardized data to correctly identify all high-risk populations and monitor the effectiveness of health interventions targeting these groups. Research dedicated to a better understanding of the relationships between health status and income, education, race and ethnicity, cultural influences, environment, and access to quality medical services will help us acquire new insights into eliminating the disparities and developing new ways to apply our existing knowledge toward this goal. Improving access to quality health care and the delivery of preventive and treatment services will require working more closely with communities to identify culturally sensitive implementation strategies.

Although health statistics on race, ethnicity, socioeconomic status and disabilities are sparse, the data we do have demonstrate the volume of work needed to eliminate health disparities. The greatest opportunities for improvement and the greatest threats to the future health status of the nation reside in the population groups that have historically been disadvantaged economically, educationally and politically. We must do a better job in identifying the disparities that exist, work toward elimination, and strive to create better health for all.

B. Eligible Applicants

Assistance will be provided only to the Hispanic-Serving Health Professions Schools (HSHPS). No other applications are solicited.

The Hispanic-Serving Health Professions Schools (HSHPS), Inc. is a non-profit 501(c)(3) organization established in 1996 in response to the President's Executive Order 12900, ''Educating Excellence for Hispanic Americans.'' The mission of the HSHPS is to develop the commitment of the member institutions to promote education, research, leadership and community partnership that enhance the participation of Hispanics in the health professions and to enhance the health status of Hispanics in the United States. The HSHPS are the most appropriate and qualified institutions to provide services specified under this cooperative agreement because:

1. HSHPS represents 16 medical schools across the country with a 9 percent Hispanic student enrollment. These schools represent a primary educational system that educate and train Hispanic health care providers across the United States, with a potential for encompassing a full spectrum of the health care providers needed by the Hispanic population groups.
2. HSHPS principle goals are:

a. to strengthen the nation's capacity to educate and increase the numbers of high-quality Hispanic health care providers to serve and improve the health status of Hispanics and other populations now and into the 21st century;

b. to develop educational opportunities for health professions schools in curriculum, research, and clinical experiences that will enable Hispanic and non-Hispanic health professions students to provide excellent health care to Hispanic populations;

c. to establish or expand outreach projects, grants and scholarships for Hispanics to enter health professions careers;

d. to stimulate health professions institutions to increase, promote and retain Hispanic faculty and researchers;

e. to identify targeted health outcomes which will improve the health of

Hispanic populations and support health policies, systems of care, and projects which help to achieve these outcomes; and

f. to promote collaboration at the regional and national levels between educational institutions, communities and other partners.

3. Through the collective efforts of its member institutions, the HSHPS has demonstrated the ability to work with academic institutions, government health agencies, and the private sectors on mutual education, service, and research endeavors.

4. The HSHPS has demonstrated that it has the leadership necessary to attract minority health professions into public health or health related professional careers.

5. The HSHPS has the infrastructure to consult with Hispanic health professionals through its national organizations whose member institutions are all predominately Hispanic-serving health professions institutions with excellent professional performance records.

C. Availability of Funds

Approximately $300,000 is available in FY 2000 to fund this cooperative agreement. Subawards will be funded through CDC and ATSDR. A cumulative award of approximately $2,000,000 to the HSHPS is expected during FY 2000. It is expected that the awards will begin on September 30, 2000.

Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

D. Where to Obtain Additional Information

A complete program description and information on application procedures are contained in the application package. Business management technical assistance may be obtained from Dorimar Rosado, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, M.S. E–15, Koger Center, Colgate Building, Atlanta, Georgia 30341–3724. Telephone 770–488–2736. E-mail address dpr7@cdc.gov.

Program technical assistance may be obtained from Karen E. Harris, Senior Advisor for Research Projects, Office of the Associate Director for Minority Health, Office of the Director, Centers for Disease Control and Prevention, 1600 Clifton Road, Northeast, Mailstop D–39, Atlanta, Georgia 30333. Telephone (404) 639–4313, E-mail address keh2@cdc.gov.

Dated: July 10, 2000.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–17835 Filed 7–13–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 00130]

HIV/AIDS Prevention Program Development and Technical Assistant Collaboration with Countries Targeted by the Leadership and Investment in Fighting the Epidemic (LIFE) Initiative; 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 HIV/AIDS Prevention Program Development and Technical Assistance Collaboration with Countries Targeted by the LIFE (Leadership and Investment in Fighting an Epidemic) Initiative.

In July 1999, the Administration announced the LIFE Initiative to address the global AIDS pandemic. The LIFE initiative, an effort to expand and intensify the global response to the growing AIDS pandemic and its serious impact, is part of the United States (U.S.) Government's participation in the International Partnership Against HIV/AIDS in Africa (IPAA). A central feature of the LIFE Initiative is a $100 million increase in U.S. support for sub-Saharan African countries and India, which are working to prevent the further spread of HIV and to care for those affected by this devastating disease. This additional funding is a critical step by the U.S. Government in recognizing the impact that AIDS continues to have on individuals, families, communities, and nations and responding to the imperative to do more. The Department of Health and Human Services (HHS), through the Centers for Disease Control and Prevention (CDC) is administering $35 million of the $100 million allocated to the LIFE Initiative by Congress.

The purpose of the program is to support HIV/AIDS prevention program development and technical assistance for countries designated by the U.S. Congress under the LIFE Initiative. At present, those countries are Botswana, Cote D'Ivoire, Kenya, South Africa, Uganda, Rwanda, Zimbabwe, Ethiopia, Mozambique, Malawi, Tanzania, Nigeria, Senegal, Zambia and India. The countries targeted represent those with the most severe epidemic and the highest number of new infections. They also represent countries where the potential for impact is greatest and where U.S. government agencies are already active.

The goals of the program are to address and support three program elements of the LIFE initiative: Primary Prevention, Capacity and Infrastructure Development, and Community and Home-Based Care and Treatment. The program described in this announcement calls for the delivery of HIV/AIDS prevention program development and technical assistance to the LIFE countries through a variety of recipient activities. The result will be enhancement of the skills of officials from LIFE country national AIDS program in strategic planning, implementation, evaluation, and communication relating to HIV/AIDS prevention and care programs.

B. Eligible Applicant

Assistance will be provided only to the National Alliance of State and Territorial AIDS Directors (NASTAD) for this project. No other applications are solicited or will be accepted. This announcement and application will be sent to NASTAD. NASTAD is the appropriate and only qualified agency to provide the services specified under this cooperative agreement because:

1. NASTAD is the only officially established organization that represents the State and Territorial AIDS Directors in all 50 U.S. States and all U.S. Territories. As such, it represents the officials from throughout the U.S. who have responsibility for designing, implementing, and evaluating HIV/AIDS prevention programs protecting the health of U.S. citizens against the threat of HIV and acquired immunodeficiency syndrome (AIDS). This place NASTAD in a unique position to act as a liaison between state and territorial HIV/AIDS prevention programs and LIFE country public health officials. In addition, the same set of knowledge, skills, and abilities NASTAD has developed in working with State and Territorial AIDS Directors are of critical importance in improving the technical capacity of national AIDS control programs in African countries and India.

2. Health threats such as HIV are not confined by geographic boundaries.

NASTAD was formed to promote coordination of HIV/AIDS prevention efforts among the States and territories. The organization is uniquely positioned to collaborate not only with national organizations, including Federal agencies, but also with national AIDS control program officials in the LIFE countries, on policy and program issues from a U.S. government model, multi-state perspective. In this collaboration NASTAD is positioned to monitor, assess, and improve HIV/AIDS prevention program design, implementation, and evaluation in the LIFE countries.

3. In the U.S., NASTAD coordinates the effort of HIV/AIDS Prevention Program Directors, who work together with CDC to monitor the implementation of prevention programs across States and territories, assess the impact of prevention programs, share successes and challenges, monitor issues and obstacles to implementation of effective interventions, provide technical assistance and consult with CDC, one another, and other governmental and non-governmental prevention partners on these issues. Therefore, NASTAD possesses unique knowledge and insight that can be applied to the LIFE initiative through the provision of technical assistance aimed at strengthening the ability of national AIDS control programs to develop HIV/AIDS prevention programs based on the best practices of U.S. State and territory programs.

4. NASTAD represents the nation's HIV/AIDS Prevention Program Directors who have responsibility for HIV prevention within their jurisdictions, and whose mission is to work collaboratively with individual AIDS Directors to provide multi-jurisdiction perspectives and translate knowledge, skills, and abilities to State AIDS control programs. Thus NASTAD is in a unique position to facilitate the transfer of the same body of knowledge, skills and abilities to national AIDS control program officials in the LIFE countries.

5. NASTAD has already established mechanisms for communicating HIV/AIDS prevention information to the States and the political subdivisions of the States that carry out the nation's HIV/AIDS prevention programs. These mechanisms can serve as models to exchange information between the States and public health officials in the LIFE countries to identify and develop effective prevention information networks and dissemination systems. Because of their experience and established communications mechanisms, NASTAD is in a unique position to assist national AIDS control program officials with the dissemination of HIV/AIDS prevention information.

Note: Public Law 104–65 states than 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 support this award. It is expected that the 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 3 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 received from this announcement will not be used for the purchase of antiretroviral drugs for treatment of established HIV infection, occupational exposures, and non-occupational exposures and will not be used for the purchase of machines and reagents to conduct the necessary laboratory monitoring for patient care.

Peer-to-peer training, technical assistance, and other activities (including but not limited to those described below under Program Requirements—Recipient Activities) conducted outside the U.S. by persons under this award are limited to forty-five (45) days per person per year.

Applicant may contract with other organizations under these cooperative agreements, however, the applicant must perform a substantial portion of the activities (including program management and operations and delivery of prevention services for which funds are requested).

D. Where to Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov. Scroll down the page, then click on ''Funding'' then ''Grants and Cooperative Agreements.''

To receive additional written information and to request an application kit, call 1–888–GRANTS (1–888 472–6874). You will be asked to leave your 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: Sharon Robertson, Grants Management Specialist, Centers for Disease Control and Prevention (CDC), Procurement and Grants Office, Room 3000, 2920 Brandywine Road, Mailstop E–15, Atlanta, GA 30341–4146, Telephone: (770) 488–2782, E-mail: sqr2@cdc.gov

Programmatic technical information may be obtained from: Leo Weakland, Deputy Coordinator, Global AIDS Activity (GAA), National Center for HIV, STD, and TB Prevention, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, Mailstop E–07, Atlanta, GA 30333, Telephone number (404) 639–8016, Email address: lfw0@cdc.gov

Dated: July 10, 2000.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–17836 Filed 7–13–00; 8:45 am]

BILLING CODE 4163–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Part F of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), (**Federal Register**, Vol. 62, No. 129, pp. 36294 and 36295, dated Monday, July 7, 1997) is amended to reflect the elimination of the Chief of Operations. This amendment will change the reporting relationships for the Offices of Internal Customer Support, Information Services, and Financial Management, which will now report directly to the Administrator, HCFA.

The specific amendment to Part F is described below:

Section F.10.A.5. (Organization) is amended to read as follows:

1. Press Office (FAE)
2. Office of Legislation (FAF)
3. Office of Equal Opportunity and Civil Rights (FA)
4. Office of Strategic Planning (FAK)
5. Office of Communications and Operations Support (FAL)
6. Office of Clinical Standards and Quality (FAM)
7. Center for Beneficiary Services (FAQ)
8. Center of Health Plans and Providers (FAR)
9. Center for Medicaid and State Operations (FAS)

10. Consortium #1 (FAU)
11. Consortium #2 (FAV)
12. Consortium #3 (FAW)
13. Consortium #4 (FAX)
14. Office of Internal Customer Support (FBA)
15. Office of Information Services (FBB)
16. Office of Financial Management (FBC)

Dated: June 8, 2000.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 00–17810 Filed 7–13–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Ryan White Comprehensive AIDS Resources Emergency Act of 1990-Title IV (OMB #0915–0206)—Extension

This is a request for extension of the reporting system of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990, Title IV as amended by the Ryan White CARE Act Amendments of 1996. It authorizes a reporting system to collect information from grantees and the service providers that are their subcontractors as governed under Section 2671 of the Public Health Service (PHS) Act (42 USC 300ff–71).

Title IV provides support for coordinated HIV services and access to research for children, youth, women, and families. It supports efforts to develop comprehensive, coordinated, culturally competent, family-centered systems of care and to provide access to research for those infected or affected by HIV infection. The Title IV program supports a broad variety of interventions in health care delivery that are designed to link clients receiving health care to other essential and supporting services and to clinical research. Grants are made to public and private non-profit health centers and other appropriate public or non-profit private entities that are linked to a comprehensive health care system. This system includes clinical research for children, youth, and women. The HIV/AIDS Bureau (HAB) within HRSA administers funds for Title IV of the CARE Act.

There are 53 grantees under Title IV's Children, Youth, Women and Families Program, with approximately 125 affiliated service providers, for a total of 178 entities who report information about the clients they serve and the services they provide. Grantees are located in 27 States, Puerto Rico and the District of Columbia.

ESTIMATED BURDEN HOURS

Form name	No. of respondents	Responses per respondent	Total responses	Hrs. per response	Total burden hours
Designation of Local Reporting Entitles Table 1A	53	1	53	.25	13.25
Local Network Profile Table 1B	178	1	178	.5	89
Person-based Demographic and Clinical Status Summary Table 2	178	1	178	30	5,340
Service Utilization Summary Table 3	178	1	178	20	3,560
Prevention, Outreach, and Education Activities Table 4	178	1	178	4	712
Total	178	1	178	54.75	9,746

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: July 7, 2000.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 00–17812 Filed 7–13–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (''the Program''), as required by section 2112(b)(2) of the Public Health Service (PHS) Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact the Clerk, United States

Court of Federal Claims, 717 Madison Place, N.W., Washington, D.C. 20005, (202) 219–9657. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 8A–46, Rockville, MD 20857; (301) 443–6593.

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.*, provides that those seeking compensation are to file a petition with the U.S. Court of Federal Claims and to serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated her responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at section 2114 of the PHS Act or as set forth at 42 CFR 100.3, as applicable. This Table lists for each covered childhood vaccine the conditions which will lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested after the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that the Secretary publish in the **Federal Register** a notice of each petition filed. Set forth below is a list of petitions received by HRSA on January 7, 2000, through March 31, 2000.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

(a) ''Sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Table but which was caused by'' one of the vaccines referred to in the Table, or

(b) ''Sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

This notice will also serve as the special master's invitation to all interested persons to submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Court of Federal Claims at the address listed above (under the heading ''For Further Information Contact''), with a copy to HRSA addressed to Director, Bureau of Health Professions, 5600 Fishers Lane, Room 8–05, Rockville, MD 20857. The Court's caption (Petitioner's Name v. Secretary of Health and Human Services) and the docket number assigned to the petition should be used as the caption for the written submission.

Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

List of Petitions

1. Kathy Timoteo and Montez Boyd on behalf of Cydney J. Boyd, Deceased, Torrance, California, Court of Federal Claims Number 00–0009
2. Bernadette Elkins on behalf of Jaclyn Christin Elkins, Pasadena, Texas, Court of Federal Claims Number 00–0014
3. Kathy and Dan Cassidy on behalf of Shane Cassidy, Vienna, Virginia, Court of Federal Claims Number 00–0017
4. Katie and Ralph Hallenborg on behalf of Eric Miles Hallenborg, Vienna, Virginia, Court of Federal Claims Number 00–0019
5. Cheryl Pisano, Ocala, Florida, Court of Federal Claims Number 00–0019
6. Jessica and Scott Phillips on behalf of Cody James Phillips, Deceased, Altamont, New York, Court of Federal Claims Number 00–0024
7. Alicia B. Hicks on behalf of Melvin B. Paschal, Jr., Deceased, Atlanta, Georgia, Court of Federal Claims Number 00–0026
8. Geoffrey Dubrowsky on behalf of Daniel Dubrowsky, Red Bank, New Jersey, Court of Federal Claims Number 00–0027
9. Mary L. and Davy B. Wildman on behalf of Nickolas B. Wildman, Butler, Pennsylvania, Court of Federal Claims Number 00–0032
10. Linda Swisher on behalf of Joshua R. McNellis, Long Beach, California, Court of Federal Claims Number 00–0033
11. Svetlana Drozdova on behalf of Dennis A. Drozdova, Brooklyn, New York, Court of Federal Claims Number 00–0041
12. Catherine Anne Scully-Luderer, Encino, California, Court of Federal Claims Number 00–0042
13. Lisa and David Masha on behalf of Travis Masha, Grosse Pointe, Michigan, Court of Federal Claims Number 00–0044
14. Barbara Aiello-Fallon on behalf of William Gabriel Fallon, Staten Island, New York, Court of Federal Claims Number 00–0045
15. Elizabeth Feather on behalf of Shae Feather, Boston, Massachusetts, Court of Federal Claims Number 00–0047
16. Andrea Shaffer and Timothy Hawthorne on behalf of Matthew Aubrey Shaffer, Harker Heights, Texas, Court of Federal Claims Number 00–0052
17. Lucinda Valdovi Montano on behalf of Joanne Montano, Los Angeles, California, Court of Federal Claims Number 00–0058
18. Deann and Joseph Comiskey on behalf of Jaclynne R. Comiskey, Deceased, Albuquerque, New Mexico, Court of Federal Claims Number 00–0060
19. Luann Parker, Cincinnati, Ohio, Court of Federal Claims Number 00–0072
20. Barbara and Jerry Pharr on behalf of Shelia Pharr, Lincolnton, North Carolina, Court of Federal Claims Number 00–0079
21. Jason Coulter and Jill Bonovic on behalf of Sierra Coulter, Appleton, Wisconsin, Court of Federal Claims Number 00–0081
22. Gary Jacob on behalf of Tanya Jacob, Santa Monica, California, Court of Federal Claims Number 00–0084
23. Rosalinda and Jose Lopez on behalf of Steven Lopez, Premont, Texas, Court of Federal Claims Number 00–0088
24. Brenda Ejemai, Brooklyn, New York, Court of Federal Claims Number 00–0090
25. Letecia and Timothy Tremaine on behalf of Devine Sara Tremaine, Merrionette Park, Illinois, Court of Federal Claims Number 00–0094
26. Eileen and Robert Seemayer on behalf of Patrick Robert Seemayer, Redwood City, California, Court of Federal Claims Number 00–0095
27. Michelle Carlisle on behalf of Justin Hunter Carlisle, Houston, Texas, Court of Federal Claims Number 00–0110
28. Martha Marie Valasquez on behalf of Joseph Adam Ward, Crockett, Texas, Court of Federal Claims Number 00–0117
29. Michel Tudor on behalf of Bria Tudor, New York, New York, Court of Federal Claims Number 00–0118
30. Jennifer and Carroll Williams on behalf of Steven Paul Williams, Deceased, Iuka, Mississippi, Court of Federal Claims Number 00–0123
31. John R. Taylor, Atkinson, Nebraska, Court of Federal Claims Number 00–0126
32. Gerald W. Doffing, Polk, Wisconsin, Court of Federal Claims Number 00–0131
33. Pennie and Darrell Summers on behalf of Darrius Nathan Summers, Hyattsville, Maryland, Court of Federal Claims Number 00–0132

34. Evangelina Guzman-DeMello on behalf of Jeremy Xavier DeMello, St. Paul, Minnesota, Court of Federal Claims Number 00–0133
35. Nikki Embree on behalf of Mackenzie Embree, Independence, Missouri, Court of Federal Claims Number 00–0142
36. Norma Jean Allen, Indianapolis, Indiana, Court of Federal Claims Number 00–0145
37. George C. Lewis, Beeville, Texas, Court of Federal Claims Number 00–0146
38. Patricia A. Nash on behalf of James Todd Nash, Markham, Illinois, Court of Federal Claims Number 00–0149
39. Cindy Cairns on behalf of Mitchell Cairns, San Jose, California, Court of Federal Claims Number 00–0158
40. Margaret Althen, Boston, Massachusetts, Court of Federal Claims Number 00–0170

Claude Earl Fox,

Administrator.

[FR Doc. 00–17813 Filed 7–13–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Health Clinical Center, Diagnostic Radiology Department, Division of Special Procedures (NIHCC): Opportunity for Cooperative Research and Development Agreement (CRADA) in the Field of Percutaneous Soft Tissue Ablation

AGENCY: NIHCC, NIH, PHS, DHHS.

ACTION: Notice of a Cooperative Research and Development Agreement (CRADA) opportunity.

SUMMARY: The Special Procedures division of the Diagnostic Radiology Department of the National Institutes of Health Clinical Center (NIHCC) are developing a research initiative in the area of percutaneous thermal ablation technologies, including radio-frequency, microwave, ultrasound, laser, and cryotherapy. Consequently, the NIHCC is seeking one or more partners for (a) Cooperative Research and Development Agreement(s) (CRADA) to further develop applications and to study clinical applications and the engineering basis of minimally-invasive percutaneous methods of soft tissue ablation.

Currently, the NIHCC is conducting studies to develop new clinical applications for thermal ablation, including kidney tumors, adrenal tumors, and painful soft tissue tumors for palliation. The NIHCC also plans to implement studies to combine radiofrequency ablation with other treatment modalities and therapies, as well as to develop guidance and treatment planning systems for thermal ablations. Please see *www.cc.nih.gov/drd/rfa* for more information regarding the NIHCC ablation program.

Consequently, the NIHCC would like to further its research by establishing a collaborative, bench-to-bedside, basis-science initiative for investigating the potential applications of thermal ablation techniques, while refining existing ablative technologies. The collaborative effort will involve clinical refinements in ablation technology, development of novel imaging-guided techniques, and attempts to solve basis recurrent problems relating to local oncological ablative therapies. The collaboration, in part, will investigate the potential of combining new technology with existing surgical, medical, immunological, genetic, and radiation therapies.

The anticipated term of the CRADA is four(4) years.

Successful respondent(s) will be selected based upon their ability to collaborate with the NIHCC in the development of soft tissue ablation technologies.

DATES: Interested parties should submit a one-paragraph statement of interest addressing the collaborator's ability to perform the collaboration responsibilities. The statement of interest should be submitted to the NIHCC in writing no later than August 14, 2000.

ADDRESSES: Inquiries and statements of interest regarding this opportunity should be addressed to Steve Galen, Technology Development Coordinator, National Institutes of Health Clinical Center. Phone: (301) 594–4509, FAX (301) 402–2143, 6011 Executive Boulevard, Suite 511, Rockville, MD 20852.

SUPPLEMENTARY INFORMATION: A CRADA is the anticipated joint agreement to be entered into by the NIHCC pursuant to the Federal Technology Transfer Act of 1986 as amended by the National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113 (Mar. 7, 1996)) and by Executive Order 12591 of April 10, 1987.

Under a CRADA, the NIHCC can offer selected collaborators access to facilities, staff, materials, and expertise. The collaborator may contribute facilities, staff, materials, expertise and funding to the collaboration. THE NIHCC CANNOT CONTRIBUTE FUNDING. The CRADA collaborator may elect an option to an exclusive or non-exclusive license to Government intellectual property rights arising under the CRADA and may qualify as a co-inventor of new technology developed under the CRADA.

The objective of the CRADA is the rapid publication of research findings and the timely commercialization of improved diagnostic and treatment strategies in the field of soft tissue ablation.

CRADA proposals will be evaluated under the following criteria:

- Corporate research and development competencies;
- Demonstrated abilities to collaborate productively in research programs;
- Expertise in performing clinical trials and regulatory affairs;
- The nature of resources to be contributed to the collaboration;
- Key staff expertise, qualifications, and relevant experience;
- Willingness to assign technical staff to participate in on-site collaborative efforts; and
- Ability to commercialize new discoveries effectively.

It is anticipated that the role of the NIHCC under the CRADA will include the following:

- Provide expertise in thermal ablation;
- Provide expertise in ablation engineering;
- Provide input on probe, generator, and treatment algorithm design;
- Evaluate technological considerations for patient safety;
- Provide an ongoing evaluation of the technologic advances and designs of the probes;
- Develop study designs to scientifically evaluate thermal ablation concepts; and
- Provide an existing protocol or create a new protocol for the phase 1 clinical study of the resulting device, if appropriate for clinical use.

It is anticipate that the role of the CRADA Collaborator will include the following:

- Provide expertise in thermal ablation;
- Provide advice and support in ablation engineering;
- Assist in the production of a probe prototype for clinical testing; and
- Provide equipment necessary to study the probe.

Dated: June 6, 2000.

Kathleen Sybert,

Chief, Technology Development and Commercialization Branch, NCI.

[FR Doc. 00–17828 Filed 7–13–00; 8:45 am]

BILLING CODE 4140–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Health Clinical Center: Cooperative Research and Development Agreement (CRADA) Opportunity for the Development of Medical Magnetic Imaging Methods for Diagnostic or Therapeutic Purposes

AGENCY: National Institutes of Health (NIH), PHS, DHHS.

ACTION: Notice.

SUMMARY: The National Institutes of Health Clinical Center (NIHCC), Laboratory of Diagnostic Radiology Research, has developed technology in the area of Magnetic Resonance Imaging (MRI) and *in vivo* cell tracking and wishes to further develop the technology through a collaboration with a company or institution having expertise in the areas of medical imaging and/or medical diagnostics. Companies with expertise in transplantation of cells, including neural cells, stem cells, transgenic cells, or other cell types, and companies with expertise in therapeutic cell research, including the possible therapeutic use of stem cells, are encouraged to apply. The NIHCC's Laboratory of Diagnostic Radiology Research (LDRR) has developed a compound and technique for magnetically tagging cells—without the use of radioisotopes—and imaging those cells using MRI. The NIHCC system of magnetic tagging transfers nanoparticles of iron oxide into a cell via a monoclonal antibody to the cell's transferrin receptor. The cells internalize the iron particles in the endosomes. In early neurological disease studies related to repair of demyelination, LDRR researchers tagged oligodendrocyte precursor cells *in vitro* and introduced the tagged cells into myelin-deficient rats. The researchers followed the migration and integration of these cells in the spinal cord by non-invasive techniques and found that the distribution of the tagged precursor cells correlated with the extent of myelination. Thus, this non-invasive tracking method may be useful in human transplantation studies and for diagnostic procedures. In the proposed project, other cell types, including tumor or other transplantable cells could be labeled and tracked. Additionally, direct *in vivo* labeling methods using this tagging system could be developed. Clinical applications using imaging of the tagged cells could be investigated. Also, new methods which use the magnetic tag applied to a variety of therapeutic compounds or other clinically relevant molecules could be developed. Research data suggests that the iron tag does not impair the viability, migration or other cellular functions of the labeled cells.

The NIH has filed a patent application on the technology and is currently preparing to file a second related application that involves a new method for magnetic tagging of cells. Any successful CRADA collaborator may need to negotiate a license on the patent applications in order to commercialize developments under this CRADA. Contact information to obtain information on the patent applications is listed below.

The proposed duration of the collaboration is two (2) years.

ADDRESSES: Proposals and questions about this opportunity may be addressed to Steven Galen, Technology Development Coordinator, NIHCC, tel: (301) 594–4509, fax: (301) 402–2143 or David A. Steffes, Technology Development and Commercialization Branch, National Cancer Institute, Tel: (301) 496–0477, Fax: (301) 402–2117.

DATES: Interested parties should submit a one page statement of interest that outlines the proposed research project and addresses the collaborator's ability to fulfill its collaborative responsibilities. The statement of interest should be submitted in writing no later than August 14, 2000. CRADA proposals submitted thereafter may be considered if a suitable CRADA collaborator has not been found.

SUPPLEMENTARY INFORMATION: A ''Cooperative Research and Development Agreement'' or ''CRADA'' is the anticipated joint agreement to be entered into by the NIHCC pursuant to the Federal Technology Transfer Act of 1986 as amended by the National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113 (Mar. 7, 1996)) and by Executive Order 12591 of October 10, 1987.

Under a CRADA, the NIHCC can contribute facilities, staff, materials, and expertise to the effort. The NIHCC Cannot Contribute Funding. The CRADA collaborator receives an exclusive option to negotiate an exclusive or non-exclusive license to Government intellectual property rights arising under the CRADA in a pre-determined field of use and may qualify as a co-inventor of new technology developed under the CRADA.

Background information, including reprints of this announcement and issued patents pertaining to the technology, is available from the above-referenced address. Patent applications and pertinent information not yet publicly described can be obtained under a Confidential Disclosure Agreement.

The CRADA objective is the development and timely commercialization of imaging techniques and clinical diagnostic and therapeutic methods based on the magnetic tagging procedures developed by the NIHCC.

CRADA proposals will be evaluated under the following criteria:

- Corporate research and development competencies.
- Demonstrated ability to collaborate productively in research programs.
- The nature of resources to be contributed to the collaboration.
- Key staff expertise, qualifications and relevant experience.
- Willingness to assign technical staff to on-site collaborative efforts.
- Ability to commercialize new discoveries effectively.
- For collaborations involving stem cells, whether the proposed study complies with current federal regulations and NIH policy concerning stem cell research.

The roles of the NIHCC for the proposed CRADA may include the following responsibilities. Additional responsibilities may be added if the parties agree to other relevant and scientifically appropriate collaborative research projects.

1. Participate in identification of various cell types to label with the magnetic tagging system.
2. Participate in imaging studies for detection and tracking of various labeled cell types.
3. Participate in development of methods for *in vivo* labeling of cells.
4. Participate in development of methods to magnetically tag clinically relevant molecules.
5. Participate in development of diagnostic and therapeutic magnetic imaging methods using magnetically tagged compounds or cells.
6. Jointly publish research results.

The roles of the Collaborator for the proposed CRADA may include the following responsibilities. Additional responsibilities may be added if the parties agree to other relevant and scientifically appropriate collaborative research projects.

1. Development of methods to label various cell types with the magnetic tagging system.
2. Participate in imaging studies for detection and tracking of various labeled cell types.
3. Participate in development of methods for *in vivo* labeling of cells.

4. Participate in development of methods to magnetically tag clinically relevant molecules.

5. Participate in development of diagnostic and therapeutic magnetic imaging methods using magnetically tagged compounds or cells.

6. Jointly publish research results.

Dated: July 6, 2000.

Kathleen Sybert,

Chief, Technology Development and Commercialization Branch, NCI.

[FR Doc. 00–17827 Filed 7–13–00; 8:45 am]

BILLING CODE 4140–18–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4566–N–08]

Notice of Proposed Information Collection; Comment Request; Community Development Block Grant Entitlement Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of proposed information collection for public comments.

SUMMARY: The proposed information collection requirement for the Community Development Block Grant (CDBG) entitlement program described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* September 12, 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: Shelia Jones, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room 7232, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Sue Miller, Acting Director, Entitlement Communities Division, (202) 708–1577 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department is submitting 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).

This 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.

This Notice also lists the following information:

Title of Proposal: Community Development Block Grant Entitlement Program.

OMB Control Number, if applicable: 2506.0077.

Description of the need for the information and proposed use:

Agency form numbers, if applicable: Community Development Block Grant (CDBG) Entitlement grantees are required by 24 CFR 570.506 to retain records necessary to document compliance with statutes, regulations, Executive Orders, and OMB Circulars applicable to the CDBG Entitlement Program. Also, Description of the need for the information and Entitlement grantees are required by Section 104(e) of Title I of the Housing and Community Development Act to annually submit a performance report, which is necessary for the Secretary to perform an annual review of performance required by that section of the law, as well as providing the documentation necessary to prepare the Annual Report to Congress on the CDBG program.

Entitlement grantees report on their CDBG activities in the Consolidated Annual Performance and Evaluation Report (CAPER) (which also includes performance report information for the HOME Investment Partnership, Emergency Shelter Grants [ESG], and Housing Opportunities for Persons with AIDS [HOPWA] programs as well, should the CDBG grantee also be a recipient of any funds under these programs).

The automated Integrated Disbursement and Information System (IDIS) is a key component in the production of the CAPER report. Grantees input information about their CDBG program activities into IDIS on a on-going basis throughout their program year, reducing duplication of information and inconsistent reporting. There are no standard forms required to be used in the CAPER; therefore, grantees have much flexibility with respect to its design and format.

The proposed information collection requirement includes a revision of the currently approved recordkeeping and reporting requirements for entitlement grantees in the CDBG program based on an increase in the number of eligible grantees over the past three years. The exiting approval granted under OMB Number 2506–0077 is due to expire September 30, 2000.

Although the IDIS and the CAPER can contain information on a grantee's CDBG, HOME, ESG, and HOPWA programs, this information collection requirement submitted to OMB requests approval for CDBG Entitlement Program recordkeeping and reporting requirements only.

The Department has converted all of its CDBG entitlement grantees into the IDIS and each new grantee begins using IDIS at the time it first elects to take its status as an entitlement. Also, since this Information Collection was last approved, the required Financial Summary report has been integrated into IDIS, although IDIS does not yet collect/generate all information necessary to meet all reporting requirements for the Entitlement CDBG program. As a result, the estimation shown below does not reflect a decrease in the number of reporting hours used annually, on average, by each grantee. Grantees have to review the financial data and identify any adjustments that need to be input prior to generating the Financial Summary, and some supplementary documents may have to be submitted with the CAPER to meet the CDBG reporting requirements.

Members of affected public: Entitlement grantees (metropolitan cities and urban counties) of the Community Development Block Grant program.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The Department estimates that each of its 1,013 grantees will annually use, on average, 125 hours to keep records (non-IDIS recordkeeping) on their CDBG activities, and 305 hours to prepare reports on activities (both IDIS-generated and non-IDIS reports).

570.506 (recordkeeping) (on-going): $1{,}013 \times 125$ hours = 126,625 hours.

570.507 (reporting) $1{,}103 \times 305$ hours = 308,965 hours

Total burden hours = 435,590.

(Quarterly and annual reports from IDIS, annual total) $1{,}013 \times 284$ = 287,692 hours.

(Non-IDIS reports, Supplemental Annual): 1,013 × 21 hours = 21,273.

Total reporting hours = 308,965.

Status of the proposed information collection: Reinstatement, with change; of a previously approved collection for which approval is near expiration and request for OMB renewal for three years. The current OMB approval expires in September 2000.

This report does not include hours spent on Consolidated Plan preparation and submission. Those hours are reported with 2606–0117.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: July 10, 2000.

Cardell Cooper,

Assistant Secretary for Community Planning and Development

[FR Doc. 00–17821 Filed 7–13–00; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4557–N–28]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: July 14, 2000.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: July 6, 2000.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Special Needs Assistance Programs.

[FR Doc. 00–17522 Filed 7–13–00; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Invasive Species Advisory Committee

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of publc meeting of the Invasive Species Advisory Committee.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of a meeting of the Invasive Species Advisory Committee. The purpose of the Advisory Committee is to provide advice to the Council, as authorized by Executive Order 13112, on a broad array of issues related to preventing the introduction of invasive species and providing for their control and minimizing the economic, ecological, and human health impacts that invasive species cause. The Council is Co-chaired by the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce. The duty of the Council is to provide national leadership regarding invasive species issues. The purpose of a meeting on August 2 and 3 is to convene the full Advisory Committee and receive input on the first draft of the National Invasive Species Management Plan. The meeting will be open to the public. Attendance will be limited to space available.

DATES: Meeting of Invasive Species Advisory Committee: 9 a.m., Wednesday, August 2, 2000 and Thursday, August 3, 2000.

ADDRESSES: Warwick Hotel, 401 Lenora Street, Seattle, WA 98121. The meeting will be in the Cambridge Room.

FOR FURTHER INFORMATION CONTACT: Kelsey Passe, National Invasive Species Council Program Assistant; Email: kelsey_passe@ios.doi.gov; Phone: (202) 208–6336; Fax: (202) 208–1526. Further information is also available at www.invasivespecies.gov.

Dated: July 10, 2000.

Gordon Brown,

National Invasive Species Council.

[FR Doc. 00–17861 Filed 7–13–00; 8:45 am]

BILLING CODE 4310–RK–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Draft Comprehensive Conservation Plan and Environmental Assessment for Tewaukon National Wildlife Refuge, Cayuga, ND

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of reopening of public comment period.

SUMMARY: Pursuant to the Refuge Improvement Act of 1997, the U.S. Fish and Wildlife Service has published the Tewaukon National Wildlife Refuge Draft Comprehensive Conservation Plan and Environmental Assessment. This Plan describes how the FWS intends to manage the Tewaukon NWR Complex for the next 10–15 years.

ADDRESSES: A copy of the Plan may be obtained by writing to U.S. Fish and Wildlife Service, Tewaukon NWR Complex, 9754 143½ Avenue SE, Cayuga, ND 50813.

The Plan can also be obtained electronically through the U.S. Fish and Wildlife Service Region 6 Land Acquisition and Refuge Planning HomePage. The Internet address to access the Plan is as follows: http://www.r6.fws.gov/larp/. Select the link to ''CCP Status in Region 6,'' click on North Dakota on the Region 6 map, and look under the ''Refuge'' column for links to the Tewaukon Draft CCP.

FOR FURTHER INFORMATION CONTACT: Allison Banks, U.S. Fish and Wildlife Service, P.O. Box 25486 DFC, Denver, CO 80225. 303/236–8145 extension 626; fax 303/236–4792.

SUPPLEMENTARY INFORMATION: Tewaukon NWR Complex is located in southeast North Dakota. Implementation of the Plan will focus on adaptive resource management of glaciated prairie wetlands, tall and mixed grass prairie grasslands, riparian woodlands, and opportunities for wildlife-dependent recreation. Habitat monitoring and evaluation will be emphasized as the Plan is implemented. Opportunities for compatible wildlife-dependent recreation will continue to be provided.

The comment period for this document will be reopened until August 14, 2000. All comments need to be addressed to: Allison Banks, Refuge Planner, Branch of Refuge Planning, U.S. Fish and Wildlife Service, P.O. Box 25486 DFC, Denver, Colorado 80225.

Dated: July 10, 2000.

Elliott Sutta,

Regional Director, Denver, Colorado.

[FR Doc. 00–17837 Filed 7–13–00; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–022–1320–DB]

Notice of Availability

AGENCY: Bureau of Land Management (BLM), Montana, Miles City Field Office, Interior.

ACTION: Notice of availability of the environmental assessment, Powder River resource area resource mangement plan amendment (PRRA RMP), and request for public comment on the fair market value (FMV) and maximum economic recovery (MER) report for Spring Creek Coal Company, Powder River coal region, Big Horn County, Montana.

SUMMARY: The Bureau of Land Management announces the availability of the Environmental Assessment (EA) and RMP Amendment for Spring Creek Coal Company's Federal Coal Lease Application MTM 88405 and the Finding of No Significant Impact (FONSI) for the federal coal resources subject to the federal lease application. This preferred alternative would amend the Powder River Resource Management Plan (1985) if certain federal coal leasing unsuitability designations on or adjacent to the federal coal tracts are changed. The analysis is based on existing statutory requirements and will meet the requirements of the Federal Land Policy and Management Act (FLPMA) of 1976 and the Surface Mining Control and Reclamation Act (SMCRA) of 1977. The public is invited to submit written comments on the FMV, and MER. Notice is also given that a public hearing on the EA, FMV and MER will be held on Tuesday, August 1, 2000, at 1:00 p.m., Mountain Daylight Time, at the BLM Montana State Office, 5001 Southgate Drive, Billings, Montana.

On June 26, 1998, Spring Creek Coal Company (SCCC) filed an application with the BLM to lease a 150 acre tract containing about 19.8 million tons of federally owned coal reserves near the Spring Creek Coal Mine. On June 3, 1998, Spring Creek Coal Company filed an application with the State of Montana Department of Natural Resources and Conservation (DNRC) to lease a 479 acre state owned coal tract. The tract, which would consist of three separate state leases, contains an estimated 62.1 million tons of state owned coal.

As Co-Lead Agencies, the BLM and Montana DNRC prepared one EA to evaluate the impacts of coal mining which would result from leasing the tracts of federal and state coal.

The resource management planning process includes an opportunity for review of BLM's decisions through a plan protest to the Director of the BLM. Any person or organization who participated in the planning process and has an interest which is or may be adversely affected by the approval of BLM's decisions in the resource management plan amendment may protest the plan. Careful adherence to the following guidelines will assist in preparing a protest which will assure the greatest consideration for your viewpoint.

Only those persons or organizations who participated in the planning process may protest the plan.

A protesting party may raise only those issues which were commented on during the planning process.

Additional issues may be raised at any time and should be directed to the Miles City Field Office for consideration in plan implementation, as potential plan amendments, or as otherwise appropriate.

DATES: The protest period lasts 30 days and begins the day the Notice of Availability for this document is published in the **Federal Register**. There is no provision for an extension of time. Protests filed late, or filed with the State Director or Field Office Manager shall be rejected by the Director. In order to be ''timely'', your protest must be sent to the Director of BLM and must be postmarked no later than August 14, 2000. Although not a requirement, sending your protest by certified mail, return receipt requested, is recommended.

The comment period on the FMV and MER also lasts 30 days. Comments on FMV and MER must be received on or before August 14, 2000 and should be sent to Randy Heuscher, Chief Branch of Solid Minerals, Montana State Office, P.O Box 36800, Billings, Montana 59107. The public hearing on the EA, FMV and MER will be held on Tuesday, August 1, 2000, at 1:00 p.m., Mountain Daylight Time, at the BLM Montana State Office, 5001 Southgate Drive, Billings, Montana.

ADDRESSES: All protests must be filed in writing to: Director, Bureau of Land Management, Attention: Miss Brenda Williams, Protests Coordinator, 1849 C Street N.W., WO–210/LS–1075, Department of the Interior, Washington, D.C. 20240.

Overnight mail address: Director, Bureau of Land Management, Attention: Miss Brenda Williams, Protests Coordinator, 1620 L Street N.W., Room 1075, Washington, D.C. 20036.

To expedite consideration, in addition to the original sent by mail, a copy may be sent by: FAX (202) 452–5112; or Email to *bhudgens@wo.blm.gov*.

In order to be considered complete, your protest must contain, at a minimum, the following information:

1. The name, mailing address, telephone number and interest of the person filing the protest.
2. A statement of the issue being protested.
3. A statement of the portion of the plan being protested. To the extent possible, this should be done by reference to specific pages, paragraphs, sections, tables, and maps in the proposed plan.
4. A copy of all documents addressing the issue submitted during the planning process or a reference to the date the issue was discussed for the record.
5. A concise statement explaining why the BLM State Director's decision is believed to be incorrect is a critical part of the protest. Take care to document all relevant facts and to reference or cite the planning documents, environmental analysis documents, and available planning records (meeting minutes, summaries, correspondence). A protest without data will not provide BLM with the benefit of your information and insight, and the Directors review will be based on the existing analysis and supporting data.

At the end of the 30-day protest period, the BLM may issue a Decision Record, approving implementation of any portion of the proposed plan not under protest. Approval will be withheld on any portion of the plan under protest with BLM until the protest is resolved.

At the end of the 30 day protest period, the Montana DNRC may issue a Decision Record for the minerals they administer.

Comments on the FMV and MER should be sent to Randy Heuscher, Chief Branch of Solid Minerals, Montana State Office, P.O. Box 36800, Billings, Montana 59107.

FOR FURTHER INFORMATION CONTACT: Dan Benoit, Project Leader, Miles City Field Office, 111 Garryowen Road, Miles City, Montana, 59301, phone (406) 232–7001 ext. 3646. Copies of the EA are also available from this address.

SUPPLEMENTARY INFORMATION: In accordance with the Federal coal

management regulations at 43 CFR 3422 and 3425, not less than 30 days prior to publication of a notice of sale, the Secretary shall solicit public comments on the proposed sale, fair market value, and maximum economic recovery on the proposed lease tract. Proprietary data marked as confidential may be submitted to the Bureau of Land Management in response to this solicitation of public comments. Data so marked shall be treated in accordance with the laws and regulations governing the confidentiality of such information. A copy of the comments submitted by the public on fair market value and maximum economic recovery, except those portions identified as proprietary by the author and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59102, during regular business hours (9 a.m. to 4 p.m.) Monday through Friday.

Comments should be sent to the Bureau of Land Management, P.O. Box 36800, Billings, Montana 59017–6800, and should include, but not necessarily be limited to the following:

1. The quality and quantity of the coal resources;

2. The mining method or methods which would achieve maximum economic recovery of the coal including specification of the seams to be mined, timing and rate of production, restriction to mining, and inclusion of the tract in an existing mining operation; and

3. The fair market value appraisal including but not limited to the evaluation of the tract as an incremental unit of an existing mine, selling price of the coal, mining and reclamation costs, net present value discount factors, depreciation and other tax accounting factors, value of the surface estate, and any comparable sales data of similar coal lands.

The values given above may or may not change as a result of comments received from the public and changes in market conditions between now and when final economic evaluations are completed.

The EA addresses the cultural, socioeconomic, environmental and cumulative impacts that would likely result from leasing these coal lands. The Proposed Action and two alternatives are addressed in the EA:

Proposed Action—would involve leasing the coal tracts containing about 82 million tons of state and federal coal. Certain coal leasing unsuitability designations for wildlife habitat concerns attached to the federal lease tract would require mitigation in order to lease the coal.

Alternative A (Preferred Alternative)—would involve leasing the coal tracts as well as redesignating certain coal leasing unsuitability designations established for wildlife habitat concerns adjacent to the proposed lease tracts and to the Spring Creek Mine property in general.

Alternative B—would reject or deny the federal coal lease application. The federal coal lands would not be offered for lease.

The lands included in the coal lease applications are located in Big Horn County, Montana and are described as follows:

Federal Lease Tract MTM 88405

T. 8 S., R. 39 E., P.M.M.

Sec. 13: SW¼SW¼SW¼, SW¼SE¼SW¼SW¼;
Sec. 14: S½SW¼NE¼SE¼, S½NE¼SE¼SE¼, NW¼NE¼SE¼SE¼, S½SE¼SE¼, NW¼SE¼SE¼;
Sec. 23: NE¼NE¼, SE¼SW¼NW¼NE¼, N½SW¼NW¼NE¼, E½NW¼NE¼;
Sec. 24: NW¼SE¼NW¼NW¼, N½SW¼NW¼NW¼, N½NW¼NW¼.
150 acres, more or less.

State of Montana Lease Tracts

Lease C–1099–XX.

T. 8 S., R., 39 E., P.M.M.

Sec. 14: S½S½NW¼, SW¼, W½SE¼.

Lease C–1100–XX.

T. 8 S., R., 39 E., P.M.M.

Sec. 15: NE¼SW¼SE¼, SE¼SE¼, N½SE¼, S½SE¼NE¼.

Lease C–1101–XX.

T. 8 S., R., 39 E., P.M.M.

Sec. 23: N½N½NW¼, NW¼NW¼NE¼.

479.16 acres, more or less.

The BLM and Montana DNRC are also coordinating the preparation of a mineral evaluation pursuant to 77–3–312, MCA, covering the state coal tracts. This document is available for review and comment from Montana DNRC. For further information, or to obtain a copy of the mineral evaluation, contact Monte Mason, Montana DNRC, phone (406) 444–3843.

Dated: June 26, 2000.

Timothy M. Murphy,

Field Manager.

[FR Doc. 00–17218 Filed 7–13–00; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–1990–EX]

Notice of Intent To Prepare an Environmental Impact Statement for the Oil-Dri Corporation Reno Clay Project Plan of Operations

AGENCY: Bureau of Land Management, Carson City Field Office, Carson City, Nevada

ACTION: Notice of intent to prepare an environmental impact statement (EIS) for the Oil-Dri Corporation Reno Clay Project mining plan of operations; and notice of scoping period and public meetings.

SUMMARY: The Bureau of Land Management (BLM), Carson City Field Office will direct the preparation of an EIS to be produced by a third-party contractor on the impacts (direct, indirect, and cumulative) of a proposed clay mining operation in Washoe County, Nevada. The BLM invites comments on the scope of the analysis.

DATES: One public scoping meeting will be held on August 8, 2000 to allow the public an opportunity to identify issues and concerns to be addressed in the EIS. Representatives of the BLM and Oil-Dri Corporation will be available to answer questions about the proposed Reno Clay Project and the EIS process. Comments will be accepted until August 21, 2000.

The scheduled public meeting is:

Reno, NV (5:30–7:30 p.m.)—August 8, 2000.
Reno-Sparks Convention Center, North Meeting Room B–1, 4590 S. Virginia St., Reno, NV.

A Draft EIS (DEIS) is expected to be completed by December, 2000 and made available for public review and comment. At that time a Notice of Availability (NOA) of the DEIS will be published in the **Federal Register**. The comment period on the DEIS will be 60 days from the date the NOA is published.

FOR FURTHER INFORMATION: Scoping comments may be sent to: Bureau of Land Management, 5665 Morgan Mill Road, Carson City, NV 89701. ATTN: Clay EIS Project Manager. For additional information, write to the above address or call Terri Knutson, EIS Project Manager at (775) 885–6156.

SUPPLEMENTARY INFORMATION: In July 1999 Oil-Dri Corporation of Nevada submitted a plan of operations to the BLM Carson City Field Office for a clay mining operation in Hungry Valley. The plan of operations was held in abeyance pending a determination of locatability

under the mining law until May 2000 when the clay mineral was determined locatable by BLM mineral examiners. At that time processing of the plan of operations commenced and BLM managers determined an environmental impact statement (EIS) would be prepared to analyze potential impacts resulting from the mining operations. The proposed mining operation would occur in phases over 20 years, in two pits, on a total of 340 acres of the 6,000 acres of mining claims Oil-Dri holds in the area. The processing plant for drying, crushing, and packaging of the clay material (cat litter) would be located on Oil-Dri private land located to the south of the mine area. Initially, the mine and processing plant would employ approximately 50 individuals, with an increase to 100 employees over time with expanded production.

The EIS will address issues brought forth through scoping comments and will be evaluated by an interdisciplinary team of specialists. A range of alternatives and mitigating measures will be considered to evaluate and minimize environmental impacts and to assure that the proposed action does not result in undue or unnecessary degradation of public lands.

Federal, state, and local agencies and other individuals or organizations who may be interested in or affected by the BLM decision on the proposed plan of operations are invited to participate in the scoping process with respect to this environmental analysis. These entities and individuals are also invited to submit comments on the DEIS.

It is important that those interested in the proposed activities participate in the scoping and commenting processes. Comments should be as specific as possible.

The project schedule is as follows:

Begin Public Comment Period—July, 2000.
Issue Draft EIS—December 2000.
Issue Final EIS—May 2001.
Issue Record of Decision—June 2001.

The BLM's scoping process for the EIS will include: (1) Identification of issues to be addressed; (2) identification of viable alternatives; (3) notification of interested groups, individuals, and agencies so that additional information concerning these issues, or other issues, can be obtained.

Comments, including names and addresses of respondents, will be available for public review at the above address during regular business hours (7:30 a.m.–5:00 p.m.), Monday through Friday and may be published as part of the EIS. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. However, we will not consider anonymous comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Dated: July 10, 2000.

John Singlaub,

Manager, Carson City Field Office.

[FR Doc. 00–17838 Filed 7–13–00; 8:45 am]

BILLING CODE 4310–HC–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–930–1060–JJ–241E]

Notice of Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public hearing.

SUMMARY: A public hearing is scheduled at the Bureau of Land Management State Office. A formal hearing will be conducted to receive statements from the public concerning the use of helicopters and motor vehicles in wild horse gather operations within Idaho for calendar year 2000.

DATE AND TIME: July 27, 2000, 6–8 p.m. Location at the B.L.M.'s Idaho State Office, Sagebrush/Ponderosa Room, 1387 South Vinnell Way, Boise, Idaho.

FOR FURTHER INFORMATION CONTACT: Mike Courtney, Rangeland Management Specialist, Salmon Field Office, Highway 93 South, Route 2, Box 610, Salmon, Idaho 83467, telephone (208) 756–5469, or Sam Mattise, Wild Horse and Burro Specialist, Boise Field Office, 3948 Development Avenue, Boise, Idaho 83705, telephone (208) 384–3356.

The meeting is open to the public and interested persons may make oral statement on the subject. All statements will be recorded.

Dated: June 27, 2000.

Kate Kitchell,

Lower Snake River District Manager.

[FR Doc. 00–17856 Filed 7–13–00; 8:45 am]

BILLING CODE 4310–66–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–921–1430–ET; WYW 67917]

Public Land Order No. 7458; Revocation of Bureau of Land Management Order Dated August 17, 1948, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes, in its entirety, a Bureau of Land Management order insofar as it affects 7,016.29 acres of public lands withdrawn for the Bureau of Reclamation's Missouri Basin Project, Big Horn Unit No. 3. The lands are no longer needed for reclamation purposes. Of the lands included in this revocation, 4,536.29 acres will not be opened to surface entry and mining until the completion of a planning review. These lands have been and will remain open to mineral leasing. The remaining 2,480 acres have been conveyed out of Federal ownership and the revocation on this portion is a record-clearing action only.

EFFECTIVE DATE: July 14, 2000.

FOR FURTHER INFORMATION CONTACT: Janet Booth, BLM Wyoming State Office, 5353 N. Yellowstone Road, P.O. Box 1828 (MS–921), Cheyenne, Wyoming 82003, 307–775–6124.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Bureau of Land Management Order dated August 17, 1948, which withdrew the following described lands for the Bureau of Reclamation's Missouri Basin Project, Big Horn Unit 3, is hereby revoked in its entirety:

Sixth Principal Meridian

T. 49 N., R. 92 W.,
Secs. 7, 18, 19, 30, and 31.
T. 49 N., R. 93 W.,
Sec. 12, NW¼NW¼, S½NW¼, SW¼, NW¼SE¼, and S½SE¼
Secs. 13, 24, 25, and 36.

The areas described aggregate 7,016.29 acres in Big Horn County.

2. The following described public lands, which are included in paragraph 1, will not be opened to until a planning review and analysis are completed to determine if any of these lands need special designation and protection or have exchange potential:

Sixth Principal Meridian

T. 49 N., R. 92 W.,
Sec. 18, lots 6 to 9, inclusive;

Sec. 19, lots 5 to 13, inclusive;
Sec. 30, lots 5 to 18, inclusive;
Sec. 31, lots 5 to 15, inclusive.
T. 49 N., R. 93 W.,
Sec. 12, NW¼NW¼, S½NW¼, SW¼, NW¼SE¼, and S½SE¼;
Secs. 13, 24, 25, and 36.
The area described contains 4,536.29 acres in Big Horn County.

3. The remaining lands, which comprise 2,480 acres, have been conveyed out of Federal ownership and this is a record-clearing action only. A more specific legal description of these private lands may be obtained by contacting the address or phone number listed above.

Dated: June 26, 2000.

Sylvia V. Baca,

Assistant Secretary of the Interior.

[FR Doc. 00–17855 Filed 7–13–00; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–956–7130–BJ–7334–241A]

Colorado: Filing of Plats of Survey

June 29, 2000

The plats of survey of the following described land will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 am., June 29, 2000. All inquiries should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215–7093.

The plat representing the corrective dependent resurvey of a portion of the subdivisional lines and section 21, and the dependent resurvey of the subdivision of sections 20 and 22 in T. 33 N. R. 10 W., New Mexico Principal Meridian, Group 1064, Colorado, was accepted May 9, 2000.

This survey was requested by the Bureau of Indian Affairs for administrative purposes.

The plat representing the dependent resurvey of portions of the Montezuma Townsite and Mineral Survey No. 1292 B, Monarch Millsite, and a metes and bounds survey in the northwest quarter of the northeast quarter of section 35, T. 5 S., R. 76 W., Sixth Principal Meridian, Group 1258, Colorado was accepted April 25, 2000.

This survey was requested by the Forest Service for administrative purposes.

The plat, in 6 sheets, representing the dependent resurvey of a portion of the north boundary, a portion of the subdivisional lines, and certain mineral claims in section 1, and the subdivision survey of section 1 and a metes-and-bounds survey in section 1, T. 1 N., R. 73 W., Sixth Principal Meridian, Group 875, Colorado, was accepted April 26, 2000.

The plat representing the dependent resurvey of portions of the east boundary, subdivisional lines, and certain homestead entry surveys, and the subdivision of certain sections in T. 11 N., R. 102 W., Sixth Principal Meridian, Group 1219, Colorado, was accepted April 14, 2000.

The plat representing the dependent resurvey of portions of the subdivisional lines, and certain tracts, and the subdivision of certain sections in T. 11 N., R. 101 W., Sixth Principal Meridian, Group 1219, Colorado, was accepted April 14, 2000.

The plat, in 2 sheets, represents the dependent resurvey of a portion of the subdivisional lines, and the dependent resurvey of certain mineral claims, and the subdivision of sections 16 and 17, and the metes-and-bounds survey of certain lot lines, T. 22 S., R. 72 W., Sixth Principal Meridian, Group 1166, Colorado, was accepted April 11, 2000.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of section 26, T. 2 N., R. 78 W., Sixth Principal Meridian, Group 1259, Colorado, was accepted April 6, 2000.

The plat representing the dependent resurvey of the west boundary (Ute Meridian) and a portion of the north boundary, subdivisional lines, and the subdivision of section 6, and the subdivision of a portion of section 6, and the meanders of the present right bank of the Gunnison River of section 6 in Fractional T. 2 S., R. 1 E., Ute Meridian, Group 1163, Colorado, was accepted June 21, 2000.

The plat representing the dependent resurvey of a portion of the north boundary, and the survey of the boundary between lots 1 and 2 in section 1, of Fractional T. 2 S., R. 1 W., Ute Meridian, Group 1163, Colorado, was accepted June 21, 2000.

The plat representing the dependent resurvey of a portion of the east boundary (Ute Meridian), and the survey of the boundary between lots 12 and 14, of section 36, the survey of the partition line between sections 31 and 36, and the meanders of the present right bank of the Gunnison River in lot 14 of section 36, and the informative traverse of the meanders of the present right bank of the Gunnison River in lot 12, of section 36, T. 1 S., R. 1 W., Ute Meridian, Group 1163, Colorado, was accepted June 21, 2000.

The plat representing the dependent resurvey of a portion of the subdivisional lines and portions of certain mineral surveys the subdivision of section 28, and the remonumentation of certain original corners, T. 20 S., R. 71 W., Sixth Principal Meridian, Group 1209, Colorado, was accepted June 5, 2000.

The plat representing the dependent resurvey of a portion of the east boundary, subdivisional lines, and the subdivision of section 13, and the subdivision of a portion of section 13, T. 1 S., R. 2 E., Ute Meridian, Group 1204, Colorado, was accepted May 24, 2000.

The plat representing the metes-and-bounds survey of a portion of the centerline of Colorado State Highway No. 64 with ties to certain tract corners in sections 29 and 32, T. 1 N., R. 95 W., Sixth Principal Meridian, Group 1226, Colorado, was accepted May 24, 2000.

The plat representing the dependent resurvey of certain mineral surveys designed to restore the corners in their true original locations according to the best available evidence in suspended T. 42 N., R. 7 W., New Mexico Principal Meridian, Group 1239, Colorado, was accepted May 11, 2000.

The plat representing the entire record of the dependent resurvey of certain mineral surveys designed to restore the corners in their true original locations according to the best available evidence in suspended T. 42 N., R. 7 W., New Mexico Principal Meridian, Group 1239, Colorado, was accepted May 11, 2000.

The plat representing the entire record of the dependent resurvey of M.S. No. 2140B, Buckingham Mill Site, and M.S. No. 5112B, May B. Mill Site, in suspended T. 43 N., R. 7 W., New Mexico Principal Meridian, Group 1206, Colorado, was accepted May 11, 2000.

The plat, in 5 sheets, representing the dependent resurvey of certain mineral claims designed to restore the corners in their true original locations according to the best available evidence, suspended T. 42 N., R. 7 W., New Mexico Principal Meridian, Group 1206, Colorado, was accepted May 11, 2000.

The plat represents the dependent resurvey of a portion of the South boundary and a portion of the South boundary and a portion of the subdivisional lines, designed to restore the corners in their true original locations according to the best available evidence, and the subdivision surveys of certain sections, T. 1 S., 81 W., Sixth Principal Meridian, Group 1232, Colorado, was accepted May 4, 2000.

The supplemental plat creating new lot 26 in the North ½ of section 13, T. 15 S., R. 70 W., Sixth Principal

Meridian, Colorado, was accepted April 3, 2000.

The supplemental plat creating new lot 13 from the portion of unpatented M.S. 1516, Little Wonder Lode excluded from M.S. 18519, Susie, Nettie, and Little May Lodes, in the SW ¼ of Section 32, T. 41 N., R. 11 W., New Mexico Principal Meridian, Colorado, was accepted April 10, 2000.

These surveys were requested by the BLM for Administrative Purposes.

Darryl A. Wilson,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 00–17857 Filed 7–13–00; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

Draft Environmental Impact Statement for Anacapa Island Restoration Plan Channel Islands National Park, Ventura County, California; Notice of Availability

SUMMARY: Pursuant to § 102(2)(c) of the National Environmental Policy Act of 1969 (Pub. L. 81–190 as amended), the National Park Service, Department of the Interior, has prepared a draft environmental impact statement (DEIS) assessing the potential impacts of eradicating the Black rat on Anacapa Island. This DEIS identifies and analyzes the effects of a proposed action and five alternatives for accomplishing the following objectives: (1) Eradication of the introduced Black rat on Anacapa Island; (2) emergency response for accidental introductions of rodents on Anacapa, Santa Barbara, Prince, and Sutil Islands; and (3) prevention strategies to reduce the potential for rodents to be accidentally introduced to Park islands. The proposed action was developed in concert with the Island Conservation and Ecology Group and is based on other successful island rat eradication efforts worldwide. Actions to manage existing and potential Black rat infestations is necessary because of the ecological impacts that it is having on Anacapa Island, and the potential negative impact they would have if introduced to other Park islands.

Proposal: The actions proposed for eradicating rats on Anacapa Island-identified in the DEIS as Alternative Two-are modeled after other island rate eradication projects that have successfully been completed worldwide. Due to the steep cliffs of the island, an aerial broadcast is necessary to deliver rodenticide to every rat's territory, a condition that has to be met to accomplish eradication. This broadcast effort would use a rodent bait containing brodifacoum. The proposed target date is the late fall period; which is the optimum period to apply the bait for three reasons: (1) the Endangered brown pelicans are not breeding on the island; (2) rats are in decline due to lack of available food sources, which would cause them to eat the bait more readily; and (3) onset of the rainy season would expedite the degradation of any residual bait not consumed by the target species. East islet would be treated in November/December of Year 1, and Middle islet would be treated in November/December in Year 2. Approximately 20ha of Middle Island would be treated in Year 1 and may be treated intermittently throughout Year 2 to prevent rats from re-invading East Island from Middle Island. The population size of the rats on Anacapa fluctuates between about 750–2000 total, depending on local conditions.

Alternatives: After identifying the significant environmental issues associated with the proposed action, the Park began developing alternatives to the proposed action. Modifying the eradication strategies to address the environmental issue concerns was the basis the Park used to develop five alternatives, as follows: Alternative One (no-action) would maintain existing management. Alternative Three would utilize bait stations for the top of islands and aerial broadcast the cliffsides and use the rodent bait containing brodifacoum. Alternative Four would use an aerial broadcast of a rodent bait containing bromadiolone. Alternative Five would use bait stations for the top of islands and aerial broadcast the cliffsides with the rodent bait bromadiolone. Alternative Six would aerial broadcast a rodent bait containing diphacinone followed by a rodent bait containing brodifacoum. Mitigation measures for implementing each alternative are identified, and elements common to all action alternatives include: (1) Implementation of a Non-native Rodent Introduction Prevention Plan; (2) Protection of Native Anacapa Deer Mouse Population; and (3) Implementation of the Rate Detection Response Plan.

Comments and Supplementary Information: The DEIS is now available for public review. Interested persons and organizations wishing to express any concerns or provide relevant information are encouraged to contact the Superintendent, Channel Islands National Park, 1901 Spinnaker Dr. Ventura, California, 93001, or via telephone at (805) 658–5700. The document may be obtained from the park, and is also available at the Ventura local library and on the Park's website *(http:www.nps.gov/chis/naturalresources/AIRP.html).*

All written comments must be postmarked not later than 60 days from the date of the Environmental Protection Agency's notice of DEIS filing in the **Federal Register** (anticipated to be approximately September 12, 2000). If individuals submitting comments request that their name or/and address be withheld from public disclosure, it will be honored to the extent allowable by law. Such requests must be stated prominently in the beginning of the comments. There also may be circumstances wherein the NPS will withhold a respondent's identity as allowable by law. As always: NPS will make available to public inspection all submissions from organizations or businesses and from persons identifying themselves as representatives or officials of organizations and businesses; and, anonymous comments may not be considered.

Decision: After the formal DEIS review period has concluded, all comments and suggestions received will be considered in preparing a final EIS. Currently the final EIS is anticipated to be completed during fall, 2000; its availability will be similarly announced in the **Federal Register.** Subsequently a Record of Decision would be executed no sooner than 30 (thirty) days after release of the final EIS. The official responsible for the final decision is the Regional Director, Pacific West Region; the official responsible for implementation is the Superintendent; Channel Islands National Park.

Dated: June 29, 2000.

Patricia L. Neubacher,

Acting Regional Director, Pacific West Region.

[FR Doc. 00–17429 Filed 7–13–00; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 8, 2000. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC

20240. Written comments should be submitted by July 31, 2000.

Carol D. Shull,

Keeper of the National Register.

California

Monterey County: Steinbeck, John, House, 132 Central Ave., Salinas, 00000856

Connecticut

Hartford County: Manchester Historic District, Roughly bounded by Center Spring Park, Main St., I–384 and Campfield Rd., Manchester, 00000857

Kentucky

Estill County:

Irvine Grade School, 228 Broadway, Irvine, 00000865

Irvine Historic Business District, Roughly the jct. of KY 52 and KY 89, Irvine, 00000866

Jackson County: Lakes, Arthur, Log House, 401 Lakes Creek Rd., McKee, 00000867

Jefferson County: Lee, Addison W., House, 4218 Upper River Rd., Louisville, 00000868

Wirth, Lang and Company—The Louisville Leather Company Tannery Building, 711–715 Brent St., Louisville, 00000869

Jessamine County: Camp Nelson, US 27, Nicholasville, 00000861

Kenton County: Moser Family Houses, 1224 and 1226 Highway Ave., Covington, 00000858

McCracken County: Home of the Friendless, 1335 Burnett St., Paducah, 00000860

Warren County: Shake Rag Historic District, Roughly bounded by US 31W Bypass, Chestnut St., E. 5th Ave. and College St., Bowling Green, 00000859

Maryland

Baltimore Independent city: Eastern High School, 101 E 33rd St., Baltimore, 00000870

Massachusetts

Plymouth County: Winslow, Isaac, House, 64 Careswell St., Marshfield, 00000872

Suffolk County: Dearborn School, 25 Ambrose St., Boston, 00000871

Montana

Lewis and Clark County: Wick—Seiler House, 729 11th Ave., Helena, 00000873

Missoula County: Lenox Flats (Missoula MPS), 300–306 West Broadway, Missoula, 00000874

New Mexico

Taos County: Black Copper Mine and Stamp Mill, Black Copper Canyon Rd., Red River, 00000875

New York

Allegany County: West Almond Churches, Cty. Rte. 2, West Almond, 00000876

Chemung County: Christ Episcopal Church, (Historic Churches of the Episcopal Diocese of Central New York MPS), 117 Main St., Wellsburg, 00000879

Columbia County:

Donnelly House, Cty. Rd. 5, New Lebanon, 00000880

Riders Mills Historic District, NY 66, Bachus Rd., Riders Mills Rd., Chatham, 00000877

Tioga County: Grace Episcopal Church, (Historic Churches of the Episcopal Diocese of Central New York MPS), 445 Park Ave., Waverly, 00000878

North Carolina

Gates County: Rountree Family Farm, 049 NC 37 N, Gatesville, 00000881

Pennsylvania

Greene County: Kent, Thomas, Jr., Farm, 208 Laurel Rd., Waynersburg, 00000882

Texas

Burnet County: Briggs State Bank, Loop 308, approx. 0.5 mi. N of jct. with US 183, Briggs, 00000885

Comal County: Groos, Carl W.A., House, 228 S. Seguin St., New Braunfels, 00000884

Harris County: Rothko Chapel, 1409 Sul Ross Ave., Houston, 00000883

Virginia

Alexandria Independent city: Bruin's Slave Jail, 1707 Duke St., Alexandria, 00000890

Fluvanna County:

Glen Burnie, US 15, 0.25 mi. N of Palmyra, Palmyra, 00000893

Melrose, VA 640, SW of jct. of VA 640 and VA 650, Fork Union, 00000892

Isle Of Wight County: Windsor Castle Farm, 301 Jericho Rd., Smithfield, 00000897

Lancaster County: Irvington, King Carter Drive and Irvington Road, Irvington, 00000895

Lexington Independent city: Reid—White—Philbin House, 208 W. Nelson St., Lexington, 00000889

Petersburg Independent city:

Lee Memorial Park, 1832 Johnson Rd., Petersburg, 00000896

Peabody Building of the Peabody—Williams School, Jones St., Petersburg, 00000891

Richmond Independent city:

Church Hill North Historic District (Boundary Increase), Roughly bounded by 25th St., T St., 32nd St. and M St., Richmond, 00000887

Manchester Industrial Historic District, Roughly bounded by Perry St., James R., Mayo's Bridge, Maury St., and 10th St., Richmond, 00000886

Smyth County: Marion Historic District, Roughly along Main, Cherry, Strother, Lee, North College and College Sts., Marion, 00000888

Surry County: Cedar Ridge, 4861 Laurel Dr., Disputanta, 00000894

A request for REMOVAL has been made for the following resources:

Alaska

Yukon-Koyukuk County: Taylor, James, Cabins (Yukon River Lifeways TR), Right Bank of the Yukon opposite Fourth of July Creek, Eagle vicinity, 87001203

Minnesota

Goodhue County: Roscoe Store (Goodhue County MRA), Co. Hwy. 11 Pine Island, 80002055

Hennepin County: Dania Hall, Corner of 5th St. and Cedar Ave. Minneapolis, 74001020

Lac Qui Parle County: Hotel Lac qui Parle 202 6th Ave. Madison, 90001820

Redwood County: Milroy Block (Redwood County MRA), Euclid Ave. and Cherry St. Milroy, 80002136

Steele County: Owatonna High School 333 E. School St., Owatonna, 86002124

Big Stone County: Shannon Hotel, Studdart Ave. and 2nd St., Graceville, 85001773

Wright County:

Marsh Octagon Barn (Wright County MRA), Off Co. Hwy. 14, Rockford, 79001278

Middleville Township Hall (Wright County MRA), CR 6, Howard Lake vicinity, 79001271

Oregon

Multnomah County: Clarke—Woodward Drug Company Building, 911 NW Hoyt, Portland, 89000121

[FR Doc. 00–17922 Filed 7–13–00; 8:45 am]

BILLING CODE 4310–70–U

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Animas-La Plata Project, Colorado and New Mexico

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of the Final Supplemental Environmental

Impact Statement for the Animas-La Plata Project.

INT–FES–00–23.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969 (as amended), the Department of the Interior, Bureau of Reclamation (Reclamation), has prepared a Final Supplemental Environmental Impact Statement (FSEIS) for the Animas-La Plata Project (ALP). The proposed federal action is to implement the Colorado Ute Indian Water Rights Settlement Act of 1988 (Pub. L. 100–585) (Settlement Act) by providing the Colorado Ute Tribes an assured long-term water supply and water acquisition fund in order to satisfy the Tribes' senior water rights claims as quantified in the Settlement Act, and to provide for identified municipal and industrial water needs in the project area.

ADDRESSES: Copies of the FSEIS may be obtained from Mr. Pat Schumacher, Four Corners Division Manager, Bureau of Reclamation, 835 East Second Avenue, Suite 300, Durango, Colorado 81301–5475; telephone: (970) 385–6590. The document is available on CD–ROM or the Internet at http://www.uc.usbr.gov under the Environmental Studies, Summaries & Reports heading.

Copies of the FSEIS are also available for public review and inspection at the following locations:

- Bureau of Reclamation, U.S. Department of the Interior, Room 7455, 18th and C Streets, N.W., Washington, D.C. 20240.
- Bureau of Reclamation, Denver Office Library, Denver Federal Center, Building 67, Room 67, Denver, Colorado 80225.
- Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 6107, Salt Lake City, Utah 84138.
- Bureau of Reclamation, Four Corners Division of the Western Colorado Area Office, 835 East Second Avenue, Suite 300, Durango, Colorado 81301–5475.
- Bureau of Reclamation, Western Colorado Area Office, 2764 Compass Drive, Suite 106, Grand Junction, Colorado 81506.
- Local Affairs Department/Division of Local Government, Attention: Charles Unseld, 1313 Sherman Street, Room 521, Denver, Colorado 80203.
- Energy, Minerals and Natural Resources Department, Attention: Jennifer A. Salisbury, Secretary, 2040 South Pacheco Street, Santa Fe, New Mexico 87505.

Libraries

Copies will also be available for public review and inspection at the following public libraries:

Colorado

Colorado State University Library, Ft. Collins
Cortez City Library
Denver City Library
Durango High School Library
Durango Public Library
Ft. Lewis College Library, Durango
University of Northern Colorado Library, Greeley
University of Denver, Penrose Library, Denver
University of Colorado, Norlin Library, Boulder

New Mexico

Albuquerque Public Library
Alturian Public Library, Aztec
Bloomfield City Library
Farmington Public Library
Navajo Community College Library, Shiprock
New Mexico State Library, Santa Fe
New Mexico State University Library, Las Cruces
San Juan College Library, Farmington
University of New Mexico Library, Albuquerque
Zimmerman Library, Albuquerque

FOR FURTHER INFORMATION CONTACT: Mr. Pat Schumacher, Four Corners Division Manager, Bureau of Reclamation, 835 East Second Avenue, Suite 300, Durango, Colorado 81301–5475; telephone (970) 385–6590.

SUPPLEMENTARY INFORMATION: The Draft Supplemental Environmental Impact Statement for the Animas-La Plata Project (DSEIS) was issued on January 14, 2000. Responses to comments received from interested organizations and individuals on the DSEIS are addressed in the FSEIS. The FSEIS evaluates the environmental impacts of ten alternatives for final implementation of the Settlement Act. One of the alternatives analyzed is the Administration Proposal to finalize the Colorado Ute Settlement which includes a down-sized version of the original project. The Administration proposal also includes a non-structural element which allows for the acquisition of additional water supplies to the Ute tribes. The FSEIS identifies a Preferred Alternative, Refined Alternative 4 (a refined version of the Administration Proposal), which achieves the fundamental purpose of implementing the 1988 Settlement Act by securing the Colorado Ute Tribes an assured long-term water supply in satisfaction of their water rights as well as for identified municipal and industrial water needs in the project area.

The FSEIS will be used by decisionmakers in Reclamation and the Department of the Interior. A record of decision can be executed 30 days after publication of release of the FSEIS in the **Federal Register**. The record of decision will state the action that will be implemented and will discuss all factors leading to the decision.

Dated: July 5, 2000.

Terrence N. Martin,

Acting Director, Office of Environmental Policy and Compliance, Department of the Interior.

[FR Doc. 00–17638 Filed 7–13–00; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: July 18, 2000 at 10:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 731–TA–639–640 (Review)(Forged Stainless Steel Flanges from India and Taiwan)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on July 26, 2000.)
5. Inv. No. 731–TA–663 (Review)(Paper Clips from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on July 28, 2000.)
6. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: July 11, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–17989 Filed 7–12–00; 10:43 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on May 17, 2000, American Radiolabeled Chemical, Inc., 11624 Bowling Green Drive, St. Louis, Missouri 63146, made application by letter to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Lysergic acid diethylamide (7315)	I
Phencyclidine (7471)	II
Hydromorphone (9150)	II

The firm plans to bulk manufacture small quantities of the listed controlled substances as radiolabeled compound.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than September 12, 2000.

Dated: June 26, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–17916 Filed 7–13–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on May 19, 2000, Cambridge Isotope Lab, 50 Frontage Road, Andover, Massachusetts 01810, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methaqualone (2565)	I
Dimethyltryptamine (7435)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
Cocaine (9041)	II
Codeine (9050)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Fentanyl (9801)	II

The firm plans to manufacture small quantities of the listed controlled substances to produce isotope labeled standards for drug analysis.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than September 12, 2000.

Dated: June 29, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–17918 Filed 7–13–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on May 15, 2000, Chattem Chemicals, Inc., 3801 St. Elmo Avenue, Building 18, Chattanooga, Tennessee 37409, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine (1100)	II
Methamphetamine (1105)	II

The firm plans to bulk manufacture amphetamine and methamphetamine to produce products for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than September 12, 2000.

Dated: June 29, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–17917 Filed 7–13–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated March 28, 2000, and published in the **Federal Register** on April 4, 2000, (65 FR 17675), Pressure Chemical Company, 3419 Spellman Street, Pittsburgh, Pennsylvania 15201, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of 2, 5-dimethoxyamphetamine (7396), a basic class of controlled substance listed in Schedule I.

The firm plans to bulk manufacture 2, 5-dimethoxyamphetamine for distribution to its customers.

No comment or objectives have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Pressure Chemical Company to manufacture 2, 5-dimethoxyamphetamine is consistent with the public interest at this time. DEA has investigated Pressure Chemical Company to ensure that the company's continued registration is consistent with the public interest. These investigations included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR

0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: June 29, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–17919 Filed 7–13–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Massachusetts
MA000006 (Feb. 11, 2000)
MA000008 (Feb. 11, 2000)
MA000009 (Feb. 11, 2000)
MA000010 (Feb. 11, 2000)
MA000013 (Feb. 11, 2000)
MA000017 (Feb. 11, 2000)
MA000019 (Feb. 11, 2000)
MA000020 (Feb. 11, 2000)
MA000021 (Feb. 11, 2000)

Volume II

District of Columbia
DC000001 Feb. 11, 2000)
DC000003 Feb. 11, 2000)

Maryland
MD000006 (Feb. 11, 2000)
MD000010 (Feb. 11, 2000)
MD000012 (Feb. 11, 2000)
MD000034 (Feb. 11, 2000)
MD000035 (Feb. 11, 2000)
MD000040 (Feb. 11, 2000)
MD000048 (Feb. 11, 2000)
MD000056 (Feb. 11, 2000)
MD000057 (Feb. 11, 2000)
MD000058 (Feb. 11, 2000)

Virginia
VA000005 (Feb. 11, 2000)
VA000022 (Feb. 11, 2000)
VA000023 (Feb. 11, 2000)
VA000025 (Feb. 11, 2000)
VA000031 (Feb. 11, 2000)
VA000033 (Feb. 11, 2000)
VA000036 (Feb. 11, 2000)
VA000067 (Feb. 11, 2000)
VA000078 (Feb. 11, 2000)
VA000079 (Feb. 11, 2000)
VA000085 (Feb. 11, 2000)
VA000087 (Feb. 11, 2000)
VA000088 (Feb. 11, 2000)
VA000092 (Feb. 11, 2000)
VA000099 (Feb. 11, 2000)

Volume III

None

Volume IV

Michigan
MI000030 (Feb. 11, 2000)
MI000031 (Feb. 11, 2000)
MI000035 (Feb. 11, 2000)
MI000046 (Feb. 11, 2000)
MI000047 (Feb. 11, 2000)
MI000050 (Feb. 11, 2000)

Wisconsin
WI000027 (Feb. 11, 2000)
WI000029 (Feb. 11, 2000)
WI000032 (Feb. 11, 2000)
WI000033 (Feb. 11, 2000)
WI000049 (Feb. 11, 2000)

Volume V

Louisiana
LA000001 (Feb. 11, 2000)
LA000005 (Feb. 11, 2000)
LA000012 (Feb. 11, 2000)
LA000015 (Feb. 11, 2000)
LA000018 (Feb. 11, 2000)
LA000040 (Feb. 11, 2000)
LA000046 (Feb. 11, 2000)
LA000047 (Feb. 11, 2000)
LA000048 (Feb. 11, 2000)
LA000052 (Feb. 11, 2000)

New Mexico
NM000001 (Feb. 11, 2000)
NM000003 (Feb. 11, 2000)

Volume VI

Colorado
CO000001 (Feb. 11, 2000)
CO000002 (Feb. 11, 2000)
CO000003 (Feb. 11, 2000)
CO000004 (Feb. 11, 2000)
CO000005 (Feb. 11, 2000)

CO000006 (Feb. 11, 2000)
CO000007 (Feb. 11, 2000)
CO000008 (Feb. 11, 2000)
CO000009 (Feb. 11, 2000)
CO000010 (Feb. 11, 2000)
CO000011 (Feb. 11, 2000)
CO000014 (Feb. 11, 2000)
CO000016 (Feb. 11, 2000)
CO000018 (Feb. 11, 2000)
CO000020 (Feb. 11, 2000)
CO000021 (Feb. 11, 2000)
CO000023 (Feb. 11, 2000)
CO000024 (Feb. 11, 2000)
CO000025 (Feb. 11, 2000)
Oregon
OR000001 (Feb. 11, 2000)
South Dakota
SD000006 (Feb. 11, 2000)
SD000011 (Feb. 11, 2000)
SD000017 (Feb. 11, 2000)
Washington
WA000001 (Feb. 11, 2000)
WA000005 (Feb. 11, 2000)
WA000008 (Feb. 11, 2000)
Wyoming
WY000004 (Feb. 11, 2000)
WY000013 (Feb. 11, 2000)
WY000023 (Feb. 11, 2000)

Volume VIII

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 7th day of July 2000.

Terry Sullivan,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 00–17579 Filed 7–13–00; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (00–078)]

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of agency report forms under OMB review.

SUMMARY: The National Aeronautics and Space Administration, 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 (Pub. L. 104–13: 44 U.S.C. 3506(c)(2)(A)). This information is used to determine whether the requested survey should be granted.

DATES: Written comments and recommendations on the proposal for the collection of information should be received on or before September 12, 2000.

ADDRESSES: All comments should be addressed to Ms. Linda Connell, MS 262–7, Ames Research Center, National Aeronautics and Space Administration, Moffett Field, CA 94035–1000. All comments will become a matter of public record and will be summarized in NASA's request for OMB approval.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, Office of the Chief Information Officer, (202) 358–1223.

Reports: None.

Title: National Aviation Operations Monitoring Service.

OMB Number: 2700–_____

Type of review: New.

Need and Uses: This data collection will be used to help evaluate national aviation safety through the establishment of a survey based methodology. Information provided will be used to measure and monitor aviation safety; namely the pilots, air traffic controllers, mechanics and flight attendants who routinely operate aircraft and provide support services.

Affected Public: Individuals or households.

Number of Respondents: 5,000.

Responses Per Respondent: 1–4.

Annual Responses: 8,000.

Hours Per Request: ½ hr to ¾ hr.

Annual Burden Hours: 5,907.

Frequency of Report: Annually/Quarterly.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 00–17841 Filed 7–13–00; 8:45 am]

BILLING CODE 7510–01–U

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 00–079]

Notice of Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of agency report forms under OMB review.

SUMMARY: The National Aeronautics and Space Administration, 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)). This information is required to evaluate bids and proposals submitted to NASA for the award of contracts of value more than $500k for goods and services in support of NASA's mission, and in response to contractual requirements.

DATES: All comments should be submitted on or before September 12, 2000.

ADDRESSES: All comments should be addressed to Mr. Richard Kall, Code HK, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, NASA Reports Officer, (202) 358–1223.

Title: NASA acquisition process, bids and proposals for contracts with an estimated value more than $500,000.

OMB Number: 2700–0085.

Type of review: Extension.

Need and Uses: Information collection is required to evaluate bids and proposals from offerors in order to award contracts for required goods and services in support of NASA's mission, and in response to contractual requirements.

Affected Public: Business or other for-profit, Not-for-profit institutions, State, Local or Tribal Government.

Number of Respondents: 1,496.
Responses Per Respondent: 1.
Annual Responses: 1,496.
Hours Per Request: 400–620.
Annual Burden Hours: 663,520.
Frequency of Report: On occasion.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 00–17842 Filed 7–13–00; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00–080]

Notice of Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of agency report forms under OMB review.

SUMMARY: The National Aeronautics and Space Administration, 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 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)). This information is required to evaluate bids and process invoices submitted to NASA for the award of purchase orders or for bank card actions for goods and services for purchases $100k or less in support of NASA's mission.

DATES: All comments should be submitted on or before September 12, 2000.

ADDRESSES: All comments should be addressed to Mr. Richard Kall, Code HK, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, NASA Reports Officer, (202) 358–1223.

Title: NASA simplified acquisition for goods and services with a value of $100,000 or less.

OMB Number: 2700–0086.

Type of review: Extension.

Need and Uses: Information collection is required to evaluate bids and proposals from offerors in order to award purchase orders and to use bank cards for required goods and services in support of NASA's mission and for the administrative requirements from such orders.

Affected Public: Business or other for-profit, not-for-profit institutions, State, Local or Tribal Government.

Number of Respondents: 250,865.
Responses Per Respondent: 1.
Annual Responses: 250,865.
Hours Per Request: 15–20 min.
Annual Burden Hours: 73,380.
Frequency of Report: On occasion.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 00–17843 Filed 7–13–00; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (00 081)]

Notice of Agency Report Forms Under OMB Review

SUMMARY: The National Aeronautics and Space Administration, 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 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)). This information is required to evaluate bids and proposals submitted to NASA for the award of contracts of value less than $500k for goods and services in support of NASA's mission, and in response to contractual requirements.

DATES: All comments should be submitted on or before September 12, 2000.

ADDRESSES: All comments should be addressed to Mr. Richard Kall, Code HK, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, NASA Reports Officer, (202) 358–1223.

Title: NASA acquisition process, bids and proposals for contracts with an estimated value less than $500,000.

OMB Number: 2700–0087.

Type of review: Extension.

Need and Uses: Information collection is required to evaluate bids and proposals from offerors in order to award contacts for required goods and services in support of NASA's mission.

Affected Public: Business or other for-profit, not-for-profit institutions, State, Local or Tribal Government.

Number of Respondents: 11,000.
Responses Per Respondent: 1.
Annual Responses: 11,000.
Hours Per Request: 250–300.
Annual Burden Hours: 2,790,000.
Frequency of Report: On occasion.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 00–17844 Filed 7–13–00; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (00 082)]

Notice of Agency Report Forms Under OMB Review

SUMMARY: The National Aeronautics and Space Administration, 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 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)). This information is required to monitor contract compliance in support of NASA's mission and in response to contractual requirements.

DATES: All comments should be submitted on or before September 12, 2000.

ADDRESSES: All comments should be addressed to Mr. Richard Kall, Code HK, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, NASA Reports Officer, (202) 358–1223.

Title: NASA acquisition process, reports required for contracts with an estimated value more than $500,000.

OMB Number: 2700–0089.

Type of review: Extension.

Need and Uses: Information collection is required to effectively manage and administer contracts that furnish goods and services in support of NASA's mission. The requirement for this information is set forth in the federal Acquisition Regulation, the NASA Federal Acquisition Regulation Supplement, and approved mission requirements.

Affected Public: Business or other for-profit, not-for-profit institutions, State, Local or Tribal Government.

Number of Respondents: 1,360.
Responses Per Respondent: 56.
Annual Responses: 76,160.
Hours Per Request: 8.
Annual Burden Hours: 609,280.

Frequency of Report: On occasion.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 00–17845 Filed 7–13–00; 8:45 am]

BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–247]

Consolidated Edison Company of New York, Inc.; Facility Operating License No. DPR–26 Receipt of Additional Information Relating to Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that additional information has been submitted in support of a Petition dated March 14, 2000, filed by Mr. David A. Lochbaum, on behalf of the Union of Concerned Scientists, the Nuclear Information & Resource Service, the PACE Law School Energy Project, and Public Citizen's Critical Mass Energy Project (petitioners). The petitioners requested that the U.S. Nuclear Regulatory Commission (NRC) take action with regard to Indian Point Nuclear Generating Unit No. 2 (IP2), owned and operated by the Consolidated Edison Company of New York, Inc. (the licensee). The petitioner requested that the NRC issue an order to the licensee preventing the restart of IP2, or modify the license for IP2 to limit it to zero power, until (1) all four steam generators are replaced, (2) the steam generator tube integrity concerns identified in Dr. Joram Hopenfeld's differing professional opinion (DPO) and in Generic Safety Issue (GSI–163) are resolved, and (3) potassium iodide tablets are distributed to residents and businesses within the 10-mile emergency planning zone (EPZ) or stockpiled in the vicinity of IP2. The original Petition was published in the **Federal Register** on April 11, 2000 (65 FR 19398). The supplemental information consisted of a letter from Mr. Lochbaum dated April 14, 2000, a letter from Mr. Riccio dated April 12, 2000, and information provided at an April 7, 2000, public meeting.

As stated in the original **Federal Register** notice, the request that the NRC prevent the licensee from restarting IP2 until all four steam generators are replaced is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The original request that the NRC prevent the licensee from restarting IP2 until the DPO filed by Dr. Hopenfeld is resolved and until potassium iodide tablets are distributed to people and businesses within the 10-mile EPZ or stockpiled in the vicinity of IP2 was not being treated at that time pursuant to 10 CFR 2.206 of the Commission's regulations. However, the petitioners provided additional information at the April 7, 2000, public meeting and in Mr. Riccio's April 12, 2000, letter concerning the population density in the vicinity of the IP2 site and difficulties in emergency planning at the site which, in their view, make adequate evacuation and/or sheltering of the local population impossible. Based on this additional information, the NRC staff has determined that the request that the NRC issue an order to prevent Con Ed from restarting IP2, or modify the license for IP2 to limit it to zero power, until potassium iodide tablets are distributed to people and businesses within the 10-mile EPZ or stockpiled in the vicinity of IP2 meets the criteria of 10 CFR 2.206. As provided by section 2.206, action will be taken on this request within a reasonable time.

In their April 14, 2000, letter, the petitioners contend that the information in NUREG/CR–5752, ''Assessment of Current Understanding of Mechanisms of Initiation, Arrest, and Reinitiation of Stress Corrosion Cracks in PWR Steam Generator Tubing,'' is relevant to their request to replace the IP2 steam generators and to resolve Dr. Hopenfeld's DPO prior to IP2 restart. However, the information in NUREG/CR–5752 is a schematic or generalized presentation of the process for crack initiation and growth and was not intended to be representative of actual plant conditions. Thus, NUREG/CR–5752 is not directly applicable to IP2 and does not provide information specific to IP2 restart. Therefore, the request that the NRC prevent the licensee from restarting IP2 until the DPO filed by Dr. Hopenfeld is resolved will not be treated pursuant to 10 CFR 2.206 of the Commission's regulations.

Copies of the Petition and additional information are available for inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www/nrc.gov).

Dated at Rockville, Maryland, this 26th day of June 2000.

For the Nuclear Regulatory Commission.

Roy P. Zimmerman,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 00–17883 Filed 7–13–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. SSD 99–27 ASLBP No. 00–778–06–ML]

Atomic Safety and Licensing Board Panel; Notice of Hearing and of Opportunity to Petition for Leave To Intervene or To Participate as an Interested Governmental Entity (Denial of Sealed Source Registration Application)

July 10, 2000.

Before Administrative Judges: G. Paul Bollwerk, III, Presiding Officer, Frederick J. Shon, Special Assistant

In the Matter of Graystar, Inc., (Suite 103, 200 Valley Road, Mt. Arlington, NJ 07856)

In this proceeding, GrayStar, Inc., (GrayStar) has requested a hearing to challenge the NRC staff's May 24, 2000 determination denying the request of GrayStar, as set forth in its April 19, 1999 application and September 27, 1999 letter, to register the Model GS–42 sealed source and the Model 1 irradiator. By memorandum and order issued June 13, 2000, the Commission referred the GrayStar request to the Atomic Safety and Licensing Board Panel's Chief Administrative Judge for appointment of a Presiding Officer to conduct a 10 CFR Part 2, Subpart L informal adjudicatory proceeding relative to the GrayStar request. *See* CLI–00–10, 51 NRC ____ (Jun. 13, 2000). This Presiding Officer and Special Assistant were appointed on June 16, 2000. *See* 65 FR 38,867 (2000). By memorandum and order issued this date, the Presiding Officer has granted the GrayStar hearing request.

In light of the foregoing, please take notice that a hearing will be conducted in this proceeding. As noted above, this hearing will be governed by the informal hearing procedures set forth in 10 CFR Part 2, Subpart L (10 CFR 2.1201–.1263) and the parties currently designated in this proceeding are GrayStar and the staff.

Further, in accordance with 10 CFR 2.1205(j), please take notice that within thirty days from the date of publication of this notice of hearing in the **Federal Register** (1) any person whose interest may be affected by this proceeding may file a petition for leave to intervene; and (2) any interested governmental entity may file a request to participate in this proceeding in accordance with 10 CFR 2.1211(b). Any petition for leave to intervene must set forth the information required by 10 CFR 2.1205(e), including a detailed description of (1) the interest of the petitioner in the proceeding; (2) how that interest may be affected by the

results of the proceeding, including the reasons why the petitioner should be permitted to intervene with respect to the factors set forth in 10 CFR 2.1205(h); (3) the petitioner's areas of concern regarding the staff's May 24, 2000 denial of GrayStar's registration application; and (4) the circumstances establishing that the petition to intervene is timely in accordance with 10 CFR 2.1205(d). In accordance with 10 CFR 2.1211(b), any request to participate by an interested governmental entity must state with reasonable specificity the requestor's areas of concern regarding the staff's May 24, 2000 denial of GrayStar's registration application.

In addition, pursuant to 10 CFR 2.1211(a), any person not a party to the proceeding may submit a written limited appearance statement setting forth his or her position on the issues in this proceeding. These statements do not constitute evidence, but may assist the Presiding Officer and/or parties in the definition of the issues being considered. Persons wishing to submit a written limited appearance statement should send it to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC. 20555–0001, Attention: Docketing and Service Branch. A copy of the statement also should be served on the Presiding Officer and the Special Assistant.

In the initial order issued this date, the Presiding Officer directed that on or before Tuesday, August 1, 2000, the staff shall file the hearing file for this proceeding. Once the hearing file is received, pursuant to 10 CFR 2.1233 the Presiding Officer will establish a schedule for the filing of written presentations by GrayStar and the staff, which may be subject to supplementation to accommodate the grant of any intervention petition or request to participate by an interested governmental entity. After receiving the parties' written presentations, pursuant to 10 CFR 2.1233(a), 2.1235, the Presiding Officer may submit written questions to the parties or any interested governmental entity or provide an opportunity for oral presentations by any party or interested governmental entity, which may include oral questioning of witnesses by the Presiding Officer.

Documents relating to this proceeding are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. Additionally, documents relating to this proceeding submitted after November 1, 1999, are available electronically through the NRC's Agencywide Documents Access and Management System (ADAMS), with access to the public through the NRC's Internet Web site Public Electronic Reading Room link at <http://www.nrc.gov/NRC/ADAMS/index.html>. Also, general information regarding the conduct of agency adjudicatory proceedings, including the provisions of 10 CFR Part 2, Subpart L, can be found by accessing the Atomic Safety and Licensing Board Panel's Web site at <http://www.nrc.gov/NRC/ASLBP/homepage.html>.

By the Presiding Officer *.

Dated: Rockville, Maryland, July 10, 2000.

G. Paul Bollwerk, III,

Administrative Judge.

[FR Doc. 00–17882 Filed 7–13–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–2]

Notice of Issuance of Amendment to Materials License SNM–2501 Virginia Electric and Power Company Surry Independent Spent Fuel Storage Installation

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment 11 to Materials License SNM–2501 held by Virginia Electric and Power Company (Virginia Power) for the receipt, possession, transfer, and storage of spent fuel at the Surry Independent Spent Fuel Storage Installation (ISFSI), located in Surry County, Virginia. The amendment is effective the date of issuance.

By application dated April 5, 1999, as supplemented on February 29, 2000, VA Power requested to amend its ISFSI license to permit the continued storage of burnable poison rod assemblies and/or thimble plug devices within the already loaded GNSI CASTOR V/21, Westinghouse MC–10, and NAC–I28 casks used at Surry. This amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

In accordance with 10 CFR 72.46(b)(2), a determination has been made that the amendment does not present a genuine issue as to whether public health and safety will be significantly affected. Therefore, the publication of a notice of proposed action and an opportunity for hearing or a notice of hearing is not warranted. Notice is hereby given of the right of interested persons to request a hearing on whether the action should be rescinded or modified.

Also in connection with this action, the Commission prepared an Environmental Assessment (EA) and Finding of no Significant Impact (FONSI). The EA and FONSI were published in the **Federal Register** on July 3, 2000 (65 FR 41108).

In accordance with 10 CFR 2.790 of the NRC's ''Rules of Practice,'' a copy of this letter and its enclosure will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/NRC/ADAMS/index.html* (the Public Electronic Reading Room).

Dated at Rockville, Maryland, this 6th day of July 2000.

For The Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 00–17884 Filed 7–13–00; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Interest Assumption for Determining Variable-Rate Premium; Interest on Late Premium Payments; Interest on Underpayments and Overpayments of Single-Employer Plan Termination Liability and Multiemployer Withdrawal Liability; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or are derivable from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's web site (http://www.pbgc.gov).

DATES: The interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in July 2000. The interest assumptions for performing multiemployer plan valuations

following mass withdrawal under part 4281 apply to valuation dates occurring in August 2000. The interest rates for late premium payments under part 4007 and for underpayments and overpayments of single-employer plan termination liability under part 4062 and multiemployer withdrawal liability under part 4219 apply to interest accruing during the third quarter (July through September) of 2000.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (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:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate in determining a single-employer plan's variable-rate premium. The rate is the ''applicable percentage'' (currently 85 percent) of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid (the ''premium payment year''). The yield figure is reported in Federal Reserve Statistical Releases G.13 and H.15.

The assumed interest rate to be used in determining variable-rate premiums for premium payment years beginning in July 2000 is 5.04 percent (*i.e.*, 85 percent of the 5.93 percent yield figure for June 2000).

The following table lists the assumed interest rates to be used in determining variable-rate premiums for premium payment years beginning between August 1999 and July 2000.

For premium payment years beginning in:	The assumed interest rate is:
August 1999	5.08
September 1999	5.16
October 1999	5.16
November 1999	5.32
December 1999	5.23
January 2000	5.40
February 2000	5.64
March 2000	5.30
April 2000	5.14
May 2000	4.97
June 2000	5.23
July 2000	5.04

Late Premium Payments; Underpayments and Overpayments of Single-Employer Plan Termination Liability

Section 4007(b) of ERISA and § 4007.7(a) of the PBGC's regulation on Payment of Premiums (29 CFR part 4007) require the payment of interest on late premium payments at the rate established under section 6601 of the Internal Revenue Code. Similarly, § 4062.7 of the PBGC's regulation on Liability for Termination of Single-employer Plans (29 CFR part 4062) requires that interest be charged or credited at the section 6601 rate on underpayments and overpayments of employer liability under section 4062 of ERISA. The section 6601 rate is established periodically (currently quarterly) by the Internal Revenue Service. The rate applicable to the third quarter (July through September) of 2000, as announced by the IRS, is 9 percent.

The following table lists the late payment interest rates for premiums and employer liability for the specified time periods:

From—	Through—	Interest rate (percent)
7/1/94	9/30/94	8
10/1/94	3/31/95	9
4/1/95	6/30/95	10
7/1/95	3/31/96	9
4/1/96	6/30/96	8
7/1/96	3/31/98	9
4/1/98	12/31/98	8
1/1/99	3/31/99	7
4/1/99	3/31/00	8
4/1/00	9/30/00	9

Underpayments and Overpayments of Multiemployer Withdrawal Liability

Section 4219.32(b) of the PBGC's regulation on Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR part 4219) specifies the rate at which a multiemployer plan is to charge or credit interest on underpayments and overpayments of withdrawal liability under section 4219 of ERISA unless an applicable plan provision provides otherwise. For interest accruing during any calendar quarter, the specified rate is the average quoted prime rate on short-term commercial loans for the fifteenth day (or the next business day if the fifteenth day is not a business day) of the month preceding the beginning of the quarter, as reported by the Board of Governors of the Federal Reserve System in Statistical Release H.15 (''Selected Interest Rates''). The rate for the third quarter (July through September) of 2000 (*i.e.,* the rate reported for June 15, 2000) is 9.50 percent.

The following table lists the withdrawal liability underpayment and overpayment interest rates for the specified time periods:

From—	Through—	Interest rate (percent)
7/1/94	9/30/94	7.25
10/1/94	12/31/94	7.75
1/1/95	3/31/95	8.50
4/1/95	9/30/95	9.00
10/1/95	3/31/96	8.75
4/1/96	6/30/97	8.25
7/1/97	12/31/98	8.50
1/1/99	9/30/99	7.75
10/1/99	12/31/99	8.25
1/1/00	3/31/00	8.50
4/1/00	6/30/00	8.75
7/1/00	9/30/00	9.50

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in August 2000 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 7th day of July 2000.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 00–17912 Filed 7–13–00; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27197]

Filings Under the Public Utility Holding Company Act of 1935, As Amended (''Act'')

July 7, 2000.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for

public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by August 1, 2000, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After August 1, 2000, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Northeast Utilities, et al. (70–8875)

Northeast Utilities (''NU''), a registered public utility holding company, located at 174 Brush Hill Avenue, West Springfield, Massachusetts 01090–0010, and its wholly-owned utility subsidiary companies, Western Massachusetts Electric Company, located at the same address, Holyoke Water Power Company, located at Canal Street, Holyoke, Massachusetts 01040, Public Service Company of New Hampshire and North Atlantic Energy Corporation, located at 1000 Elm Street, Manchester, New Hampshire 03015, and NU's nonutility subsidiaries, NU Enterprises, Inc., Northeast Generation Service Company, Northeast Generation Company, Select Energy, Inc., Mode 1 Communications, Inc., The Rocky River Realty Company (Ricky River), The Quinnehtuk Company (Quinnehtuk), and Northeast Nuclear Energy Company (NNEC), located at 107 Selden Street, Berlin, Connecticut 06037, HEC Inc. (HEC), located at 24 Prime Parkway, Natick, Massachusetts 01760 (the ''Current Money Pool Participants''), Yankee Energy System, Inc. (''YES''), a wholly owned exempt subsidiary holding company of NU by order under section 3(a)(1) of the Act, HCAR No. 26737 (January 31, 2000), a wholly owned gas utility subsidiary of YES, Yankee Gas Services Company (''Yankee Gas''), and YES' wholly owned nonutility subsidiaries, Yankee Energy Financial Services Company, NorConn Properties, Inc., Yankee Energy Services Company and R. M. Services, Inc. (''Yankee Subsidiaries''), located at 599 Research Parkway, Meriden, Connecticut 06450, have filed a post-effective amendment under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and rules 43(a) and 45 under the Act.

By order dated November 20, 1996 (HCAR No. 26612)(''November Order''), and supplemented February 11, 1997 (HCAR No. 26665), March 25, 1997 (HCAR No. 26692), May 29, 1997 (HCAR No. 26721), January 16, 1998 (HCAR No. 26816), May 13, 1999 (HCAR No. 7022) and November 17, 1999 (HCAR No. 27103), the Current Money Pool Participants were authorized to engage in various financing and related transactions through December 31, 2000 (''Authorization Period''). The November Order also authorized, among other things, the Current Money Pool Participants to continue to engage in a NU system money pool arrangement (''Money Pool'') through the Authorization Period.

Applicants now request the following:

1. Authorization for YES and Yankee Subsidiaries to participate in the Money Pool

2. Authorization for YES and Yankee Gas to incur short-term debt through the authorization period, subject to the limits and on the terms as described in the declaration.

3. Elimination of any maximum limit on borrowings by nonutility subsidiaries from the Money Pool.

4. Clarification of the inclusion of NNEC, Quinnehtuk, Rocky River and HEC as participants in the Money Pool

Entergy Corporation, et al. 70–9123

Entergy Corporation (''Entergy''), a registered holding company, 639 Loyola Avenue, New Orleans, Louisiana 70113, and its wholly owned nonutility subsidiary companies, Entergy Enterprises, Inc., Entergy Power, Inc., Entergy Global Power Operations Corporation, Entergy Power Operations U.S., Inc., Entergy Power Marketing Corp., all located at Parkwood Two Building, 10055 Grogan's Mill Road. The Woodlands, Texas 77380, Entergy Nuclear, Inc., 1340 Echelon Parkway, Jackson, Mississippi 39213, and Entergy Operations Services, Inc., 110 James Parkway West, St. Rose Louisiana 70087 (collectively, ''Applicants'') have filed a post-effective amendment under sections 6(a), 7, and 12(b) of the Act and rules 45 and 54 under the Act to their application-declaration that was previously authorized by Commission order dated June 22, 1999 (HCAR No. 27039) (''June 1999 Order'').

The June 1999 Order authorized, among other things, Entergy and its Nonutility Companies [1] to engage in a host of financing transactions including issuing guarantees or providing other forms of credit support or enhancements to, or for the benefit of the Nonutility Companies in an aggregate amount not to exceed $750 million through December 31, 2002. Guarantees may take the form of Entergy or a Nonutility Company agreeing to guarantee, undertake reimbursement obligations, assume liabilities or other obligations in respect of or act as surety on bonds, letters of credit, evidences of indebtedness, equity commitments, power purchase agreements, leases, liquidated damages provisions, and other obligations undertaken by Entergy's Nonutility Companies (''Guarantees''). Under the June 1999 Order, Entergy currently has the capacity to issue Guarantees to or for the benefit of the Nonutility Companies in an aggregate principal amount of approximately $360 million.

The Applicants now propose to issue Guarantees to or for the benefit of Nonutility Companies from time to time through December 31, 2005, in an aggregate principal amount not to exceed $2 billion at any one time outstanding. The terms and conditions of Guarantees would continue to be established at arm's length, based upon market conditions. Any Guarantees provided by Entergy to Exempt Projects (defined as EWGs and FUCOs) would be subject to the limitation on aggregate investment in EWGs and FUCOs set forth in rule 53(a), as modified by order of the Commission dated June 13, 2000 (HCAR No. 27184). Specifically, Entergy would only issue Guarantees to Exempt Projects to the extent that the amount of any such Guarantee, when added to Entergy's aggregate investment in Exempt Projects, would not exceed 100% of Entergy's consolidated retained earnings. Any Guarantees provided to energy-related companies would be subject to the limitations on ''aggregate investment'' in energy-related companies set forth in rule 58.

Entergy Corp. (70–9189)

Entergy Corporation (''Entergy''), 639 Loyola Avenue, New Orleans, Louisiana 70113, a registered holding company, has filed a declaration under sections

[1] For the purposes of the filing, exempt wholesale generators, as defined in section 32 of the Act, (''EWGs''), foreign utility companies, as defined in section 33 of the Act, (''FUCOs''), exempt telecommunications companies, energy-related companies as defined under rule 58 under the Act, operations and maintenance services subsidiaries, New Subsidiaries as defined in the June 1999 Order, and the Applicants other than Entergy, are referred to collectively as ''Nonutility Companies.''

6(a) and 7 of the Act and rule 54 under the Act.

By order dated July 10, 1998 (HCAR No. 26895), Entergy was authorized through December 31, 2008 to issue up to 12 million shares of its common stock (''Common Stock'') in connection with awards of Common Stock, options on the Common Stock (''Options''), and other equity awards granted under the 1998 Equity Ownership Plan of Entergy Corporation and Subsidiaries (''1998 Equity Plan''). Eligible key employees of Entergy and its subsidiaries and members of the board of directors of Entergy (''Board'') who are not otherwise employed by Entergy or its subsidiaries are eligible to participate in the 1998 Equity Plan.

More recently, the Board adopted the Equity Awards Plan (''2000 Awards Plan'') as an amendment to the 1998 Equity Plan.[2] In connection with the intended grant of awards under this plan, Entergy requests authority to issue, through December 31, 2010, up to 30 million shares of Common Stock, Options, and equity awards in the form of phantom stock units (collectively, ''Awards'').

A committee of the Board (''Committee'') will administer the 2000 Awards Plan. Officers and other personnel of Entergy and its subsidiaries who are not subject to Section 16(b) of the Securities Exchange Act of 1934 (''Exchange Act'')[3] and whom the Committee identifies as having significant responsibility for the continued growth, development and financial success of Entergy and its subsidiaries (''Key Employees'') are eligible to participate in the 2000 Awards Plan.

Entergy states that the 2000 Awards Plan was adopted to promote effective leadership of Entergy and its subsidiaries and to closely tie the interests of Key Employees with Entergy's stockholders.

Shares of Common Stock awarded under the 2000 Awards Plan may be either authorized but unissued shares or shares acquired in the open market. Shares of Common Stock covered by awards which are not earned, or which are forfeited and Options which expire unexercised, will again be available for subsequent awards under the 2000 Awards Plan.

Northeast Utilities, et al. (70–9657)

Northeast Utilities (''NU'') a registered holding company, 174 Brush Hill Avenue, West Springfield, Massachusetts 01090, Yankee Energy System, Inc. (''YES''), 599 Research Parkway, Meriden, Connecticut 06450, a wholly owned exempt subsidiary holding company of NU by order under section 3(a)(1)(of the Act, HCAR No. 26737 (January 31, 2000) (''January 2000 Order''), Yankee Gas Services Company, 599 Research Parkway, Meriden, Connecticut 06450, a wholly owned gas utility subsidiary of YES, YES' wholly owned nonutility subsidiaries, Yankee Financial Services Company, NorConn Properties, Inc., and Yankee Energy Services Company, all located at 599 Research Parkway, Meriden, Connecticut 06450, and R.M. Services, Inc., 639 Research Parkway, Meriden, Connecticut 06450, a wholly owned nonutility subsidiary of YES (collectively, ''Applicants'') have filed a declaration under section 12(c) of the Act and rules 46 and 54 under the Act.

In summary, Applicants request authority through June 30, 2000, (''Authorization Period'') for each of YES and its subsidiaries to repurchase stock from its parent and pay dividends out of capital and unearned surplus.

The January 2000 Order, authorized NU to acquire all of YES' outstanding voting securities (''Merger''), which was accounted for using the ''purchase'' method of accounting. In accordance with the Commission's Staff Accounting Bulletin No. 54, Topic 5J, this method of accounting provides for the ''push down'' of the goodwill generated by the Merger (''Merger Goodwill'') from the holding company to subsidiaries and categorizes the amount pushed down in the subsidiaries' financial statements as additional paid-in-capital.

Applicants estimate that Merger Goodwill will approximate $310 million, resulting in an adverse impact on YES' annual income due to the required amortization of the Merger Goodwill. In addition, YES and its subsidiaries do not have recourse to retained earnings existing at the time of the Merger to pay out dividends, since the purchase accounting method requires that these retained earnings be recharacterized as additional paid-in-capital. Consequently, YES and its subsidiaries request authorization to pay dividends out of its additional paid-in-capital account up to the amount of its retained earnings just prior to the Merger and out of earnings before the amortization of the Merger Goodwill.

In addition, each of YES and its subsidiaries request authority through the Authorization Period to repurchase its stock from its parent out of capital or unearned surplus. Applicants state that, after the Merger, and giving effect to the push down of the Merger Goodwill and its periodic amortization, YES' consolidated common equity as a percentage of total capital will be 67%.

Alliant Energy Corporation, et al. (70–9695)

Alliant Energy Corporation (''Alliant''), a registered public utility holding company, and its wholly owned electric-utility subsidiary, Wisconsin Power & Light Company (''WPL'' and, together with Alliant, ''Applicants''), both located at 222 West Washington Avenue, Madison, Wisconsin 53703, have filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and rules 456 and 54 under the Act.

Applicants request authority to: (1) Acquire a membership interest in American Transmission Company, LLC, a limited liability company to be organized under Wisconsin law (''Transco''); and (2) acquire a percentage of the capital stock of ATC Management Co. (''Manager''), a corporation to be formed under Wisconsin law. Alliant also requests authority, through September 30, 2001, to guarantee Transco's payment obligations under a credit agreement and to enter into a reimbursement agreement with Transco.

In 1999, the state of Wisconsin enacted legislation that facilitates the formation of Transco as a single-purpose, for-profit transmission company (the ''Transco Legislation'').[4] The Transco Legislation is intended to encourage public utility affiliates of Wisconsin holding companies, including WPL, to transfer ownership of their transmission assets to Transco.

Manager will manage Transco's assets and will also hold a portion of Transco's membership interests. All Transco participants will ultimately own direct or indirect interests in Transco and manager in proportion to the value of the transmission assets each participant contributes to Transco.

[2] Entergy states that the 2000 Award Plan does not require shareholder approval.

[3] Section 16(b) of the Exchange Act imposes restrictions on certain officers of corporations issuing stock. In general, under the statute, profits realized by the purchase and subsequent sale or sale and subsequent purchase of stock within six months, by an officer of the corporation issuing the stock is recoverable by the corporation. Under the 1998 Equity Plan, employees of Entergy or its subsidiaries were eligible for equity compensation even if they were subject to section 16(b) of the Exchange Act. Applicant states that stock options awarded under the 1998 Equity Plan to individuals who are not subject to section 16(b) of the Exchange Act will be rescinded and replaced with awards to be granted under the 2000 Awards Plan. Entergy further states that shares of Common Stock underlying the rescinded options will become available for grant under the 1998 Equity Plan.

[4] 1999 Wisconsin Act 9, sections 2335tr to 2335uh (Assembly Amendment to Assembly Subcommittee Amendment 1 to 1999 Assembly Bill 133).

In addition to Applicants, several other Wisconsin public utilities or public utility holding companies are expected to participate in Transco, including: South Beloit Water, Gas and Electric Company (''South Beloit''), a wholly owned subsidiary of WPL with transmission assets in Illinois; Wisconsin Energy Corporation (''WEC''), an exempt holding company which owns Wisconsin Electric Power Company; Wisconsin Public Power, Inc. (''WPPI''); WPS Resources Corporation (''WPS''), an exempt holding company which owns Wisconsin Public Service Corporation; and Madison Gas & Electric Company.[5] Other transmission-owning utilities may, in the future, decide to become members of Transco.

WPL and the other participating Wisconsin utilities intend to contribute their transmission assets to Transco on or about January 1, 2001 (the ''Operations Date'').[6] In this Application the Applicants only seek authority to make initial contributions before the Operations Date to enable Transco and Manager to conduct start-up and other interim operations, including the leasing of office space and the negotiation of financing arrangements.

Therefore, in this Application Applicants propose: (1) To acquire, for a consideration not to exceed $125,000, a membership interest in Transco; and (2) to acquire, for a consideration not to exceed $125,000, 100 shares of the capital stock to be issued by Manager, each of which will have a par value of $1.00. Depending on the number of initial members of Transco, it is expected that Applicants' interest in Transco and Manager will be between 35% and 40% of each entity. Transco's other participants will make similar initial contributions.

Transco intends to enter into a credit agreement with Bank One, NA (the ''Credit Agreement'').[7] The Credit Agreement will permit borrowings by Transco in an aggregate amount not to exceed $30 million, which Transco will use to fund its activities during its developmental stages. Notes issued under the Credit Agreement will bear interest at: (1) A rate equal to the sum of (a) the quotient of (i) the London Interbank Offered Rate in effect at the time, divided by (ii) one minus the reserve requirement imposed under Regulation D of the Board of Governors of the Federal Reserve System on Eurocurrency Liabilities, plus (b) 0.30% per annum; (2) the ''Alternate Base Rate'' (as defined below); or (3) a higher rate after default under the terms of the Credit Agreement. The ''Alternate Base Rate'' is defined as a rate of interest per annum equal to the higher of: (1) The Bank One, NA corporate base rate; or (2) the sum of the Federal Funds effective rate plus 0.5% per annum. Transco may also issue letters of credit (''L/Cs'') under the Credit Agreement in a maximum aggregate face amount for all L/Cs outstanding of $12.5 million. The aggregate amount that Transco may borrow under the Credit Agreement will be reduced by the face amount of all outstanding L/Cs.

Alliant propose to guarantee to the lenders the payment of all principal, interest and other fees incurred under the Credit Agreement (''the Guaranty agreement). The Guaranty Agreement is intended to operate only until Transco is able to establish its credit standing as an independent entity and will terminate when Transco receives an ''A-'' or higher credit rating from Moody's Investors Services, Inc. Alliant states that the Guaranty Agreement will be non-recourse to Alliant's affiliates, and that the Guaranty Agreement will not, in any event, extend beyond September 30, 2001.

Alliant also proposes to enter into a reimbursement agreement with Transco (the ''Reimbursement Agreement''), under which Transco will reimburse Alliant for all amounts it pays in respect of the Guaranty Agreement.[8] It is expected that all other participants in Transco, except WPPI, will ultimately enter into one or more indemnification and reimbursement agreements with Alliant under which each participant will agree to reimburse Alliant for its payments under the Guaranty Agreement in proportion to each participant's ownership interest in Transco.

For the Commission by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–17825 Filed 7–13–00; 8:45 am]

BILLING CODE 8010–01–M

[5] As exempt public utility holding companies, WEC and WPS are required to file separate applications to request authority to participate in Transco under section 9(a)(2) of the Act.

[6] WPL and South Beloit will file a separate application seeking Commission authority to transfer their transmission assets to Transco, to engage in certain affiliated transactions, and to carry out other related activities.

[7] Additional lenders may participate in the Credit Agreement in the future through Bank One, NA's syndication.

[8] In the Reimbursement Agreement, Transco also agrees to obtain the release of Alliant from its obligations under the Guaranty agreement 60 days after transmission assets are transferred to Transco.

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3269]

State of North Dakota

As a result of the President's major disaster declaration on June 27, 2000, I find that the following Counties and Indian Reservations in the State of North Dakota constitute a disaster area due to damages caused by severe storms, flooding, and ground saturation beginning on June 12, 2000 and continuing: Benson, Bottineau, Cass, Eddy, Foster, Grand Forks, Griggs, Kidder, McHenry, McLean, Nelson, Pierce, Ramsey, Ransom, Sheridan, Traill, Walsh, and Wells Counties, and the Indian Reservations of the Spirit (Devil's) Lake Tribal Reservation and the Turtle Mountain Band of Chippewa. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on August 26, 2000, and for loans for economic injury until the close of business on March 27, 2001 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Fort Worth, TX 76155.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Barnes, Burleigh, Cavalier, Dickey, Emmons, LaMoure, Logan, Mercer, Montrail, Oliver, Pembina, Penville, Richland, Rolette, Sargent, Steele, Stutsman, Towner, and Ward Counties in North Dakota, and Clay, Kittson, Marshall, Norman, Polk, and Wilkin Counties in Minnesota.

The interest rates are:

	Percent
For Physical Damage	
Homeowners with credit available elsewhere	7.375
Homeowners without credit available elsewhere	3.687
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	6.750
For Economic Injury	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 326906. For economic injury the numbers are

9H5900 for North Dakota, and 9H6000 for Minnesota.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 5, 2000.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 00–17889 Filed 7–13–00; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3271]

State Of Minnesota

As a result of the President's major disaster declaration on June 27, 2000 for Public Assistance only, and an amendment thereto on June 30 adding Individual Assistance, I find that Becker, Clay, Norman, and Mahnomen Counties and the White Earth Indian Reservation in the State of Minnesota constitute a disaster area due to damages caused by severe storms and flooding beginning on May 17, 2000, and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on August 29, 2000 and for economic injury until the close of business on March 30, 2001 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Clearwater, Hubbard, Otter Tail, Polk, Wadena, and Wilkin in the State of Minnesota may be filed until the specified date at the above location. Any counties contiguous to the above-named primary counties and not listed herein have been previously declared under a separate declaration for the same occurrence.

The interest rates are:

	Percent
For Physical Damage	
Homeowners with credit available elsewhere	7.375
Homeowners without credit available elsewhere	3.687
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	6.750
For Economic Injury	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 327106 and for economic injury the number is 9H7500. (Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: July 6, 2000.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 00–17890 Filed 7–13–00; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed 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.

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. Childhood Disability Evaluation Form—0960–0568. The information collected on form SSA–538 by the Social Security Administration (SSA) is used by SSA and the State Disability Determination Services to record medical and functional findings concerning the severity of impairments of children who are claiming Supplemental Security Income (SSI) benefits based on disability. The form is used for initial determinations of eligibility, in appeals, and in initial continuing disability reviews. We are revising the form in order to make it easier for those who use it to better record their medical and functional findings.

Number of Respondents: 750,000.

Frequency of Response: 1.

Average Burden Per Response: 25 minutes.

Estimated Annual Burden: 312,500 hours.

2. Employment Support Representative Position: Survey of Beneficiaries and Community Organizations—0960–NEW. SSA has created a new position, the Employment Support Representative (ESR) to provide employment support information and counseling to SSA disability beneficiaries and community organizations. The positions are established initially in a pilot program supporting 51 service areas. SSA proposes to test three models, which vary by organizational placement and assigned duties of the ESR. SSA will evaluate the models to determine which model or feature(s) of the model(s) are most effective through information we will collect from individuals and organizations who made contact with, or received services from, ESRs in each of the models during the pilot.

	Individuals	Organizations
Number of Respondents:	1,332	894
Frequency of Response:	1	1
Average Burden Per Response:	10 minutes	15 minutes
Estimated Annual Burden:	222 hours	224 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, D.C. 20503.

Dated: July 11, 2000.

Frederick W. Brickenkamp,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 00–17851 Filed 7–13–00; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 3363]

Office of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates shown on the attachments pursuant to sections 36(c) or 36(d) and in compliance with section 36(e) of the Arms Export Control Act (22 U.S.C. 2776).

EFFECTIVE DATE: As shown on each of the 25 letters.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Lowell, Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202 663–2700).

SUPPLEMENTARY INFORMATION: Section 38(e) of the Arms Export Control Act mandates that notifications to the Congress pursuant to sections 36(c) or 36(d) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

Dated: July 5, 2000.

William J. Lowell,

Director, Office of Defense Trade Controls.

United States Department of State,

Washington, D.C. 20520.

June 7, 2000.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical information, assistance and raw materials to Sweden for the manufacture of F414–GE–400 engine components.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 021–00.

United States Department of State,

Washington, D.C. 20520.

June 7, 2000.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36(d) of the Arms Export Control

Act, I am transmitting, herewith, certification of a proposed Manufacturing License Agreement with Norway.

The transaction described in the attached certification involves the transfer of technical information and know-how to Norway for the manufacture of Composite Propellant Gas Generators for the Penguin Missile for the Kingdom of Norway, Sweden, Greece and Turkey.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Enclosure: Transmittal No. DTC 022–00.

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520

June 7, 2000.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, assistance and defense articles for the manufacture in Turkey of IFF equipment for the Turkish National Radar/IFF Program.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Enclosure: Transmittal No. DTC 024–00.

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520.

June 9, 2000.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of technical data and defense services in support of the AC–130 Gunship ALLTV Program, in the United Kingdom.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Enclosure: Transmittal No. DTC 28–00.

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520.

June 21, 2000.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense services and articles to the United Kingdom in support modification and maintenance of Aircrew Training Devices (ATDs) for the KC–10, C–130, and E–3 Aircraft, and the integration of the Global Air Traffic Management System.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Enclosure: Transmittal No. DTC 29–00.

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520.

June 6, 2000.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves an extension in the duration of 100–99, relating to the export of defense services to establish a formal structure for civilian control of the military, train the Federation of Bosnia and Herzegovina forces in defensive tactics, and improve their capability to deter hostile forces and defend their territory if deterrence fails.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Enclosure: Transmittal No. DTC 30–00.

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520.

June 21, 2000.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense services in support of six commercial communications satellite launches aboard Delta Class Expendable Launch Vehicles with France.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Enclosure: Transmittal No. DTC 31–00.

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520.

June 6, 2000.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of data to Australia to support prediction and avoidance collision systems for the Iridium Satellite Program.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Enclosure: Transmittal No. DTC 033–00.

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520.

June 21, 2000.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data and defense services for the Avionics Upgrade of the F–111C and RF–111C Aircraft in Australia.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Enclosure: Transmittal No. DTC 34–00.

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520.

June 21, 2000.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the transfer of technical data and defense services for the manufacture and production of F/A–18 E/F Nose Landing Gear Systems in Canada.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Enclosure: Transmittal No. DTC 35–00.

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520.

June 9, 2000.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36 (c) & (d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for defense articles and defense services in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the amendment of a manufacturing license agreement with Japan for the coproduction of the AN/AAS–36 Forward Looking Infrared (FLIR) Detecting Sets.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Enclosure: Transmittal No. DTC 38–00.
Barbara Larkin,
Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520.
June 9, 2000.
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.
Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data and assistance to support the co-development by Japan and the U.S. of the SM–3 Block II Missile for the Navy Theater Wide (NTW) Theater Ballistic Missile Defense (TBMD).

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Enclosure: Transmittal No. DTC 039–00.
Barbara Larkin,
Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520.
June 9, 2000.
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.
Dear Mr. Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed Manufacturing License Agreement with Republic of Korea.

The transaction described in the attached certification involves the transfer of technical data and assistance in the manufacture of the Korean Commander's Panoramic Sight for the Korean Army's K1 Main Battle Tank.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Enclosure: Transmittal No. DTC 040–00.
Barbara Larkin,
Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520.
June 9, 2000.
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.
Dear Mr. Speaker: Pursuant to Section 36(c)&(d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of technical data and/or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction described in the attached certification involves the export to the Republic of Korea of technical data and assistance in the manufacture of Gunners Primary Tank Thermal Sight for end use by the ROK Government.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Enclosure: Transmittal No. DTC 043–00.
Barbara Larkin,
Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520.
June 21, 2000.
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.
Dear Mr. Speaker: Pursuant to Section 36(c)&(d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles and defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the export to Germany of technical data and assistance in the manufacture of Infrared Target Acquisition and Tracking Equipment for end use by the governments of Germany, Norway, Belgium, Denmark, France, Greece, Italy, The Netherlands, and Sweden.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Enclosure: Transmittal No. DTC 044–00.
Barbara Larkin,
Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520.
June 6, 2000.
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.
Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction involved in the attached certification involves the export of an A2100 commercial communications satellite to Baikonur Cosmodrone in Kazakhstan for launch on a Proton launch vehicle.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Enclosure: Transmittal No. DTC 045–00.
Barbara Larkin,
Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520.
June 6, 2000.
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.
Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of communication payloads to Germany for integration on commercial satellites and subsequent launch from Kazakhstan and/or Russia. The satellites will comprise a low-Earth orbit, mobile data communications system to provide commercial, non-voice, wireless communication services.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Enclosure: Transmittal No. DTC 046–00.
Barbara Larkin,
Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520.
June 19, 2000.
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.
Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a

proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction described in the attached certification involves the export of an INTELSAT IX commercial communications satellite to French Guiana for launch on an Ariane launch vehicle. Upon orbit, it will be operated by the INTELSAT telecommunications organization located in Washington, D.C.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Enclosure: Transmittal No. DTC 047–00.

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520.

June 9, 2000.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of one commercial communications satellite (PAS–10) to Baikonour Cosmodrone in Kazakhstan for launch on a Proton launch vehicle. Upon orbit, it will be operated by PanAmSat in Greenwich, Connecticut.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Enclosure: Transmittal No. DTC 34–00.

Enclosure: Transmittal No. DTC 049–00.

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520.

June 9, 2000.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed Manufacturing License Agreement with Canada.

The transaction described in the attached certification involves the manufacture of optical assemblies for the U. S. Army Advanced Threat Infrared Countermeasures (ATIRCM) program.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Enclosure: Transmittal No. DTC 050–00.

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520.

June 9, 2000.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed Manufacturing License Agreement with Canada.

The transaction described in the attached certification involves the manufacture of inertial navigation system components for use on Canadian CF–18 fighter and CP–140 maritime patrol aircraft.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Enclosure: Transmittal No. DTC 051–00.

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520.

June 21, 2000.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, defense services, and defense articles to support the development and deployment of the Optus C1 communications satellite for end use by Australia after launch from French Guiana.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Enclosure: Transmittal No. DTC 053–00.

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520.

June 15, 2000.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed Technical Assistance Agreement with Canada.

The transaction described in the attached certification involves the export of requirements for the design and manufacture of helicopter hangar doors for the U. S. Navy LPD–17 program.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Enclosure: Transmittal No. DTC 58–00.

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520.

June 21, 2000.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, defense services, and defense articles for the Armed Forces Combat Training Center for end-use by the Egyptian Army.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the

applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Enclosure: Transmittal No. DTC 062–00.

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

United States Department of State,

Washington, D.C. 20520.

June 21, 2000.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed manufacturing license agreement.

The transaction contained in the attached certification involves the export to France, of defense services for the design, development, production and support of the SPW 2000 Liquid Hydrogen/Liquid Oxygen Upperstage Rocket Engine.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Enclosure: Transmittal No. DTC 63–00.

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

[FR Doc. 00–17904 Filed 7–13–00; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket OST–00–6833]

Fitness Determination of Northwest Seaplanes, Inc.

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of order to show cause (Order 2000–7–10).

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding that Northwest Seaplanes, Inc., is fit, willing, and able, to conduct scheduled passenger operations as a commuter air carrier.

DATES: Persons wishing to file objections should do so no later than July 25, 2000.

ADDRESSES: Objections and answers to objections should be filed in the Docket OST–00–6833 and addressed to the Department of Transportation Dockets, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Lusby Cooperstein, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2337.

Dated: July 10, 2000.

A. Bradley Mims,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 00–17866 Filed 7–13–00; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee—New Task

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of a new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: Notice is given of a new task assigned to and accepted by the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of ARAC.

FOR FURTHER INFORMATION CONTACT: Anthony F. Fazio, Director, Office of Rulemaking, ARM–1, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–9677 or fax (202) 267–5075.

SUPPLEMENTARY INFORMATION:

Background

The FAA has established an Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Regulation and Certification, on the full range of the FAA's rulemaking activities with respect to aviation-related issues. This includes obtaining advice and recommendations on the FAA's commitment to harmonize its Federal Aviation Regulations and practices with Europe and Canada.

The Task

This notice is to inform the public that the FAA has asked ARAC to provide advice and recommendation on the following harmonization task:

The ARAC Executive Committee will establish a Fuel Tank Inerting Harmonization Working Group. The Fuel Tank Inerting Harmonization Working Group will prepare a report to the FAA that provides recommended regulatory text for new rulemaking and the data needed for the FAA to evaluate the options for implementing new regulations that would require eliminating or significantly reducing the development of flammable vapors in fuel tanks on in-service, new production, and new type design transport category airplanes. The level of reduction in flammable vapors that would be proposed in this FAA rulemaking would be based on achieving the lowest flammability level that could be provided by a design that would meet FAA regulatory evaluation requirements. This effort is an extension of the previous work performed by the Fuel Tank Harmonization Working Group.

The report should contain a detailed discussion of the technical issues associated with the prevention of, or reduction in, the exposure of fuel tanks to a flammable environment through the use of the following inerting design methods, and any other inerting methods determined by the Working Group, or its individual members, to merit consideration.

Ground-Based Inerting: The system shall inert fuel tanks that are located near significant heat sources or do not cool at a rate equivalent to an unheated wing tank using ground based nitrogen gas supply equipment. The affected fuel tanks shall be inerted once the airplane reaches the gate and while the airplane is on the ground between flights.

On-Board Ground-Inerting: The system shall inert fuel tanks that are located near significant heat sources or are not cooled at a rate equivalent to an unheated wing tank using on-board nitrogen gas generating equipment. The affected fuel tanks shall be inerted while the airplane is on the ground between flights.

On-Board Inert Gas Generating System (OBIGGS): The system shall inert all fuel tanks with an on-board nitrogen gas generating system such that the tanks remain inert during normal ground and typical flight operations. Non-normal operations are not to be included in the OBIGGS mission requirements. For example, the tanks should remain inert during normal takeoff, climb, cruise, descent, landing, and ground operations (except for ground maintenance operations when the fuel tank must be purged for maintenance access); however, the fuel tanks do not need to remain inert during non-normal operations such as during an emergency descent.

For the purposes of this task, an ''unheated wing tank'' is a conventional aluminum structure, integral tank of a subsonic transport wing, with minimum heat input from aircraft systems or other fuel tanks that are heated. This is the same definition provided in draft Advisory Circular 25.981–2X that was made available for comment by the notice published in the **Federal Register** on February 2, 2000.

The report shall provide detailed discussion of technical considerations (both pro and con), as well as comparisons between each of the above design methods for incorporation into the following portion of the large transport airplane fleet: (a) In-service airplanes, (b) new production airplanes, and (c) new airplane designs. Because the working group may consist of members having differing views regarding the technical issues associated with inerting fuel tanks, the report should include discussion of such views and any supporting information provided by the membership.

In developing recommendations to the FAA, the report should also include consideration of the following:

1. The threat of fuel tank explosions used in the analysis should include explosions due to internal and external tank ignition sources for the major fuel system designs making up the transport fleet, as defined in the July 1998 ARAC Fuel Tank Harmonization Working Group report. The service history in the analysis should be further developed to include incidents involving post crash fuel tank fires. The FAA awarded a research contract to develop a database that may be useful in this endeavor. This data should be evaluated when determining what benefits may be derived from implementing ground based or on-board inerting systems. The report is titled, *A Benefit Analysis for Nitrogen Inerting of Aircraft Fuel Tanks Against Ground Fire Explosion,* Report Number DOT/FAA/AR–99/73, dated December 1999.

2. The evaluation of ground-based inerting should consider:

a. The benefits and risks of limiting inerting of fuel tanks to only those times when conditions, such as lower fuel quantities or higher temperature days, could create flammable vapors in the fuel tank. This concept would be analogous to deicing of aircraft when icing conditions exist.

b. Various means of supplying nitrogen (e.g., liquid, gaseous separation technology; centralized plant and/or storage with pipeline distribution system to each gate, individual trucks to supply each airplane after refueling, individual separation systems at each gate, etc.), and which means would be most effective at supplying the quantity of nitrogen needed at various airports within the United States and, separately, other areas of the world.

c. Methods of introducing the nitrogen gas into the affected fuel tanks that should be considered include displacing the oxygen in fuel tanks with nitrogen gas, saturating the fuel with nitrogen in ground storage facilities (for example, in the trucks or central storage tanks), injecting nitrogen directly into the fuel as the fuel is loaded onto the airplane, and combinations of methods.

d. The benefits and risks of limiting inerting of fuel tanks to only those fuel tanks located near significant heat sources, such as center wing tanks located above air conditioning packs.

3. The evaluation of on-board ground-inerting should consider the benefits and risks of limiting inerting of fuel tanks to only those fuel tanks located near significant heat sources, such as center wing tanks located above air conditioning packs.

4. The evaluation of the cost of an OBIGGS for application to new type designs should assume that the design can be optimized in the initial airplane design phase to minimize the initial and recurring costs of a system.

5. Evaluations of all systems should include consideration of methods to minimize the cost of the system. For example, reliable designs with little or no redundancy should be considered, together with recommendations for dispatch relief authorization using the master minimum equipment list (MMEL) in the event of a system failure or malfunction that prevents inerting one or more affected fuel tanks.

6. Information regarding the secondary effects of utilizing these systems (e.g., increased extracted engine power, engine bleed air supply, maintenance impact, airplane operational performance detriments, dispatch reliability, etc.) must be analyzed and provided in the report.

7. In the event that the working group does not recommend implementing any of the approaches described in this tasking statement, the team must identify all technical limitations for that system and provide an estimate of the type of improvement in the concept (i.e., manufacturing, installation, operation and maintenance cost reduction, etc.; and/or additional safety benefit required) that would be required to make it practical in the future.

8. In addition, guidance is sought that will describe analysis and/or testing that should be conducted for certification of all systems recommended.

Unless the working group produces data that demonstrates otherwise, for the purposes of this study a fuel tank is considered inert when the oxygen content of the ullage (vapor space) is less than ten per cent by volume.

The ground-based inerting systems shall provide sufficient nitrogen to inert the affected fuel tanks while the airplanes are on the ground after landing and before taking off for the following flight. In addition to the ground equipment requirements and airframe modifications required for the nitrogen distribution system, any airframe modifications required to keep the fuel tank inert during ground operations, takeoff, climb, and cruise, until the fuel tank temperatures fall below the lower flammability range, should be defined.

The on-board ground inerting systems shall be capable of inerting the affected fuel tanks while the airplane is on the ground after touchdown and before taking off for the following flight. As for the ground-based inerting system, in addition to the inert gas supply equipment and distribution system, any airframe modifications required to keep the fuel tank inert during ground operations, takeoff, climb, and cruise, until the time the fuel tank temperatures fall below the lower flammability range, should be defined. Consideration should be given to operating the on-board inert gas generating system during some phases of flight as an option to installing equipment that might otherwise be necessary (e.g., vent system valves) to keep the fuel tank inert during those phases of flight, and as a cost tradeoff that could result in reduced equipment size requirements.

The data in the report will be used by the FAA in evaluating if a practical means of inerting fuel tanks can be found for the in-service fleet, new production airplanes, and new airplane designs. The FAA may propose regulations to further require reducing the level of flammability in fuel tanks if studies, including this ARAC task and independent FAA research and development programs, indicate that a means to significantly reduce or eliminate the flammable environment in fuel tanks, beyond that already proposed in Notice 99–18, is practical. Such a proposal would be consistent with the recommendations made by the ARAC Fuel Tank Harmonization Working Group in their July 1998 report.

The report shall be submitted to the FAA within 12 months after the date of this notice.

ARAC Acceptance of Task

ARAC has accepted this task and has chosen to assign it to a new Fuel Tank Inerting Harmonization Working Group. The new working group will serve as staff to the ARAC Executive Committee to assist ARAC in the analysis of the assigned task. Working group recommendations must be reviewed and approved by ARAC. If ARAC accepts the working group's recommendations, it will forward them to the FAA as ARAC recommendations.

The Fuel Tank Inerting Harmonization Working Group should coordinate with other harmonization working groups, organizations, and specialists as appropriate. The working group will identify to ARAC the need for additional new working groups when existing groups do not have the appropriate expertise to address certain tasks.

Working Group Activity

The Fuel Tank Inerting Harmonization Working Group is expected to comply with the procedures adopted by ARAC. As part of the procedures, the working group is expected to:

1. Recommend a work plan for completion of the task, including the rationale supporting such a plan, for consideration at the ARAC Executive Committee meeting held following the establishment and selection of the working group.
2. Give a detailed conceptual presentation of the proposed recommendations, prior to proceeding with the work stated in item 3 below.
3. Draft a report and/or any other collateral documents the working group determines to be appropriate.
4. Provide a status report at each meeting of the ARAC Executive Committee.

Participation in the Working Group

The Fuel Tank Inerting Harmonization Working Group will be composed of experts having an interest in the assigned task. Participants of the working group should be prepared to devote a significant portion of their time to the ARAC task for a 12-month period. A working group member need not be a representative or a member of the committee.

An individual who has expertise in the subject matter and wishes to become a member of the working group should contact: Regina L. Jones, ARM–23, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–9822, fax (202) 267–5075, or e-mail Regina.Jones@faa.gov, expressing that desire, describing his or her interest in the tasks, and stating the expertise he or she would bring to the working group. All requests to participate must be received no later than August 11, 2000. The requests will be reviewed by the ARAC chair, the executive director, and the working group chair, and the individuals will be advised whether or not requests can be accommodated.

The Secretary of Transportation has determined that the formation and use of ARAC are necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Meetings of the ARAC Executive Committee will be open to the public. Meetings of the Fuel Tank Inerting Harmonization Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on July 10, 2000.

Anthony F. Fazio,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 00–17860 Filed 7–11–00; 2:12 pm]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No.: 30109]

Aviation Noise Abatement Policy 2000

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed policy document, Request for comments.

SUMMARY: In 1976, the Department of Transportation published its Aviation Noise Abatement Policy, which provided a course of action for reducing aviation noise impact. The principles contained in that document and subsequent legislative and regulatory action have resulted in a dramatic reduction in the number of Americans adversely exposed to aviation noise.

The changes in transportation use, public expectations, and technology warrant a review of the policy, which the Department is now undertaking. In particular, the Department is considering issuing a revised policy statement, which may extend to all forms of transportation noise, in order to provide direction to its efforts over the next 25 years.

Although the 1976 policy document was signed by the Secretary of Transportation and the Administrator of the Federal Aviation Administration, the future document will be divided into two parts: first, the Secretary will publish a policy statement broadly addressing noise concerns. Based on this policy statement, the FAA Administrator will issue aviation noise policy guidelines.

The issuance of this draft document on aviation noise abatement represents a first step in a process to develop an aviation noise policy. It is intended to stimulate ideas that will result in comments to the public docket. These comments will be evaluated, along with other inputs, in the development of a comprehensive policy statement and guidance document.

This proposed FAA policy document reaffirms and incorporates the major tenets of the 1976 Aviation Noise Abatement Policy and includes subsequent developments. It summarizes current conditions affecting aviation and sets forth goals, policies, and strategies for addressing them. This policy document also outlines the foundations and methodologies for assessing aviation noise, promoting research and development in aircraft noise reduction technology and noise abatement procedures, and promoting compatible usage of noise impacted lands. Finally, it presents a selective listing of reference materials that form the basis for the Federal Government's aviation noise policies.

DATES: Comments must be received on or before August 28, 2000.

ADDRESSES: Comments should be mailed in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. [30109], 800 Independence Avenue, SW., Washington, DC 20591. Comments may be examined in the Rules Docket in Room 915G on weekdays between 8:30 a.m. and 5:00 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Thomas L. Connor, Noise Division, AEE–100, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591; telephone, (202) 267–8933; facsimile, (202) 267–5594.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate by submitting such written data, views, or arguments as they may desire. Comments should identify the regulatory docket or notice number and should be submitted in triplicate to the

Rules Docket address specified above. All comments received on or before the specified closing date for comments will be considered by the Administrator before taking action on this proposed policy. The proposals contained in this notice may be changed in light of comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this document will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a preaddressed, stamped postcard on which the following statement is made: ''Comments to Docket No. xxxxx.'' The postcard will be date stamped and mailed to the commenter.

Issued in Washington, DC on July 7, 2000.

James D. Erickson,

Director of Environment and Energy.

FAA Aviation Noise Abatement Policy 2000

Section 1: Introduction

The first comprehensive aviation noise abatement policy was issued by the Secretary of Transportation and the Administrator of the Federal Aviation Administration (FAA) on November 18, 1976. At that time, six to seven million Americans residing near airports were exposed to significant levels of aircraft noise—defined by FAA as those areas in which noise levels are Day-Night Average Sound Level (DNL) 65 dB or higher. Aircraft noise had become a growing problem in the 1960's with the introduction of jet aircraft and the rapidly increasing number of commercial aircraft operations in the United States. Aircraft noise, and its adverse impacts on residential and other noise sensitive land uses, was recognized as a major constraint on the further development of the aviation system, threatening to limit the further construction and expansion of airports and ground access to them. The 1976 Policy outlined a national effort under Federal leadership to reduce aircraft noise, with aircraft noise source reduction being a key component of the policy.

The 1976 Policy has been highly successful. It has guided actions over a period of almost 25 years that have substantially reduced aviation noise and its impacts. By the year 2000, the FAA estimates that there will be about 500,000 Americans exposed to significant levels of aircraft noise—down substantially from the six to seven million people exposed in 1976. Even as noise has been so dramatically reduced, the national aviation system, including the airport component of that system where aircraft noise is the most severe, has grown significantly in this last quarter of the century.

As we stand at the threshold of the 21st century, the achievements realized from the 1976 Policy provide a solid foundation for the future. The successive phaseouts of Stage 1 and Stage 2 aircraft are responsible for the larger component of the considerable success in reducing noise levels around the airports. With all civil turbojet aircraft heavier than 75,000 pounds now Stage 3 compliant, the most severe aircraft noise will be limited to within or very near the airport boundaries. The long-term outlook beyond 2000 is for a generally stable situation with respect to noise contours around airports, followed by further reduction as the result of advances in noise abatement technology and the replacement of hushkitted Stage 3 airplanes by built—as Stage 3 airplanes. One of the cornerstones of the FAA's year 2000 aviation noise abatement policy is the continuation of aircraft source-noise reduction. The FAA is aggressively pursuing a variety of approaches, including source noise abatement technologies, with the goal of substantially reducing community noise exposure. In late 1999, the Secretary of Transportation supported this effort by announcing as one of his flagship initiatives the need for more stringent aircraft noise standards. The initiative states ''Promote the development of international certification noise standards for turbojet airplanes that will be more stringent than the current Stage 3 standards; and, develop models to assess new noise abatement technologies that will encourage introduction of quieter planes.''

The 21st century will offer opportunities for additional noise reduction not only from its source, through improved aircraft design, but also from other technological advances. New tools such as Global Positioning System (GPS) technology, which will be used for greater safety and efficiency of air transportation, will also be used to mitigate noise by keeping aircraft tightly within their designated noise corridors. Noise abatement flight procedures are constantly evolving with advances in technology, improved aircraft design, and more refined airspace management procedures. State-of-the-art navigational technology will enable us to refine the ability to define, and the pilot's ability to fly, flight tracks with increased precision in the vicinity of noise sensitive areas.

The continued development of aviation growth is a vital element of U.S. transportation, and the aviation industry is, in turn, a powerful generator of economic activity and jobs within communities. Notwithstanding anticipated technological improvements, aircraft noise will remain and will be a pivotal quality-of-life issue. While the number of Americans exposed to significant levels of aviation noise has been dramatically reduced since the 1976 Policy was issued, a large number of people still remain so impacted. Furthermore, even as Americans stimulate aviation growth by their increased air travel, they also express an ever-increasing desire for a quieter neighborhood environment. As significant noise around the Nation's airports is dramatically reduced, people will direct more attention to the lower but still annoying noise levels. Unless aircraft noise is addressed with purpose and vigor, it will likely become a potential impediment to the robust airport and aviation system growth and operation that will be needed as public demand for access to aviation services continues to grow.

The FAA continues to place great emphasis on reducing the number of persons residing in areas of significant noise exposure around airports. Each airport with areas of significant noise exposure outside its boundary is encouraged to evaluate its current and projected noise levels, and to develop a program that both reduces the number of persons significantly impacted by noise, and prevents new noncompatible development from occurring. This may be accomplished through either the Federal voluntary airport noise compatibility planning process, with FAA technical and financial assistance, or through a locally-determined process. Community involvement is a critical part of airport noise compatibility planning. It serves to provide input on noise mitigation measures that are the most desirable to airport neighbors, while informing the public of the technical and reasonable limits to noise reduction.

Noise relief continues to be a shared responsibility, as described in the 1976 Policy. The FAA and the aviation industry have the primary responsibility to address aircraft source noise, technological advances, and air traffic procedures. Airport proprietors, State and local governments, and citizens have the primary responsibility to address airport noise compatibility planning and local land use planning and zone. The airport operator must be

involved in local land use planning and control efforts on a continuing basis.

The 1976 Policy encouraged airport proprietors and others to consult with FAA about their plans and proposals and to suggest innovative ways to meet the noise problem in their communities. Airport proprietors were encouraged to consult and review proposals to restrict use with airport users and the FAA before implementation. FAA advised airports so that ''uncoordinated and unilateral restrictions at various individual airports do not work separately or in combination to create an undue burden on foreign or interstate commerce, unjustly discriminate, or conflict with FAA's statutory authority.'' This policy foreshadowed the national noise policy announced by the Airport Noise and Capacity Act of 1990 (ANCA). Citing similar concerns, the Act, among other things, established a national program for review of airport Noise and access restriction proposals.

At the time of the 1976 Policy, before the phaseout of Stage 1, there was limited potential for effective control of the sizeable land area subjected to significant noise levels. Land use solutions were to a large extent beyond the reach of local affected communities until effective aircraft source noise reduction was implemented. However, with the year 2000 phaseout of Stage 2, compatible land use has become a viable, effective, and necessary solution. With the vast reduction in land area that is significantly impacted by aviation noise, the major actions needed at the beginning of the 2000's decade to achieve and maintain noise compatibility around airports are land use and developmental actions outside the airport boundary appropriate to the airport's remaining and future noise.

The Federal Government generally does not control land use—zoning authority is reserved to the States and their subdivisions. The FAA has established a compatible land use initiative program to encourage and guide State and local governments having land use control authority, to exercise that authority in a way that serves both the airport and the community. Jurisdictions are particularly urged to refrain from permitting noise sensitive land uses to develop ever closer to airports as the Stage 2 phaseout shrinks their noise contours. In some communities, it may be possible to establish a broad noise buffer beyond areas of significant noise exposure, between the airport and the community, where noise sensitive land uses would either be prohibited or remediated in some way. Noise buffers are subject to determinations of local feasibility and decisions. The FAA will respect and support such locally established buffers.

Beyond the airports' environs, with responsible airspace management and safety being the first consideration, the FAA's goal is to design prospective air traffic routes and procedures to minimize noise consistent with local consensus. The FAA will carefully review the noise impact of prospective changes to air traffic routes and procedures on communities and, in response to requests, will consider alternatives to minimize noise sensitive areas as described above. Locations with unique noise sensitivities in national parks, national wildlife refuges, and other Federally managed areas merit and will receive special consideration as FAA manages the navigable airspace and evaluates aviation actions that raise noise concerns for these areas.

The 1976 Policy initiated the first pilot program under which the Federal government funded up to 25 airport noise control plans a year. That modest beginning was expanded in the 1980's and 1990's by legislation and policies. By the end of the century, the FAA had issued Airport Improvement Program (AIP) grants for over $2.6 billion from an earmarked noise set-aside. Since the statutory establishment of the Passenger Facility Charge (PFC) program in 1990, the FAA has approved PFC collection at commercial service airports exceeding $1.6 billion for noise mitigation projects. Additional AIP funding is provided to mitigate the noise impact of airport expansion projects. In addition to these Federal administered funds, airports finance substantial noise mitigation with locally generated funds. U.S. Department of Transportation (DOT) policy on airport rates and charges identifies aircraft noise abatement and mitigation as an environmental cost recoverable through fees charged to air carriers for the use of airport facilities and services. All funding sources must be used responsibly to ensure continuing strong financial support for noise mitigation, including exploration of innovative financing and creative public/private partnerships. In summary, the FAA's year 2000 aviation noise abatement goals are the following:

- Continue to reduce aircraft noise at its source.
- Use new technologies to mitigate noise impacts.
- Bring existing land uses into compatibility with levels of significant noise exposure around airports, and prevent the development of new noncompatible uses in these areas.
- Design prospective air traffic routes and procedures to minimize aviation noise impacts in areas beyond legal jurisdiction of airport proprietors, consistent with local consensus and safe and efficient use of the navigable airspace.
- Provide special consideration to locations in national parks and other Federally managed areas having unique noise sensitivities.
- Ensure strong financial support for noise compatibility planning and for mitigation projects.

This document is comprised of five sections plus an appendix of references, with this introduction being Section 1. Section 2 is the heart of the policy, and outlines FAA's noise goals and policies, with a brief discussion of each policy element. Section 3 describes the legal and regulatory framework governing aviation noise and the shared responsibilities of all those who must act in complementary ways to mitigate the noise problem—government, aviation, and private citizens. Section 4 presents the FAA's' methods and standards for measuring and assessing noise impacts, which are derived from scientific research and a series of Federal interagency committee reviews. Section 5 provides greater detail on aircraft source noise reduction, history, research, and future prospects.

As stated previously, the 1976 Policy has served the nation well. This comprehensive update to that Policy seeks to build upon ANCA and meet the challenges of the first part of the 21st century. It is a task that must be shared by government at all levels, by the aviation industry, and by citizens. Solutions depend on technological advances, solid airport noise compatibility programs, strong land use commitments, noise-responsible airspace management, and adequate financial resources.

Section 2: Goals and Policies

This section is the heart of the Aviation Noise Abatement Policy. It outlines FAA's noise goals and policies, and provides a brief discussion of each element. This policy fully incorporates and amplifies, clarifies, and supplements the 1976 Policy, based upon our experience and changing needs.

2.1 Aviation Noise Goals

Since it was issued, the 1976 Policy has successfully guided actions on civil aviation noise in the United States. To keep pace with changing technology and the projected growth in aircraft operations, the FAA must set realistic and achievable aviation noise goals, and

develop new policies to support the safety and efficiency of the National Airspace System (NAS) while seeking to minimize the adverse impacts of aviation noise on people and the environment. Building on past successes in the area of aviation noise, the FAA's goals are to:

Goal 1: Continue to reduce aircraft noise at the source

The successive phaseouts of noisier Stage 1 and Stage 2 aircraft have been largely responsible for the considerable reduction in the number of persons exposed to significant levels of aircraft noise in the United States. Ongoing research and development programs by FAA, NASA, and industry to develop quieter aircraft, combined with regulatory action by FAA will result in achievable future reductions in the number of persons exposed to significant levels of aircraft noise.

Goal 2: Use new technologies to mitigate noise impacts

New technologies bring with them the challenge to integrate noise planning and mitigation into their deployment. GPS, automated flight guidance, free flight, and other innovations will all be examined for their potential to mitigate noise impacts while improving safety and efficiency.

Goal 3: Encourage development of compatible land uses in areas experiencing significant noise exposure around airports, to the extent feasible, and prevent the development of new noncompatible uses in these areas

In the year 2000, there will still be an estimated 500,000 Americans residing in areas of significant noise exposure. A top priority for 2000 and beyond will be to achieve compatibility in these areas. It is important that there be a corresponding emphasis on protecting these gains by preventing new noise sensitive land uses from becoming established in these areas, through stronger State and local land use commitments. The FAA's airport noise compatibility program and compatible land use—have and will continue to support this goal.

Goal 4: Design air traffic routes and procedures to minimize aviation noise impacts in areas beyond the legal jurisdiction of the airport proprietor, consistent with local consensus and safe and efficient use of the navigable airspace

The trend in recent decades has been a growing expectation by Americans of continuing environmental improvement, including a quieter noise environment. In the airport environs, State and local jurisdictions are strongly encouraged to prevent noise sensitive land uses from developing ever more closely to airports as noise contours shrink with the transition to an all Stage 3 fleet. Creating an extra margin of noise buffer outside significant noise exposure areas is possible for some communities, and locally-established buffers will be supported and respected by the FAA—where a community has adopted and implemented noise standards which are more stringent than FAA's noise compatibility standards, FAA will respect those local standards in its actions which could cause growth of the airport's noise contours, through appropriate mitigation actions.

Goal 5: Provide specific consideration to locations in national parks and other Federally managed areas having unique noise sensitivities

The American heritage is enriched with national parks, national wildlife refuges, and other Federally managed areas containing locations with unique noise sensitivities. These locations merit specific noise considerations as the FAA manages the navigable airspace and evaluates other aviation actions.

Goal 6: Ensure strong financial support for noise compatibility planning and for mitigation projects

The 1976 Policy opened the door to Federal funding of local noise abatement planning and programs. That modest beginning has since grown into a sizeable noise set aside in Airport Improvement Program funding, and was joined in the 1990s by the use of Passenger Facility Charges and more substantial contributions from airport revenues to fund noise mitigation. Future reliable sources of funding are vital, including the exploration of innovative finance programs and public/private partnerships to accelerate adequate financing of noise mitigation projects.

2.2 Aviation Noise Policies

The seven elements comprising FAA's policies to achieve the aviation noise goals outlined above are as follows:

1. The FAA will aggressively pursue the development and prescription of a new generation of more stringent noise standards and regulations in order to protect public health and welfare.
2. The FAA will examine new operational technologies for their potential to mitigate noise impacts while maximizing aviation system efficiencies.
3. The FAA will carefully review the noise impacts of prospective changes to air traffic routes and procedures and, in response to requests, will consider alternative actions to minimize noise impacts for residents of communities surrounding airports and for noise sensitive areas that are outside the airport proprietor's legal area of interest.
4. The FAA will encourage airport proprietors, in consultation with airport users, local planning officials, and the interested public, to implement airport noise compatibility programs that will reduce existing noncompatible land uses around airports, and prevent new noncompatible uses.
5. As requested, the FAA will assist State and local governments and planning agencies in establishing policies and practices to minimize noise sensitive land uses around airports, including locally determined buffers outside areas of significant noise exposure.
6. The FAA will take into account the specific circumstances of locations in national parks and other Federally managed areas with unique noise sensitivities in managing the navigable airspace and evaluating proposed FAA actions that raise aviation noise concerns.
7. The FAA will continue strong support for noise compatibility planning and noise mitigation projects with financial programs under its jurisdiction, with airport rates and charges policy, and by encouraging innovative funding mechanisms including creative public/private partnerships.

2.3 Discussion of Noise Policy Elements

The above seven elements that together comprise the FAA's year 2000 aviation noise abatement policy are briefly discussed by number in the remainder of this section.

Policy Element 1: Aircraft Source Noise Reduction

The FAA will aggressively pursue the development and prescription of a new generation of more stringent noise standards and regulations in order to protect public health and welfare.

Discussion: Although the reductions in noise impacted populations and the reductions in new noncompatible uses resulting from the airport noise compatibility program have been significant, over the last quarter century the reduction of aircraft noise at its source has provided the greater amount of noise relief to the public. The FAA has a long-standing commitment to achieve increasingly effective source noise reduction and, in accordance with the Secretary of Transportation's

flagship initiative, is aggressively pursuing the development of even more stringent noise standards. In 1968, the FAA first began developing noise certification standards, initially for measuring and later for limiting aircraft source noise. These certification standards, which paralleled technological improvements in airplane engine design, were codified as 14 CFR Part 36 (Part 36). Effective December 1, 1969, Part 36 set limits on noise emissions of large turbojet aircraft of new design by establishing Stage 2 certification standards. The Noise Control Act of 1972 (49 U.S.C. 44709, 44715) gave the FAA broader authority to set limits for aircraft source noise. Using this authority, the FAA established more stringent Stage 3 standards in Part 36, set limits on source noise for all newly produced airplanes, and required in 14 CFR Part 91 (Part 91) the phaseout of Stage 1 turbojet aircraft over 75,000 pounds by January 1, 1985.

Stage 3 Transition

The Airport Noise and Capacity Act of 1990 (ANCA) required the phased elimination of Stage 2 turbojet airplanes weighing more than 75,000 pounds operating in the contiguous United States. After December 31, 1999, civil turbojet airplanes over 75,000 pounds must be Stage 3 compliant to operate within the contiguous 48 states. To bring about the earliest feasible reduction of noise levels, interim compliance deadlines of 1994, 1996, and 1998 were established in the general operating rules (Part 91, Subpart 1).

The Stage 2 phaseout regulations required all operators of affected airplanes to report compliance progress to the FAA on an annual basis. The regulations also provided separate criteria for interim and final compliance waivers. As prescribed in the ANCA, a final compliance waiver could only be granted to a domestic air carrier that had achieved a fleet mix of at least 85 percent Stage 3 airplanes by July 1, 1999—no waiver may extend beyond December 31, 2003. The benefits of the Stage 3 transition will continue to accrue after completion of the Statutory compliance process. Newly manufactured Stage 3 aircraft are quieter than their predecessors, and significantly quieter than older hushkitted Stage 3 airplanes. Even with substantial growth in operations, noise contours around many U.S. airports will continue to shrink as hushkitted and older Stage 3 airplanes reach the end of their service lives and are replaced by newer airplanes.

Source Noise Research

In early 1992, the FAA and NASA began co-sponsorship of a multiyear program focused on achieving significant advances in noise reduction technology. In October 1992, Congress reinforced this effort by mandating that the FAA and NASA jointly conduct an aircraft noise reduction research program with the goal of developing technologies for subsonic jet aircraft to operate at reduced noise levels. The goal of this program is to identify noise reduction technology to reduce the community noise impacts of future subsonic airplanes by 10 dB (relative to 1992 technology) by the year 2001. Based on the progress in this program and in fulfillment of its legislative mandate, the FAA plans to amend aircraft noise standards and regulations during the first decade of the century to take advantage of feasible noise reduction technologies.

In addition, the FAA is supporting NASA's proposal to extend the research program in order to reach the enabling technology goals in its own ''Aeronautics & Space Transportation Technology: Three Pillars for Success'' program. Working closely with industry, government, and academia, NASA has set bold goals to sustain U.S. leadership in civil aeronautics and space. The goals are grouped into Three Pillars: ''Global Civil Aviation,'' Revolutionary Technology Leaps, and ''Access to Space.'' Included among the ten enabling technology goals of the program is ''Environmental Compatibility.'' Its noise goal is to reduce the perceived noise levels of future aircraft by a factor of two by 2007 and by a factor of four by 2022, compared to 1995 technology. This effort could result in even greater aircraft source noise reductions.

The FAA is also a major participant on an ICAO Committee on Aviation Environmental Protection (CAEP) technical working group that is formulating proposals for an increase in stringency of the international noise standard for subsonic jet and large propeller-driven airplanes. The FAA plans to set new Stage 4 standards by early in the next century. New standards would result in a future timed transition to a generation of airplanes quieter than Stage 3, similar to source-noise reduction transitions that have been implemented since the 1976 Policy.

Future Supersonic Transport (SST) Airplanes

With respect to future SST airplanes, specific noise standards have not yet been established. The FAA anticipates that any future standards for SST airplanes would be proposed so as to produce no greater noise impact on a community than a subsonic airplane certified to Stage 3 noise limits. Accordingly, the Stage 3 noise limits prescribed in Part 36 for subsonic airplanes may be used as guidelines for developing any future SST airplanes. This policy is consistent with Chapter 4 of the International Civil Aviation Organization's Annex 16, Volume 1, which states that Chapter 3 (equivalent to Stage 3) noise levels applicable to subsonic airplanes may be used as guidelines for future SST airplanes. Any provisions for noise certification of future SST airplanes will give consideration, to the extent possible, to the unique operational flight characteristics of future SST designs.

Policy Element 2: New Operational Technologies

The FAA will examine new operational technologies for their potential to mitigate noise impacts while maximizing aviation system efficiencies.

Discussion: The National Airspace System (NAS) is the infrastructure within which aviation operates in the United States. The NAS includes airports, automated flight service stations, air traffic control towers, terminal radar control facilities, and en route air traffic control centers. The FAA continually seeks to improve various aspects of the NAS. In 1996, the FAA began to develop a NAS modernization plan to define what the aviation system of the future would look like and how it would be implemented. This plan—termed the NAS architecture—is a collaborative effort between the FAA and the aviation community. Several NAS modernization programs have the potential to influence aviation noise.

GPS Augmentation

It appears that the principal navigation system for the 21st century will be based upon the Global Navigation Satellite System (GNSS). The Global Positioning System (GPS) provides a practical starting point for eventual development of the GNSS, but will not totally satisfy all civil aviation requirements for navigation and landing. For use in civil aviation, augmentations are required to improve GPS accuracy for precision approaches, provide integrity and continuity for all phases of flight, and provide availability necessary to meet radio navigation requirements. These GPS augmentations are being implemented incrementally.

The first augmentation being developed in the United States is the Wide Area Augmentation System (WAAS). The WAAS is a safety-critical navigation system that will provide a quality of positioning information never before available to the aviation community. It is a geographically expansive augmentation to the basic GPS service. The WAAS improves the accuracy, integrity, and availability of the basic GPS signals. When fully implemented, this system will allow GPS to be used as a primary navigation system from departure through Category I precision approach. The wide area of coverage for this system includes the entire United States and portions of Canada and Mexico. WAAS will be deployed in phases. The final operating capability will satisfy enroute through Category I precision approach capability requirements for using GPS/WAAS as the only radio navigation aid.

Another augmentation to the GPS signal being developed in the United States is the Local Area Augmentation System (LAAS). The LAAS is intended to complement the WAAS. Together, the two systems will supply users of the NAS with seamless satellite based navigation for all phases of flight. In practical terms, this means that at locations where the WAAS is unable to meet existing navigation and landing requirements, the LAAS will fulfill those requirements. The LAAS will meet the more stringent Category II/III requirements that exist at selected locations throughout the United States. The LAAS will be implemented in stages, with full completion expected in 2006.

When fully implemented, these WAAS and LAAS enhancements to the GPS will permit greater precision in directing aircraft operations than currently is available. The FAA anticipates that this increased precision will permit the refinement of procedures, particularly airport approaches and departures, to abate aircraft noise and minimize exposure levels in noise sensitive areas.

Automated Flight Guidance

Automated flight guidance capabilities have steadily increased and improved with time. Air carrier crews now routinely use autoflight features that are operational during takeoff and landing. An Auto Flight Guidance System (AFGS) includes features such as an autopilot, autothrottles, displays, and controls that are interconnected in such a manner as to allow the crew to automatically control the aircraft's lateral and vertical flight path and speed. A flight management system (FMS) is sometimes associated with an AFGS. An FMS is an integrated system used by flight crews for flight planning, navigation, performance management, aircraft guidance and flight progress monitoring. Some aircraft now have automated features identified for operations specifically at low altitudes—for noise abatement—which when used, contribute to performance, workload, cost, noise, and safety benefits. Such features are certificated on the aircraft by either type certification or supplemental type certification.

Free Flight

The introduction of technologies such as GPS and Auto Flight Guidance allows the future NAS Architecture to be built on a concept of air traffic management called ''free flight.'' This concept is predicated on greater sharing of information between pilots and air traffic controllers to facilitate air traffic management. It is designed to permit aircraft operators to select their own routes as alternatives to the published preferred instrument flight rule (IFR) routes, thereby removing the constraints currently imposed on these users. By providing increased controller-planning support through decision support tools, pilots will be permitted to select the most direct, cost-effective routes between takeoff and landing. As traffic density increases however, the free flight concept calls for structured flow. The same tools that provide flexibility en route and in low-density traffic areas will also help ensure the most efficient flow within a highly structured airspace such as a terminal area.

Free flight is being implemented incrementally. Many of the tools necessary to achieve free flight are currently available; others are still being developed. Enhanced satellite navigation will significantly enhance free flight capability. Full implementation will occur as procedures are modified and technologies become available and are acquired by users and service providers. The dispersal of aircraft at higher altitudes because of free flight can reduce lower-level noise exposure on the ground. At lower altitudes, such as when approaching and departing airports, it would normally be more desirable to concentrate flights (and noise) over those areas least sensitive to noise rather than dispensing the aircraft. Here, free flight's technology may also have applicability to landing, takeoff, and lower altitude flight tracks, by safely concentrating aircraft into narrowly defined corridors which have been protected from noise sensitive development and helping them to avoid the more noise sensitive land areas.

Policy Element 3: Air Traffic Procedures

The FAA will carefully review the noise impact of prospective changes to air traffic routes and procedures and in designing these changes will consider actions to minimize noise impacts for residents of communities surrounding airports and for noise sensitive areas that are outside the airport proprietor's legal area of interest consistent with safety, efficiency, and local consensus.

Discussion: By law, the FAA has the sole authority to establish flight operational procedures and to manage the air traffic control system and navigable airspace in the United States. The FAA is responsible for evaluating actions under the National Environmental Policy Act (NEPA). The FAA's environmental goal is to make and implement air traffic decisions that minimize the noise and other environmental impacts on residential and other noise sensitive areas, consistent with the highest standards of aviation safety and the need for effective and efficient air traffic management. FAA's Community Involvement Policy ensures that FAA will seek and consider community input before making decisions that affect the public. This policy emphasizes active, early, and continuous communication with affected members of the public throughout the NEPA process.

Airspace Changes

The basic structure of the airspace has not changed appreciably over the last ten years. However, in that decade aircraft, navigation aides, and technology in general have advanced by several generations. Free flight has been established as the key direction for the evolution of the NAS. Airspace is a major component of the free flight concept. These advances create the need to redesign the airspace to meet evolving needs. Changes in airspace configuration, architecture, or structure will have implications for air traffic control, air traffic management, the user community, and the environment.

The FAA's policy is to ensure appropriate consideration of noise impacts in decisions on airspace changes, together with safety, technical, and economic factors. The FAA has developed the Integrated Noise Model (INM), a computerized modeling tool widely used by the civilian aviation community for evaluating aircraft noise impacts in the airport environs. The FAA is developing the Noise Integrated Routing System (NIRS), a computerized

research tool for assessing the environmental impacts of air traffic actions beyond the airport environs, up to 18,000 feet above ground level (AGL). NIRS adapts the noise data and algorithms from the INM for use in an air traffic design system. The program requires integration with air traffic models which contain the routes and events used to assess delay, capacity, and workload. NIRS provides airspace planners with environmental noise screening assessments for airspace design changes encompassing a wide area. NIRS allows an airspace design team to perform noise evaluations concurrently with other modeling requirements. The enables the same routes, procedures and events used in delay/capacity analyses to be used in the related environmental analyses. Predicted noise levels over noise sensitive areas for both existing and alternative scenarios are modeled, and a change of exposure criteria is used to determine if the proposes action is likely to be controversial on environmental grounds. If controversy is anticipated, FAA may use NIRS to identify alternatives or mitigation. Whenever practicable in designing routes and procedures, the FAA seeks to identify and avoid environmentally sensitive areas and to minimize noise effects when such areas cannot reasonably be avoided.

Noise Abatement in the Airport Environs

Most noise impacts related to air traffic procedures are in the airport environs where aircraft operate in the closest proximity to people and homes. FAA requires an environmental assessment for new or revised procedures which would route air traffic over noise sensitive areas at less than 3,000 feet above ground level (AGL).

Where runway use, flight procedure, or air traffic changes are not necessary for operational reasons, but are proposed for noise abatement reasons, the FAA relies on airport proprietors to submit requests for such changes. Airport proprietors are the appropriate initiators of such noise abatement proposals because of the liability they bear for noise impacts in the airport environs. Noise abatement proposals are submitted to the FAA by airport proprietors in a variety of ways, including recommendations in airport noise compatibility programs. The airport proprietor and the FAA both have roles in environmental review and affording opportunities for public participation for proposed air traffic changes in the airport environs.

FAA Advisory Circular (AC) 91.53A, Noise Abatement Departure Profiles (NADP), provides standards for noise abatement departure procedures for subsonic turbojet-powered airplanes with maximum certificated takeoff weights exceeding 75,000 pounds.

The AC provides guidance for selecting the most effective procedures for specific airport environments, while standardizing those choices within a practical number of options in order to increase the margin of safety by superseding a growing number of unique, airport-specific practices. AC 91–53A provides two standard departure procedures, one to benefit noise sensitive communities that are the closest to the airport, and one to benefit more distant noise sensitive communities. It does not mandate the selection of either the AC's close-in or distant NADP. Rather, it allows discretion to select either of the NADPs described in the AC or to use the standard NADP in 14 CFR 25.111(a).

In some cases, local communities seek assurance that certain air traffic procedures will remain in place in perpetuity for noise abatement reasons. Airport proprietors do not have the authority to make air traffic commitments for the FAA because of Federal preemption of airspace use and management. Airport proprietors do have the discretion to assure communities that they will not in the future request the FAA to make any procedural changes at the airport for noise abatement purposes that differ from the procedures at issue. Consistent with its policy, the FAA does not initiate noise abatement procedural changes absent an airport proprietor's request and would only consider changes on its own initiative necessary to assure the highest standards of safety and efficiency in the use of the navigable airspace.

The FAA will make every possible effort to maintain noise abatement procedures that have the community's support. However, unforeseen future circumstances may render current procedures untenable for airspace safety and efficiency, and the FAA cannot abrogate its airspace responsibility in local agreements. It is also possible that future circumstances may render today's noise abatement procedures unnecessary or less desirable from a noise standpoint than alternative arrangements, resulting in local decisions to revisit them. Changes in air traffic procedures that have potentially significant noise impacts on communities surrounding an airport require preparation of an environmental assessment or impact statement.

Beyond the Airport Environs

Beyond the airport environs, aircraft following air traffic routes and procedures normally do not significantly influence the noise environment of underlying land uses. Air traffic procedures for operations over 3,000 feet AGL are normally categorically excluded from FAA environmental assessment requirements. At the same time, in recognition that some actions that are normally categorically excluded can be highly controversial on environmental grounds, the FAA has developed the Air Traffic Noise Screening Model (ATNS), which allows air traffic specialists and planners to evaluate potential noise impacts from proposed air traffic changes. The ATNS can evaluate proposed changes in arrival and departure procedures between 3,000 and 18,000 feet AGL for large civil jet aircraft weighing over 75,000 pounds. Where a proposed change would cause an increase in noise of DNL 5 dB or greater, FAA considers whether there are extraordinary circumstances warranting preparation of an environmental assessment.

Where air traffic changes are not necessary for operational purposes, the FAA is willing in the appropriate circumstances to consider changes for noise abatement reasons for communities at greater distances from airports that are outside the airport proprietor's legal area of interest and already at noise levels consistent with Federal land use compatibility guidelines. In these cases, proposed changes must first be consistent with safe and efficient use of the navigable airspace, and also reflect local consensus. Final decisions will then reflect the FAA policy that operational changes made for noise abatement reasons must reduce the number of people affected by noise and the severity of the effect, without increasing noise effects in natural environments with unique noise sensitivities.

Overflights of Noise Sensitive Areas

The FAA Advisory Circular 91–36C, Visual Flight Rules (VFR) Flight Near Noise-Sensitive Areas, identifies 2,000 feet AGL as the minimum recommended altitude for overflights of noise sensitive areas when aircraft are not landing at or taking off from an airport. It identifies typical noise sensitive areas to include: outdoor assemblies, churches, hospitals, schools, nursing homes, residential areas designated as sensitive by airports, and units of the National Park System. Consistent with aviation safety and efficiency, the FAA will actively assist

other agencies in seeking the voluntary cooperation of operators with regard to the 2,000 feet AGL minimum altitude advisory. This assistance includes proposals for regulation of low-flying fixed-wing airplanes, helicopters, ultralight vehicles, balloons, and gliders.

Policy Element 4: Airport Noise Compatibility Planning

The FAA will encourage airport proprietors, in consultation with airport users, local planning officials, and the interested public, to implement airport noise compatibility programs that will minimize aviation noise impacts, reduce existing noncompatible land uses around airports, and prevent new noncompatible uses.

Discussion: Airport noise compatibility planning is the primary tool used by many airport proprietors and local officials to minimize aviation noise impacts in the vicinity of airports. Airport noise compatibility planning involves an evaluation of an airport's existing and future noise exposure, the selection of effective measures to reduce noise and noncompatible land uses, and the implementation of those measures. The measures to be implemented are analyzed in a document called an airport noise compatibility program (NCP).

The FAA has provided technical and financial support for airport noise compatibility planning since 1976. FAA's current program derives from the Aviation Safety and Noise Abatement Act of 1979 (ASNA), implemented through 14 CFR Part 150 (Part 150) in 1985. ASNA directed the FAA to establish by regulation a single system for measuring aircraft noise exposure, to identify land uses that are normally compatible with various noise exposure levels, and to receive voluntary submissions of noise exposure maps and noise compatibility programs from airport proprietors. Airport sponsors who prepare noise exposure maps are immune from certain future liability for noise damages. After preparing the map, airport operators may prepare noise compatibility programs. These programs contain measures that an airport operator plans to take to reduce existing or prevent the development of new noncompatible land uses in the area covered by the noise exposure map. Airport sponsors must consult affected parties and provide the opportunity for a public hearing. Airport proprietor participation in airport noise compatibility planning is voluntary. Over 230 airports are participating in the program and 193 airports have FAA approved NCPs in place—this includes about two-thirds of our busiest commercial airports.

Airport noise compatibility planning addresses both existing and future aviation noise impacts. Noise exposure maps use noise contours to depict the extent of existing and future noise exposure within the community and the location of noise sensitive land uses (*e.g.,* residences, schools, hospitals, churches) within the contours. Knowledge of future noise exposure provides a basis for long-term local planning and investment in noise mitigation for particular noise sensitive areas, including how to compatibly develop any vacant land or to redevelop older urban areas around airports into compatible uses.

Based on the noise exposure maps, strategies are developed and evaluated to reduce noise exposure and noncompatible land uses around an airport. Noise solutions are airport-specific—no two airports are alike in their noise and land use environments. The best solutions for one airport may not be effective or desirable in another location. ASNA makes the airport proprietor responsible for airport noise compatibility planning, including selecting the specific noise abatement and mitigation measures deemed appropriate for inclusion in the airport noise compatibility program.

The FAA reviews airport noise compatibility programs submitted by airport proprietors under Part 150 for consistency with criteria established by law and regulation. Program measures must be reasonably consistent with the goals of reducing existing noncompatible land uses around the airport and of preventing the introduction of additional noncompatible land uses. Program measures must not derogate safety or adversely affect the safe and efficient use of airspace. Program measures must not impose an undue burden on interstate or foreign commerce. Program measures must not be unjustly discriminatory or violate other airport grant agreement assurances. Program measures should be designed to meet both local needs and needs of the national air transportation system. Finally, program measures must be consistent with all of the powers and responsibilities of the FAA Administrator.

The FAA is directed by law to approve airport noise compatibility programs that meet the specified criteria. The FAA may request that an airport proprietor consider additional or alternative program measures, but the FAA does not have the authority to substitute its judgment for that of the airport proprietor regarding which measures to select for implementation. The FAA may only approve or disapprove program measures recommended by an airport proprietor in accordance with established statutory and regulatory criteria. If an airport noise compatibility program is not acted on by the FAA within the statutory 180-day timeframe, it is automatically approved by law with the exception of flight procedures. Flight procedures are not subject to automatic approval.

Although the FAA has established, under ASNA and Part 150, a uniform system for measuring the noise in and around airports, the responsibility for determining the acceptable and permissible land uses and the relationship between specific properties and specific noise contours rests with the local authorities. In preparing noise compatibility programs, airport sponsors may support the use of state and local land use compatibility standards more stringent than Federal guidelines.

If an airport proprietor proposes an airport noise and access restriction subject to the requirements of 14 CFR Part 161 (Part 161), the FAA encourages the proprietor to integrate the required Part 161 analysis into a Part 150 planning process which first analyzes nonrestrictive measures to mitigate noise, and then analyzes the proposed restriction.

For Stage 2 restrictions, which are not subject to FAA approval under Part 161, the FAA advises airport proprietors who have integrated a Part 161 analysis into a Part 150 study to await the FAA's determinations under Par 150 before adopting the restriction. FAA's Part 150 determinations may provide valuable insight regarding the proposed restriction's consistency with existing laws and the position of the FAA with respect to the restriction.

Stage 3 restrictions are subject to either formal agreement among airport users or to FAA approval under Part 161. If an airport proprietor integrates a Stage 3 restriction proposal and analysis into a Part 150 program, the proprietor may submit a combined Part 150/Part 161 submission to the FAA, as provided for in the Part 161 regulation. The FAA will evaluate the proposed Stage 3 restriction under Part 161 requirements in addition to evaluating the submission under Part 150 requirements.

Effective airport noise compatibility planning is a continuous process, rather than a one-time accomplishment. A number of airport proprietors have prepared updates to previously approved airport noise compatibility program as changes have occurred over

time. For the foreseeable future. Part 150 will remain the primary FAA program for evaluating and mitigating aircraft noise in an airport's vicinity.

Part 150 is a valuable tool for supporting and complementing local land use planning and zoning efforts. A primary goal of part 150 is to improve the compatibility of land uses surrounding airports by reducing existing noncompatible land uses and preventing the introduction of new noncompatible land uses. In response to congressional concerns, as of October 1, 1998, FAA policy is to place additional emphasis on the prevention of new noncompatible land uses by limiting Federal funding to soundproof new homes built in noise-impacted areas. FAA's policy is that new noise sensitive land uses should be prevented from developing around airports or, in cases where prevention is not feasible, they should be rendered compatible with noise exposure levels through measures such as sound insulation during construction.

Policy Element 5: Land Use Planning and Zoning

The FAA will assist State and local governments and planning agencies in establishing policies and practices to minimize noise sensitive land uses around airports, including locally determined buffers outside areas of significant noise exposure.

Discussion: Both the 1976 Policy and Part 150 clearly assert that State and local governments, including airport proprietors and planning agencies, are responsible for determining the acceptable and permissible land uses around airports and defining the relationship between specific properties and airport noise contours. The airport operator must be an integral part of this planning process, and bears its own responsibility for tracking planning and development taking place in its environs, and interceding with local governments as may be appropriate to help assure long-term compatibility. Where permitted by law, the FAA is prepared to support compatible land buss planning and actions by providing planning guidance, as well as technical and financial assistance. Toward this end, the FAA has engaged in a national compatible land use initiative in a cooperative partnership with the National Association of State Aviation Officials (NASAO).

The transition by the year 2000 to an all Stage 3 fleet of large commercial airplanes significantly reduces aviation noise from levels previously experienced. Noise contours will continue to shrink well into the 21st century around many airports. This reduction in aviation noise exposure presents both a challenge and an opportunity to institute and maintain effective compatible land use policies and practices.

There will be significant pressure to develop residential and other noise sensitive land uses closer to some airports as noise contours shrink towards the airport boundary. Such development should be undertaken only after prudent, thoughtful community planning and appropriate mitigation. The general trend over the past few decades has been an increasing interest on the part of the American public in continuing to upgrade environmental standards. Once noise exposure levels have stabilized with the transition to an all Stage 3 fleet, the demand by residents near airports for an ever quieter environment may outpace the delivery of further source-noise gains from advances in aircraft noise abatement technology. Additionally, not every airport will remain relatively static with respect to aircraft noise; some airports will experience high levels of growth and expansion of their facilities after completion of the Stage 3 transition, with consequent growth of their noise contours.

It is important for the various governmental entities that own airports and control land uses around those airports to coordinate airport and land use planning, and to undertake complementary actions that take into account the needs and operational requirements of the airport and the developmental goals and environmental needs of the community. The FAA encourages airport noise compatibility planning pursuant to Part 150.

The FAA encourages local jurisdictions with responsibility for land use planning and zoning to take the strongest compatible land use actions with in those areas around airports still subject to significant noise exposure after the transition to an all Stage 3 fleet. According to FAA guidance, areas of significant noise exposure are those in which noise levels are DNL 65 dB or higher. Significant noise exposure is not compatible with a variety of noise sensitive land uses, as delineated in FAA's compatible land use guidelines in Part 150. Jurisdictions should take all possible actions to make existing land uses compatible and to prevent new noncompatible land uses form developing at DNL 65 dB and above.

The FAA further encourages jurisdictions to guard against development of new noise sensitive land uses in areas that have been compatible within the DNL 65 dB contour in the last decade or more, but will be just outside that contour with Stage 3 transition. In situations where noise compatibility measures were funded by Federal grants, Federal grant assurances require that these properties must not become residential or zoned for other noise sensitizes uses, but must remain non-noise sensitive even if shrinking noise contours place them outside DNL 65 dB.

Based upon local factors, local jurisdictions may take a more comprehensive approach to aviation noise exposure below DNL 65. Some communities are more noise sensitive than others. Part 150 guidelines recognize local discretion to define noise sensitivity. Some communities have better opportunities than others, because of vacant land or urban redevelopment projects, to reduce and prevent noise sensitive land uses beyond the DNL 65 dB countour. Stage 3 transition and the noise compatibility gains otherwise achieved since the 1976 Policy increase the feasibility in certain locations of dealing with noise exposure below significant levels. A few airport proprietors and local jurisdictions have already begun to address areas outside DNL 65 dB to create an extra margin of noise buffer between the airport and the community.

The FAA will support local efforts to establish noise buffers by agreement between the airport proprietor and the local community, evidenced through both commitments and land use actions by affected jurisdictions. If jurisdictions firmly and consistently act to reduce, prevent, or mitigate noise sensitive development in buffer areas, the FAA will recognize such areas and actions accordingly in NEPA assessments for proposed airport development and in Part 150 noise compatibility programs, and any resulting noise mitigation recommendations.

Local jurisdictions may use the complete array of available methods to address noise sensitive land uses. Several of the most widely used methods are briefly described below, although these are not intended to preclude the use of other methods. A combination of methods, comprising a graduated response from the most to the least adversely affected land uses, may serve communities effectively and can prudently balance costs with levels of noise exposure. The FAA strongly encourages the reduction and prevention of noncompatible land uses at noise exposure levels of DNL 65 dB and higher. Mitigation techniques short of reduction and prevention may be more viable in buffer areas. Methods may support each other for the same

properties, such as combining sound insulation, an easement, and disclosure. In applying the basic Federal policy elements, the FAA encourages local jurisdictions to.

• Establish zoning ordinances or other control measures to preclude new noise sensitive development; acquire existing noncompatible properties and relocate people; implement policies and programs to redevelop noise sensitive areas into more compatible land uses.

• If noise sensitive development cannot be removed or precluded: acoustically insulate existing structures; establish local building codes for new residential and other noise sensitive construction requiring attenuation of exterior noise levels; purchase noise easements.

• Require formal disclosure of aviation noise exposure levels as a part of real estate transactions for properties located near airports, where authorized by State and local law; provide transaction assistance to noise impacted property owners wishing to sell.

Policy Element 6: Areas With Unique Noise Sensitivities

The FAA will take into account the specific circumstances of locations in national parks and other Federally managed areas with unique noise sensitivities in managing the navigable airspace and evaluating proposed FAA actions that raise aviation noise concerns.

Discussion: The FAA's Noise Policy for Management of Airspace Over Federally Managed Areas, issued November 8, 1996, affirms the FAA commitment to carefully balance the interests of the general public and aviation transportation with the need to protect certain natural environments from the impact of aviation noise. This policy statement addresses FAA's management of the navigable airspace over locations in national parks and other Federally managed areas with unique noise sensitive values. It affirms that the FAA will exercise leadership in achieving an appropriate balance among environmental concerns, airspace efficiency, and technical practicability, while maintaining the highest practicable level of safety. This policy envisions joint efforts by the FAA and resource-managing Federal agencies to enhance compatibility by coordinating management of the airspace and the management goals of these specific areas.

In order to promote an effective balance of agency missions, the Secretaries of Transportation and the Interior are jointly reviewing the environmental and safety concerns resulting from park overflights, developing a national policy on overflights of national parks, and working toward resolution of overflight issues in specific national parks. The overarching goal is to identify how best to provide access to the airspace over national parks while ensuring all park visitors a quality experience and protecting park resources.

The FAA and the National Park Service have initiated individual and joint efforts to achieve a better understanding of the effects of aviation noise on areas within national parks, preserves, and wildlife refuges. A primary focus for FAA is to identify the extent to which low-level noise (*i.e.*, noise levels below existing thresholds of significant, or even adverse, impact for most common land uses) may adversely impact areas with unique noise sensitivities. At present, no scientifically verified, predictable criteria have been established. Until standardization of criteria has been achieved to the satisfaction of the Federal agencies with noise and land use responsibilities, particular interfaces of concern between aviation and special resource areas will be carefully reviewed on a case-by-case basis by the FAA and the Federal agency with jurisdiction over the area.

Pursuant to Executive Order 13084, ''Consultation and Coordination with Indian Tribal Governments,'' the FAA is committed to removing obstacles that detrimentally affect or impede working directly and effectively with tribal governments. FAA will engage in meaningful consultation with tribal governments whenever significant impacts on trust resources are identified. When requested by a tribal government, the FAA will use best efforts to make aeronautical charts available to tribal representatives, as well as information on how to identify types of aircraft that may be overflying tribal lands. Additionally, on request from tribal officials, the FAA will use best efforts to depict Native American lands that are of significance on a year-around basis on visual flight rules aeronautical sectional maps. The areas will be depicted using the demarcation associated with flying over noise sensitive national park areas. All aircraft are requested to maintain a minimum altitude of 2,000 feet above the surface while flying over these types of areas. On request from tribal officials, the FAA will also use best efforts to assist in alerting pilots of Native American seasonal events of significance through Notice to Airmen (NOTAMs) or a graphical depiction in the appropriate Airport Facility Directory.

Policy Element 7: FAA Financial Programs

The FAA will continue strong support for noise compatibility planning and noise mitigation projects with financial programs under its jurisdiction, with airport rates and charges policy, and by encouraging innovative funding mechanisms including creative public/private partnerships.

Discussion: The 1976 Policy initiated a pilot program under which the FAA awarded the first grants to airport proprietors to develop comprehensive airport noise control plans. This pilot program was expanded in the Aviation Safety and Noise Abatement Act of 1979 (ASNA), which created airport noise compatibility planning under Federal Aviation REgulations (FAR) Part 150 that continues today. ASNA authorizes the FAA to fund the preparation of airport noise compatibility plans and to fund the implementation of noise compatibility programs developed under those plans, subject to FAA's approval of the program measures.

All public airports are eligible to apply for Federal assistance in preparing and implementing airport noise compatibility programs under Part 150. An approved Part 150 program is required for an airport proprietor to receive specifically earmarked grant funds for a broad array of noise mitigation projects. A statutory exception is sound insulation of educational or medical buildings in a noise impact area, which may be funded without an approved Part 150 program. Units of local government in the airport area may also apply for grants to help carry out parts of approved Part 150 programs that are both within their jurisdiction and ability to implement.

The Airport and Airway Improvement Act of 1982 established the first reservation, referred to as a ''set-aside,'' of Airport Improvement Program (AIP) funds specifically for noise compatibility planning and projects under Part 150. The first noise set-aside was established at 8 percent of the total available annual AIP. In 1982, approximately $41 million was given in noise grants. Since 1982, the noise set-aside has remained a key component in AIP legislation, while the set-aside has remained a key component in AIP legislation, while the set-aside percentage has been increased to reflect the growing demand for noise funding. In the last funding year of the century, the noise set-aside (established at 31 percent of AIP discretionary funding) has been over $168.8 million. From the inception of airport noise compatibility funding through fiscal year 1999, the

FAA has issued noise planning and project grants totaling over $2.6 billion under the Airport Improvement Program.

In addition to the AIP noise set-aside, the FAA administers other statutory provisions and supports decisions that result in additional funding for noise mitigation. The FAA is responsible for evaluating the environmental impact of proposed airport development projects submitted for FAA approval and funding.

FAA's airport funding statue includes environmental requirements. For example, FAA may only approve a grant for a major airport development project that has a potentially significant impact on natural resources if there is no possible and prudent alternative and the project includes reasonable steps to minimize the harm. These mitigation commitments are included in the FAA decision and any subsequent grant agreements. Such commitments are eligible for AIP funding from sources other than the noise set-aside as part of the cost of the airport development project.

The Passenger Facility Charge (PFC) program, established by the Aviation Safety and Capacity Expansion Act of 1990, includes among its objectives the funding of projects to mitigate airport noise impacts. PFC-eligible projects include mitigation for areas adversely impacted by noise, with or without an approved Part 150 program. Since the inception of the PFC program, the FAA has approved PFC collection authority exceeding $1.6 billion for noise mitigation projects—an important and growing supplement to Federal funding provided through the AIP.

Another important source of airport funding for noise mitigation is airport-generated revenue. As part of its role in administering the AIP, the FAA assumes a stewardship role related to the protection of the Federal investment in airports. Generally, an airport accepting Federal assistance must agree to use all airport revenue for related costs. The FAA has long recognized that noise mitigation associated with an airport capital development project qualifies as a capital cost of the airport and, therefore, is an appropriate use of airport revenue. In June 1996, DOT issued its Policy Regarding Airport Rates and Charges, 61 FR 31994, outlining the expenses an airport proprietor may include in establishing cost-based fees charged to air carriers for the use of airport facilities and services. The policy permits the recovery, through rates and charges, of reasonable environmental costs to the extent that the airport proprietor incurs a corresponding actual expense. The policy expressly identifies aircraft noise abatement and mitigation as a permitted recoverable environmental cost. These provisions were not vacated in a ruling on the policy, *Air Transport Association* v. *Department of Transportation,* 119 F.3d 38 (D.C. Cir. 1997).

In the future, the FAA will continue to make Federal funding available for measures directed at mitigating noise around airports, reducing noncompatible land uses, and protecting currently compatible land uses, when such funding is financially feasible and permitted by law. The challenge is to ensure adequate financial support for noise mitigation. The FAA manages available AIP funds in a manner to sustain airport noise compatibility planning and programs for as many airports as possible with noise affected communities, giving priority consideration to mitigating the most significant higher noise levels. The FAA evaluates the national demand for Federal noise funding and recommends adjustments to the Congress in reauthorizations of airport grant legislation. Increasingly, the FAA seeks to leverage available Federal funding with other funding sources, including PFCs and airport revenue. In the last two years, the FAA has explored innovative financing proposals. The FAA approved an innovative project to relocate a large number of people on an accelerated schedule from an area of airport noise impact through a Federal/local public and private sector partnership arrangement of shared costs and responsibility. The noise mitigation advantages of this project were obvious, and the overall costs were lower in terms of AIP demand than would have been the case under the traditional approach to funding. Future innovative finance arrangements can help to sustain a strong funding commitment to noise. The FAA will work with State and local governments and the private sector to create new partnerships and opportunities to increase reliable sources of funding and to accelerate adequate financing of noise mitigation projects.

Section 3: Authorities and Responsibilities—Legal Framework

3.1 Legal Responsibilities of the Federal Government

The principal aviation responsibilities assigned to the Federal Avaiation Administrator and since 1966 to the Secretary of Transportation, under the Federal Aviation Act of 1958, as amended, 49 U.S.C. 40101 *et seq.,* concern promoting the development of civil aeronautics and safety of air commerce. The basic national policies intended to guide our actions under the Federal Aviation Act are set forth in section 103, 49 U.S.C. 40101(d), which provides public interest standards, including:

(1) Assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce;

(2) Regulating air commerce in a way that best promotes safety and fulfills national defense requirements;

(3) Encouraging and developing civil aeronautics, including new aviation technology;

(4) Controlling the use of the navigable airspace and regulating civil and military operations in that airspace in the interest of the safety and efficiency of both of those operations;

(5) Consolidating research and development for air navigation facilities and the installation and operation of those facilities; and

(6) Developing and operating a common system of air traffic control and navigation for military and civil aircraft.

To achieve these statutory purposes, sections 307(a), (b), and (c) of the Federal Aviation Act, 49 U.S.C. 40103(b), 44502, and 44721, provide extensive and plenary authority to the FAA concerning use and management of the navigable airspace, air traffic control, and air navigation facilities. The FAA has exercised this authority by promulgating wide-ranging and comprehensive Federal regulations on the use of navigable airspace and air traffic control.[1] Similarly the FAA has exercised its aviation safety authority, including the certification of airmen, aircraft, air carriers, air agencies, and airports under Title VI of the Federal Aviation Act, section 601 *et seq.*, 49 U.S.C. 44701 *et seq.* by extensive Federal regulatory action.[2] In legal terms the Federal government, through this exercise of its constitutional and statutory powers, has preempted the areas of airspace use and management, air traffic control and aviation safety. The legal doctrine of preemption, which flows from the Supremacy Clause of the Constitution, is essentially that state and local authorities do not have legal power to act in an area that already is subject to comprehensive Federal regulation.

Because of the increasing public concern about aircraft noise that accompanied the introduction of turbojet powered aircraft into commercial service in the 1960s, and

[1] See 14 CFR Parts 71, 73, 75, 91, 93, 95, and 97

[2] See 14 CFR Parts 21–43, 61–67, 91, 121 through 149.

the constraints such concern posed for the continuing development of civil aeronautics and the air transportation system of the United States, the Federal government in 1968 sought—and Congress granted—broad authority to regulate aircraft for the purpose of noise abatement. Section 611 of the Federal Aviation Act, 49 U.S.C. 44715, constitutes the basic authority for Federal regulation of aircraft noise. In 1972, displaying some dissatisfaction with the FAA's methodical regulatory practice under section 611, the Congress amended that statute in two important respects. To the original statement of purpose, ''to afford present and future relief from aircraft noise and sonic boom,'' it added consideration of, ''protection to the public health and welfare.'' It also added the Environmental Protection Agency (EPA) to the rulemaking process. Section 611 now requires the FAA to publish EPA proposed regulations as a notice of proposed rulemaking within 30 days of receipt. If the FAA does not adopt an EPA proposal as a final rule after notice and comment, it is obliged to publish an explanation for not doing so in the **Federal Register**.

Whether considering a rule it proposes on its own initiative or in response to the EPA, the FAA is required by section 611(d) to consider whether a proposed aircraft noise rule is consistent with the highest degree of safety in air commerce and air transportation, economically reasonable, technologically practicable and appropriate for the particular type of aircraft.

The FAA acted promptly in implementing section 611. On November 18, 1969, it promulgated the first aircraft noise regulations, Federal Aviation Regulations Part 36, 14 CFR Part 36, which set a limit on noise emissions of large aircraft of new design. It reflected the technological development of the high-bypass ratio type engine, and was initially applied to the Lockheed 1011, the Boeing 747, and the McDonnell-Douglas DC–10. The Part 36 preamble announced a basic policy on source noise reduction and a logically phased strategy of bringing it about. Essentially, Part 36 established the quietest uniform standard then possible, taking into account safety, economic reasonableness, and technological feasibility. Part 36 was initially applicable only to new types of aircraft. As soon as the technology had been demonstrated, the standard was to be extended to all newly manufactured aircraft of already certificated types. Ultimately, the preamble indicated, when technology was available the standard would be extended to aircraft already manufactured and in operation. The last step would require modification or replacement of all aircraft in the fleet that did not meet the Part 36 noise levels. The first two steps have already been accomplished. This third step is being taken now.

In accordance with the Federal noise abatement program announced in the 1976 Policy, the FAA adopted regulations in 14 CFR Part 91 to phase out operations in the United States of so-called ''Stage 1 aircraft'' by January 1, 1985. These aircraft were defined as civil subsonic aircraft with a gross weight of more than 75,000 pounds that do not meet Stage 2 or 3 Part 36 noise standards. In 1980, pursuant to the Aviation Noise Abatement Act of 1979, the FAA extended the phaseout requirement to foreign international operators, and was directed to issue exemptions to operators of two-engine turbojets with 100 or fewer seats for small community service until January 1, 1988.

In addition to its regulatory authority over aircraft safety and noise, the FAA has long administered a program of Federal grants-in-aid for airport construction and development. By virtue of its decision-making on whether to fund particular projects, the FAA has been able, to a degree, to ensure that new airports or runways will be selected with noise impacts in mind. That indirect authority was measurably strengthened when in 1970 the Airport and Airway Development Act expanded and revised the FAA's grant-in-aid program for airport development, and added environmental considerations to project approval criteria. These criteria include consideration of whether the project is consistent with plans (existing at the time the project is approved) of public agencies authorized by the State in which the airport is located to plan for the development of the area surrounding the airport. The 1976 amendments to the 1970 Act increased funding levels and provided new authority to share in the costs of certain noise abatement activities, as part of a pilot program initiated under the 1976 Policy. Under this program, the FAA funded up to 25-airport noise control plans per year

In 1979, Congress enacted the Aviation Safety and Noise Abatement Act, 49 USC 47501 *et seq.,* to support Federal efforts to encourage development of compatible land uses around civil airports in the United States. In 1981, the FAA adopted 14 CFR Part 150 to implement ASNA. As explained in detail in Section 2, under ASNA, FAA is authorized to provide grants to airport sponsors to fund voluntary preparation of noise exposure maps, comprehensive noise compatibility planning, and soundproofing, land acquisition, and other projects to carry out noise compatibility programs. Noise compatibility programs are developed in consultation with surrounding communities and airport users. The airport must notify the public and afford an opportunity to comment at a public hearing.

The Airport and Airway Improvement Act of 1982 (AAIA) established the Airport Improvement Program (AIP) and first made funds available for noise compatibility planning and to carry out noise compatibility programs authorized under ASNA. The AAIA has been amended several times, and authorizes the current Federal AIP program. Since 1976, the ability of the FAA to provide financial assistance under the AIP has remained limited in terms of both percentage of project costs and the types of projects eligible for Federal aid. Applications for airport development projects have consistently exceeded available funding, although the amounts available for obligation under the AIP have ranged from approximately $450 million in Fiscal Year 1982 to a recent high of approximately $1.9 billion in Fiscal year 1992. Through additional legislation, FAA gained authority to grant AIP funds to units of local government in order to soundproof public schools and hospitals.

In 1990, Congress established a National Aviation Noise Policy in the Airport Noise and Capacity Act, 49 USC 47521 (ANCA). This Policy had three primary elements. The first was a program for transition to an all-Stage 3 civil subsonic turbojet fleet. In 1991, pursuant to ANCA, the FAA amended Part 91 to establish a phased program to require operations by civil subsonic turbojet airplanes weighing more than 75,000 pounds to meet Stage 3 noise standards by the year 2000. This phaseout requirement applied to all operators of large Stage 2 airplanes, not just air carriers, operating in the contiguous United States.

The second element was a national program for review of airport noise and access restrictions on operations by Stage 2 and 3 aircraft. ANCA applies to restrictions on operations by Stage 2 aircraft proposed after October 1, 1990, and to restrictions on operations by Stage 3 aircraft not in effect before October 1, 1990. In 1991, as a companion rulemaking to the Part 91 amendment, the FAA adopted Part 161 to implement the requirements under ANCA relating to airport restrictions.

After careful study, the FAA determined that Part 161 should cover operations by all Stage 2 aircraft, including those weighing less than 75,000 pounds that are not subject to the phaseout requirement. Part 161 also applies to proposals to restrict operations by helicopters that are certificated as Stage 2. ANCA, as implemented by Part 161, provides that airports must give 180 days notice and an opportunity for public comment on a cost-benefit analysis concerning proposals to restrict operations by Stage 2 aircraft. Proposals to restrict operations by Stage 3 aircraft must (1) be agreed upon by the airport and all users at the airport or (2) satisfy procedural requirements similar to proposals to restrict Stage 2 operations and be approved by FAA. To be approved, restrictions must meet the following statutory criteria:

(1) The restriction is reasonable, nonarbitrary and nondiscriminatory.

(2) The restriction does not create an undue burden on interstate or foreign commerce.

(3) The proposed restriction maintains safe and efficient use of the navigable airspace.

(4) The proposed restriction does not conflict with any existing Federal statute or regulation.

(5) The applicant has provided adequate opportunity for public comment on the proposed restriction.

(6) The proposed restriction does not create an undue burden on the national aviation system.

ANCA does not supersede preexisting law except to the extent required by the application of its terms. Preexisting law governing airport noise and access restrictions is discussed in detail below, under ''Legal Responsibilities of Airport Proprietors.'' FAA encourages airport proprietors to seek to enter into voluntary agreements with users. Voluntary agreements are not subject to ANCA, and may include agreed-upon enforcement mechanisms that are consistent with Federal law.

The final element of the national noise policy was the provision of another source of funds eligibility, conditions upon compliance with the national program for review of airport noise and access restrictions. In 1990, Congress amended the Anti-Head Tax provisions of the Federal Aviation Act to authorize FAA to approve collection and use of PFCs by public agencies.[3] Public agencies that control commercial service airports may, subject to FAA approval, receive passenger facility charges collected from enplaning passengers using the airport, and use these charges for airport development or noise abatement projects. PFCs charges may be used, among other things, to finance remedial measures that would qualify for AIP funding if included in an approved airport noise compatibility program. The PFC program has assumed increasing importance in providing revenue for noise as well as capacity-enhancing projects.

3.2 Legal Responsibilities of State and Local Governments

While the Federal government's exclusive statutory responsibility for noise abatement through regulation of flight operations and aircraft design is broad, the noise abatement responsibilities of state and local governments, through exercise of their basic police powers, are circumscribed. The scope of their authority has been most clearly described in negative terms, arising from litigation over their rights to act.

The chief restrictions on state and local police powers arise from the exclusive Federal control over the management of airspace. Local authorities have been long prevented by Federal preemption of authority in the area from prohibiting or regulating overflight for any purposes.[4] That principle was found in 1973 to include any exercise of police power relating to aircraft operations in *City of Burbank* v. *Lockheed Air Terminal,* 411 U.S. 624 (1973). In the *Burbank* case, the Supreme Court struck down a curfew imposed by the City in the exercise of its police power at an airport not owned by it. The court stated that, ''the pervasive nature of the scheme of Federal regulation of aircraft noise leads us to conclude that there is Federal preemption.'' 411 U.S. at 633. The national character of the subject matter also supported preemption. 411 U.S. at 625. ''If we were to uphold the Burbank ordinance and a significant number of municipalities followed suit, it is obvious that fractionalized control of the timing of takeoffs and landings would severely limit the flexibility of the FAA in controlling air traffic flow. The difficulties of scheduling flights to avoid congestion and the concomitant decrease in safety would be compounded.'' 411 U.S. at 639. Although control of noise is deep-seated in the police power of the states (411 U.S. at 638), the Court found that Congress unequivocally intended that the Federal government have ''full control over aircraft noise, preempting state and local control.'' 411 U.S. 625, 627–28, 639. The Court's reliance on the legislative history of section 611 of the Federal Aviation Act and its 1972 amendments indicates that other types of police power regulation, such as restrictions on the type of aircraft using a particular airport, are equally proscribed. The Court, however, specifically excluded consideration of what limits, if any, apply to a municipality acting in its proprietary capacity.

In two subsequent cases, Federal courts determined that the constitutionality of state airport noise regulations depended upon whether they sought to directly control aircraft noise or mitigate its effects. In *Air Transport Association* v. *Crotti,* 389 F. Supp. 58 (N.D. Cal., 1975) a state airport noise statute that imposed noise abatement duties on airport proprietors without directly regulating aircraft operation was upheld. California's statutory and regulatory scheme established permissible cumulative noise (community noise equivalent noise levels or CNEL) standards for continued operation of airports, monitoring requirements, and ultimate noise levels for surrounding land uses. In upholding the validity of the statutory scheme, the court noted that airport authorities were left to choose among suggested procedures, and were free to use other noise control measures beyond those suggested to achieve the prescribed noise standards.

The court indicated that efforts to control aircraft traffic under the CNEL might be suspect, but since no action had been taken the court refrained from ruling upon limitations to the airport proprietor's authority. In this same case, the court struck down maximum single event noise exposure levels (SENEL) for takeoff and landings of aircraft, which had been established by the State for enforcement by counties through criminal fines levied against aircraft operators. The court held that these state regulations were per se unlawful exercises of police power because they attempted to regulate noise levels occurring when aircraft were in direct flight in clear contravention of FAA's statutory authority.[5]

[4] *American Airlines* v. *Town of Hempstead,* 398 F.2d 369 (2d Cir. 1968) Town noise ordinance that prohibited overflights over the village by aircraft that did not meet certain noise standards held invalid because Congress had preempted the field of aircraft operation. Compliance with the ordinance would have required the alteration of FAA-promulgated flight patterns and procedures controlling aircraft in the New York City area; *American Airlines* v. *City of Audubon Park,* 297 F. Supp. 207, 407 F.2d 1306 (6th Cir. 1969) Court held that local ordinance conflicted with the glide slope which aircraft were required to follow in approaching the airport.

[5] See also, *Minnesota Public Lobby* v. *Metropolitan Airport Commission,* 520 N.W. 2d 388 (Minn. 1994) Minnesota Supreme Court held that

In 1981, the Ninth Circuit Court of Appeals addressed a measure that the state required an airport proprietor to implement in order to comply with the airport noise standards upheld in *Crotti.* In *San Diego Unified Port District* v. *Gianturco,* 651 F.2d 1306 (9th Cir. 1981), cert den. 455 U.S. 1000 (1982), the State of California sought to require the Port District, as owner of Lindbergh Field, to extend a curfew. The State made extension of the curfew a condition of the variance needed to continue to operate the airport, which was not in compliance with California noise standards. Like the curfew in *City of Burbank,* the court found that the State's curfew impinged on airspace management by directing when planes may fly in the San Diego area, and on Federal control of aircraft noise at its source by restricting the permissible flight times of aircraft solely on the basis of noise. The court explained that the Federal government has only preempted local regulation of the source of noise, not the entire field of aviation noise. The effects of noise may be mitigated by state and local government independently of source noise control. ''Local governments may adopt local noise abatement plans that do not impinge upon aircraft operations.'' 651 F.2d at 1314. The court declined to interpret the 1976 Aviation Noise Abatement Policy as evidence that the Federal Government had abdicated its duties to regulate aircraft noise or for the proposition that states may use their police power to coerce political subdivisions to use proprietary powers. The court also found that the State of California was not a proprietor of Lindbergh Field, and thus could not rely upon Burbank's proprietor exception permitting airports utilizing their proprietary powers (rather than police powers) to enact reasonable, nonarbitrary, and nondiscriminatory rules defining the permissible level of noise which can be created by aircraft using the airport.

The ruling in *City of Burbank* was held to govern the exercise of zoning authority to ban a taxiway project in *Burbank-Glendale Pasadena Airport Authority* v. *City of Los Angeles,* 979 F.2d 1339 (9th Cir. 1992). In the BGPAA case, the Ninth Circuit Court of Appeals reviewed the constitutionality of an ordinance that required prior submission and approval of plans for development of a 54-acre parcel of land. The land, which was used solely for aircraft landings and takeoffs at Burbank Airport, was slated for construction of a taxiway project that was expected to produce significant safety improvements and noise benefits. The ordinance was enacted by the City of Los Angeles just before construction of a taxiway project was to begin, and applied exclusively to the parcel of land owned by the airport but located in the jurisdiction of the City of Los Angeles. The court found that the City was prohibited from conditioning airport development on prior City approval. It stated that proper placement of taxiways and runways is critical to the safety of takeoffs and landings and essential to the efficient management of the navigable airspace. The Court stated that Federal aviation safety interests preempted control of airport ground facilities. The Court held that nonproprietor jurisdictions may not abuse their land use powers by delaying a safety project and withholding a building permit until the FAA and the airport proprietor agree to aircraft noise control terms.

Recent years have witnessed a steady increase in state and local ordinances and zoning measures that seek to regulate growth and expansion of large metropolitan airports.[6] Federal law and policy continues to confirm that state and local police power regulation of aircraft noise is Federally preempted when it impinges on airspace management, aircraft flight, and operations. Non-proprietors may take noise impacts into account in siting airports and other facilities, and may mitigate the effects of noise. Federal aviation statutes do not direct the Federal government to decide where airports should be located, or whether and where an existing airport should acquire additional property for expansion; instead, such decisions are the primary responsibility of airport owners and operators. However, Federal authority to control the navigable airspace necessarily encompasses the placement, size, and configuration of runways. Likewise, the Airport and Airway Improvement Act of 1982 prescribes a dominant role for the FAA in airport development, which encompasses constructing, repairing, or improving public use airports, and imposes significant program responsibilities on the FAA. Non-proprietor jurisdictions have no role in determining the legal requirements for runway expansion and development within the boundaries of the existing airport. Federal aviation law preempts local ordinances designed to control and impede air navigation facilities, airport safety projects, or development projects on airport property at major airports as a means of controlling aircraft noise, and to otherwise control flight operations and impede safe and efficient airspace management. As a corollary of this principle, state and local governments may not use their police powers to require airport proprietors to exercise their proprietary powers to control aircraft noise at its source. The FAA is closely scrutinizing actions by state and local governments seeking to limit airport expansion, particularly of major metropolitan airports. FAA has and will continue to intervene in appropriate cases to assure that state and local governments exercise their authorities in full accord with the principles in City of Burbank and its progency.

In addition to established case law, Section 105 of the Airline Deregulation Act of 1978, 49 U.S.C. 41713 expressly provides that States, political subdivisions of States, and political authorities of at least two States, are prohibited from enacting or enforcing any law relating to a price, route, or service of an air carrier. This statute was intended to ensure that States would not undo Federal deregulation with regulation of their own. This statute prohibits state laws or local noise ordinances that would constitute a direct or indirect regulation of a price, route or service of an air carrier. As noted in the Section entitled ''Legal Responsibilities of Airport Proprietors,'' it preserves the authority of airport proprietors.

The FAA encourages local authorities to implement airport noise compatibility planning and protect their citizens from unwanted aircraft noise, principally through their powers of land use control. Control of land use around airports to ensure that only compatible development may occur in noise-impacted areas is a key tool in limiting

the Metropolitan Airports Commission was not required to develop a plan to comply with state pollution control noise standards in operating Minneapolis-St. Paul International Airport. The State's noise standards as applied to MAC impinged on aircraft operations because (1) enforcement of the standards would severely limit the flexibility of the FAA in controlling aircraft flow and (2) compliance would be impossible without either substantially reducing aircraft operations, converting much of South Minneapolis and the surrounding suburbs to non-residential areas, or moving the airport. In the opinion of the court the State had no power to require an airport proprietor such as MAC to use its proprietary powers in certain ways that may have achieved compliance with the noise standards.

[6] See, e.g., *Dallas Ft. Worth International Airport Board* v. *City of Irving,* 854 S.W.2d 750 (Ct. of Appeals Texas 1993), writ denied, 894 S.W.2d 456 (Tex. App-Ft. Worth 1995); *City of New Orleans* v. *Kenner,* 1992 U.S. Dist. LEXIS 1046 (ED La 1992), rev'd__F.2d__ (5th Cir. 8/6/92); *City of Cleveland* v. *City of Brook Park,* 893 F. Supp 742 (ND Ohio 1995); *City of Burbank* v. *BGPAA* (85 Cal Rpt. 2d 28 (1999), review den., 1999 Cal. LEXIS 5393 (Cal Sup. Ct. 8/11/99).

the number of citizens exposed to noise impacts, and it remains exclusively in the control of state and local governments. Occasionally, it is a power enjoyed by individual airport operators; some operators are municipal governments that can impose appropriate land use controls through zoning and other authority. But even where municipal governments themselves are operators, the noise impacts of their airports often occur in areas outside their jurisdiction. Other police power measures, such as requirements that noise impacts be revealed in real estate transactions, are also available to them. Other measures are also available to mitigate the effects of noise, such as by baffling existing noise or resetting those affected by noise. Finally, local governments have legal authority to take noise impacts into account in their own activities, such as their choice of location and design for new airports, new schools, hospital or other public facilities, as well as sewers, highways and other basic infrastructure services that influence land development.

3.3 Legal Responsibilities of Airport Proprietors

Under the Supremacy Clause of the U.S. Constitution, Federal law preempts state or local law when Congress expressly or impliedly indicates an intention to displace state or local law, or when that law actually conflicts with Federal law. As discussed above, in 1973, the Supreme Court held that the pervasive scope of Federal regulation of the airways implied a congressional intention to preempt municipal aircraft noise restrictions based upon the police power. The court left the door open to noise regulations imposed by municipalities acting as airport proprietors,[7] however, based on such municipalities legitimate interest in avoiding liability for excessive noise generated by the airports they own. After *Burbank,* Congress expressly provided that the proprietary powers and rights of municipal airport owners are not preempted by Federal law. 49 U.S.C. 41713 (section 105 of the Airline Deregulation Act of 1978). Thus, the task of protecting the local population from airport noise has fallen to the agency, usually the local government, that owns and operates the airport.

Subsequent to the *Burbank* decision, the courts have confirmed that Congress has reserved a limited role for local airport proprietors to regulate noise levels at their airports. Thus, the responsibilities of state and local governments as airport proprietors are less restricted than those of non-proprietor governments. The rationale for the airport proprietor exception is that airport proprietors bear monetary liability for excessive noise under the Supreme Court decision in *Griggs* v. *Allegheny County,* 369 U.S. 84 (1962). The Court found that because the airport proprietor had that liability, fairness dictated that airport proprietors must also have the power to insulate themselves from that liability. The proprietor, the court reasoned, planned the location of the airport, the direction and length of the runways, and has the ability to acquire more land around the airport. From this control flows the liability, based on the constitutional requirement of just compensation for property taken for a public purpose. The Court concluded: ''Respondent in designing the Greater Pittsburgh Airport had to acquire some private property. Our conclusion is that by constitutional standards it did not acquire enough.'' The role of the proprietor described by the Court remains the same today.

In contrast, it is understandable that non-proprietor localities in the vicinity of major airports cannot be permitted an independent role in controlling the noise of passing aircraft. In the words of the Second Circuit Court of Appeals.

> [t]he likelihood of multiple, inconsistent rules would be a dagger pointed at the heart of commerce—and the rule applied might come literally to depend on which way the wind was blowing. The task of protecting the local population from airport noise has, accordingly, fallen to the agency, usually of local government, charged with operating the airport.

British Airways Board v. *Port Authority of New York and New Jersey,* 558 F.2d 75, 83 (2d Cir. 1977).

An airport proprietor's powers, however, are not unlimited. For example, Federal case law consistently holds that proprietors are vested only with the power to promulgate reasonable, nonarbitrary, and nondiscriminatory regulations establishing acceptable noise levels for the airport and its immediate environs that avoid the appearance of irrational or arbitrary action. *National Helicopter Corp.* v. *City of New York,* 137 F.3d 81, 89 (2d Cir. 1998); *British Airways Board* v. *Port Authority of New York and New Jersey,* 558 F.2d 75, 564 F.2d 1002 (2d Cir. 1977). The Department of Transportation's own policy statement similarly states that an airport owner's conduct is not preempted as an exercise of its proprietary powers when such exercise is reasonable, nondiscriminatory, nonburdensome to interstate commerce, and designed to accomplish a legitimate State objective in a manner that does not conflict with the provisions and policies of the aviation provisions of Title 49 of the United States Code. 14 CFR 399.110(f).

In the British Airways case, the Port Authority of New York and New Jersey banned the Concorde SST aircraft from using Kennedy International Airport pending a six-month study of operating experience at other U.S. airports. Rather than applying its 1951 noise standard to the new Concorde aircraft, the Port Authority banned the aircraft based on its low frequency sound. Air France and British Airways challenged the ban, arguing among other things, that the ban was preempted by DOT's authorization of Concorde landings at JFK and provision of detailed regulations for noise control at the airport, and that it was discriminatory and an undue burden on commerce. The Court of Appeals held that the Port Authority possessed the power and bore the responsibility to establish fair, even-handed and nondiscriminatory regulations designed to abate the effect of aircraft noise on surrounding communities and directed the lower court to conduct an evidentiary hearing on the reasonableness of the Port Authority's ban based upon low frequency sound.

Subsequent to the first ruling, the Port Authority resisted in responding to the airlines' desire to secure a fair test of their aircraft in New York. The Port Authority refused to accord landing rights to an airplane that was capable of meeting its rule that had consistently been applied to all other aircraft for nearly 20 years—112 PNdB. As a result, the carriers brought suit again. In the second *British Airways case,* the Court of Appeals affirmed its prior ruling concerning the limitations of proprietary powers. The court then affirmed the enjoining of further prohibition of Concorde operations at Kennedy Airport until the Port Authority promulgated a reasonable, nonarbitary and nondiscriminatory noise regulation that all aircraft were afforded the opportunity to meet. The action of the Port Authority purporting to exercise delegated authority to regulate noise was held to constitute unjust discrimination within the meaning of the AAIA when the action resulted in denial of use of the airport to aircraft that met noise standards applies to other aircraft allowed to use the airport.

The court pointed out that with respect to the reasonableness of airport

[7] Traditionally, airport proprietors own and operate the airport, promote the airport, and have the legal power to acquire necessary approach easements.

use restrictions, it is important that they be found on ''definitive findings, based on substantial evidence, that the proposed use would jeopardize the health, safety, or welfare of the public.'' British Airways, 564 F.2d 102, 1014 (2d Cir. 1977).

A noise curfew prohibiting the arrival or departure on a non-emergency basis of any aircraft between the hours of 12 midnight and 7 a.m. applying to all aircraft regardless of the noise emission level of degree of noise produced was found to be an unreasonable, arbitrary, and discriminatory and overbroad exercise of power by the county in *U.S.* v. *Westchester,* 571 F. Supp. 786 (S.D.N.Y. 1983).

In *City and County of San Francisco* v. *FAA,* 942 F.2d 1391 (9th Cir. 1991), a city regulation was interpreted to ban a retrofitted Q–707 meeting Stage 2 standards from using the airport while other Stage 2 aircraft making similar levels of noise were permitted. The aircraft operator filed a complaint with the FAA alleging that exclusion of its retrofitted 707 was unjustly discriminatory in violation of the city's Airport Improvement Program grant assurances. A DOT law judge found that the city had breached its grant assurance that it would operate the airport without unjust discrimination. The FAA Administrator affirmed the law judge's finding because the city's noise regulation allowed aircraft that were equally noisy or noisier than Q–707's to operate at the airport and increase in number without limit, while excluding the Q–707 based on a characteristic that had no bearing on noise (date of type-certification as meeting Stage 2 requirements). Thus, the regulation violated the statutory requirement and the city's grant assurance requirement that the airport would be available without unjust discrimination. The Ninth Circuit Court of Appeals upheld the FAA's interpretation of the statutory and grant assurance requirements as reasonable. This case, as in the *British Airways* cases, illustrates that use of noise control regulations by an airport proprietor to bar aircraft on a basis other than noise, or without a factual basis, was found to be inconsistent with a fair and efficient national air transportation system.

Airport proprietors are also prohibited from enacting noise restrictions that would impose an undue burden on interstate commerce. The Commerce Clause prohibits any state or local government actions that would unconstitutionally burden interstate commerce. For the most part, noise ordinances that would violate the Commerce Clause when the particular means chosen by the proprietor to achieve its goals are irrational, arbitrary or unrelated to those goals. For example, a court would likely strike down a noise ordinance if its purpose was in fact to disfavor interstate commerce, its benefits were illusory or insignificant, or impermissible parochial considerations unconstitutionally burdened interstate commerce. In *U.S.* v. *Westchester,* 571 F. Supp. 786 (S.D.N.Y. 1983), the court found that a blanket nighttime curfew regardless of noise emission had an adverse impact on the flow of air commerce because it interfered with and prevented the efficient use of the navigable airspace, resulting in bunching of flights, delays in flights not only at Westchester County Airport but at LaGuardia and other airports in the metropolitan area, and disruption in the flow of air traffic in the New York City metropolitan area. The curfew further represented an unlawful exercise of local police power by the County.

In *National Aviation* v. *Hayward,* 418 F. Supp. 417 (N.D. Cal. 1976), the court reviewed the constitutionality of an ordinance which prohibited the operation of aircraft between the hours of 11 p.m. and 7 a.m. by aircraft which exceeded a noise level of 75 dBA. The plaintiffs argued that the ordinance burdened interstate commerce by forcing them to make their flights from Oakland Airport rather than Hayward Air Terminal, thereby impairing their ability to deliver mail and newspapers to customers in California and other nearby states. The court upheld the airport's nighttime noise level limitation as a valid exercise of proprietary rights. On application of a balancing test under the Commerce Clause, the court found that the burden imposed on the flow of commerce was incidental and did not overcome the local interest in controlling noise levels at Hayward Air Terminal during late evening and morning hours. The nighttime noise level limitation did not sufficiently reduce the value of aircraft operator leases so as to be an unlawful taking under the 14th Amendment.

In *Santa Monica Airport association* v. *City of Santa Monica,* 659 F.2d 100 (9th Cir. 1981), the court stuck down an airport ban on the operation of jet aircraft on the basis of noise under the Commerce and Equal Protection Clauses of the U.S. Constitution because the quality and quantity of noise emitted by the jets had no greater tendency to irritate and annoy than that emitted by permitted propeller-driven aircraft.

In *Alaska Airlines* v. *City of Long Beach,* 951 F.2d 977 (9th Cir. 1991), the City of Long Beach had enacted a curfew in 1981 which limited air carrier flights to 15 per day and required carriers to use quieter aircraft. The Court of Appeals overruled the district court's findings that the ordinance was preempted by Federal law, impermissibly burdened interstate commerce, violated equal protection principles, and was arbitrary and capricious, or otherwise not rationally related to legitimate governmental concerns. The Court of Appeals found that each of the challenged provisions of the ordinance was sufficiently supported by a reasonable and legitimate justification.

Airports that are recipients of Federal airport development grants have specific contractual duties, under the terms of their airport development grant agreements, to ensure that their facilities are available under equitable conditions. These obligations include the duty to ensure that the airport is available for public use on fair and reasonable terms and without unjust discrimination, and that no restriction results in the establishment of an exclusive right. The courts have made it clear that these contractual obligations are an important aspect of the limitations on an airport owner's authority to control aircraft noise, for example, in the issuance of curfews.

In *U.S.* v. *Westchester,* 571 F. Supp. 786 (S.D.N.Y. 1983), discussed in part above, the court also found that the county had obligated itself by the FAA's grant assurances to make the airport available for public use on fair and reasonable terms, without unjust discrimination, and at all times. The court noted that failure to comply with the conditions of a grant authorized the FAA to suspend current grant payments and withhold future grants. The court held that Westchester's curfew on flight operations constituted a breach of the terms, conditions, and assurances set forth in the grant-in-aid agreements between the county and the FAA, and that the FAA properly refused to pay further grant monies to the county based on its failure to comply with grant conditions and assurances.

The power thus left to the proprietor—to control what types of aircraft use its airports, to impose curfews or other use restrictions, and, subject FAA approval, to regulate runway use and flight paths—is not unlimited. Though not preempted, the proprietor is subject to two important Constitutional restrictions. It first may not take any action that imposes an undue burden on interstate or foreign commerce, and second may not unjustly discriminate between different categories of airport users. As discussed,

airport proprietors that are recipients of FAA airport development grants are subject to certain statutory and contractual obligations including that to make the airport available for public use on reasonable terms and conditions. Also, states, political subdivisions of states, and political authorities of at least two states may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air carrier, unless that law or regulation is consistent with the proprietary exception. See, 49 U.S.C. 41713.

Our concept of the legal framework underlying this Policy Statement is that proprietors retain the flexibility to impose such restrictions if they do not violate any Constitutional or statutory proscription. We have been urged to undertake—and have considered carefully and rejected—full and complete Federal preemption of the field of aviation noise abatement. In our judgment the control and reduction of airport noise must remain a shared responsibility among airport proprietors, users, and governments.

Summary

The legal framework with respect to noise may be summarized as follows:

- The Federal Government has preempted the areas of airspace use and management, air traffic control, safety and the regulation of aircraft noise at its source. The Federal government also has substantial power to influence airport development through its administration of the Airport Improvement Program.
- Other powers and authorities to control airport noise rest with the airport proprietor—including the power to select an airport site, acquire land, assure compatible land use, and control airport design, scheduling and operations—subject to Constitutional prohibitions against creation of an undue burden on interstate and foreign commerce, and unreasonable, arbitrary, and unjust discriminatory rules that advance the local interest, other statutory requirements, and interference with exclusive Federal regulatory responsibilities over safety and airspace management.
- State and local governments may protect their citizens through land use controls and other police power measures not affecting airspace management or aircraft operations. In addition, to the extent they are airport proprietors, they have the powers described in the preceding section.

The authorities and responsibilities under the Policy may be summarized as follows:

- The Federal Government has the authority and responsibility to control aircraft noise by the regulation of source emissions, by flight operational procedures, and by management of the air traffic control system and navigable airspace in ways that minimize noise impact on residential areas, consistent with the highest standards of safety. The Federal government also provides financial and technical assistance to airport proprietors for noise reduction planning and abatement activities and, working with the private sector, conducts continuing research into noise abatement technology.
- Airport Proprietors are primarily responsible for planning and implementing action designed to reduce the effect of noise on residents of the surrounding area. Such actions include optimal site location, improvements in airport design, noise abatement ground procedures, land acquisition, and restrictions on airport use that do not unjustly discriminate against any user, impede the Federal interest in safety and management of the air navigation system, or unreasonably interfere with interstate or foreign commerce.
- State and Local Governments and Planning Agencies should provide for land use planning and development, zoning, and housing regulations that are compatible with airport operations.
- Air Carriers are responsible for retirement, replacement or retrofit for older jets that do not meet Federal noise level standards, and for scheduling and flying airplanes in a way that minimizes the impact of noise on people.
- Air Travelers and Shippers generally should bear the cost of noise reduction, consistent with established Federal economic and environmental policy that the costs of complying with laws and public policies should be reflected in the price of goods and services.
- Residents and Prospective Residents in areas surrounding airports should seek to understand the noise problem and what steps can be taken to minimize its effect on people. Individual and community responses to aircraft noise differ substantially and, for some individuals, a reduced level of noise may not eliminate the annoyance or irritation. Prospective residents of areas impacted by airport noise thus should be aware of the effect of noise on their quality of life and act accordingly.

Section 4: Assessing Aviation Noise

4.1 Foundations

The Federal government's methods and standards for measuring and assessing noise impacts derive from scientific research and a series of interagency committee reviews.

Federal Interagency Committee on Urban Noise

In 1979 the Federal Interagency Committee on Urban Noise (FICUN) was formed to develop Federal policy and guidance on noise. The committee's membership included the Environmental Protection Agency (EPA), the FAA, the Federal Highway Administration, and the Departments of Defense (DOD), Housing and Urban Development (HUD), and Veterans Affairs (VA). Among other things, it developed consolidated Federal agency land use compatibility guidelines using Yearly Day-Night Average Sound Levels (DNL) as the common descriptor of noise levels. In order to develop the guidelines, it was also necessary to establish a correlation between land use and noise exposure classifications.

The FICUN issued its report entitled Guidelines for Considering Noise in Land Use Planning and Control in June 1980. This report established the Federal government's DNL 65 dB standard and related guidelines. The FICUN generally agreed that standard residential construction was compatible for noise exposure from all sources up to DNL 65 dB. Their land use compatibility guidelines for noise exposure between DNL 65–70 dB called for building codes to require at least 25 dB outdoor to indoor noise level reduction (NLR); between DNL 70–75 dB, at least 30 dB NLR.

The FICUN considered noise exposure above DNL 75 dB to be ''incompatible'' with all residential uses except transient lodging with NLR of at least 35 dB. The report contained a comprehensive guidelines table. This table contains the following footnote regarding residential and certain other noise-sensitive uses in the moderate exposure zone from DNL 55–65 dB:

The designation of these uses as ''compatible'' in this [moderate impact] zone reflects individual Federal agencies' consideration of general cost and feasibility factors as well as past community experiences and program objectives. Localities, when evaluating the application of these guidelines to specific situations, may have different concerns or goals to consider.

The designations contained in the FICUN's land use compatibility table do not constitute a Federal determination that any use of land covered by the program is acceptable or unacceptable under Federal, State, or local law. The responsibility for determining the acceptable and permissible land uses and the relationship between specific

properties and specific noise contours rests with the local authorities.

Aviation Safety and Noise Abatement Act of 1979

The ASNA was the first Federal legislation specifically addressing airport noise compatibility. The FAA implemented the ASNA's provisions in Part 150. This regulation adopted the DNL metric and the 65 dB land use compatibility guideline. This Federal guideline has been widely accepted by airport proprietors as a threshold for limiting new residential development and for sound insulation where new development is permitted above this guideline. The subsection on Airport Noise Compatibility Planning in Section 2 addresses Part 150 provisions in greater detail.

Federal Interagency Committee on Noise

In 1991, the FAA and EPA initiated the Federal Interagency Committee on Noise (FICON) to review technical and policy issues related to assessment of noise impacts around airports. Membership included representatives from DOD, DOT, HUD, the Department of Justice, VA, and the Council on Environmental Quality. The FICON review focused, among other things, on the manner in which noise impacts are determined and described and the extent of impacts outside of DNL 65 dB that should be reviewed in a NEPA document. The FICON's findings and recommendations were published in an August 1992 report, Federal Agency Review of Selected Airport Noise Analysis Issues.

With respect to DNL, the FICON found that there are no new descriptors or metrics of sufficient scientific standing to substitute for the present DNL cumulative noise exposure metric. It further recommended continuing the use of the DN metric as the principal means for describing long-term noise exposure of civil and military aircraft operations. The FICON reaffirmed the methodology employing DNL as the noise exposure metric and appropriate dose-response relationships (primarily the Schultz curve for Percent Highly Annoyed) to determine community noise impacts.

Based on these findings, the FICON supported agency discretion in the use of supplemental noise analysis. It also recommended that further analysis should be conducted of noise-sensitive areas between DNL 60–65 db having an increase of 3 dB or more if screening analysis shows that noise-sensitive areas at or above DNL 65 dB will have an increase of DNL 1.5 dB or more. The FICON decided not to recommend evaluation of aviation noise impact below DNL 60 dB because public heath and welfare effects below that level have not been established.

The FICON strongly supported increasing research efforts on methodology development and on the impact of aircraft noise. It recommended a standing Federal interagency committee be established to assist agencies in providing adequate forums for discussion of public and private sector proposals identifying needed research and in encouraging research and development in these areas.

Federal Interagency Committee on Aviation Noise

The Federal Interagency Committee on Aviation Noise (FICAN) was formed in 1993 based on the FICON report's policy recommendation to form a standard interagency committee for facilitating research on methodology development and on the impact of aircraft noise. Membership includes representatives from DOD, HUD, DOT and the Department of the Interior, as well as NASA and the EPA. Each of the Federal agencies conducting significant research on aviation-related noise is represented on FICAN. Some member agencies, such as HUD and EPA, are not currently conducting research but have broad policy roles with respect to aviation noise issues.

The FICAN does not conduct or directly fund any research. Rather, it serves as a clearinghouse for Federal aircraft noise research and development (R&D) efforts and as a focal point for questions and recommendations on aviation noise R&D. Products include various reports, studies, analyses, findings, and conclusions. The FICAN holds periodic meetings, including a public forum, and issues a report on its activities annually. Since its inception in 1993, it has reached the following conclusions:

- Interagency communication between researchers will help researchers to understand other agencies' goals and objectives in their research programs; afford the opportunity for researchers to discuss the projects ongoing at their own or other agencies; and result in more efficient use of Federal funds by reducing redundancy of research, increasing collaboration, and pooling the talents of various agency scientists.
- The public forum is a valuable mechanism for soliciting input from interested members of the aviation profession and community members.
- The Acoustical Society of America should form a working group tasked with development a revised standard for predicting noise-induced sleep disturbance.

Current and future FICAN activities include:

- Working with researchers to develop individual agency priorities for research to address issues regarding overflight noise in parks and wilderness areas.
- Publishing technical positions on aviation noise topics based on definitive research by member agencies. Such topics include noise-induced sleep disturbance, non-auditory health effects, and land use compatibility guidelines.

4.2 Assessment Methodologies

Yearly Day-Night Average Sound Levels (DNL)

The FAA and other Federal agencies use DNL as the primary measure of noise impacts on people and land uses. This cumulative metric is the Federal standard because it:

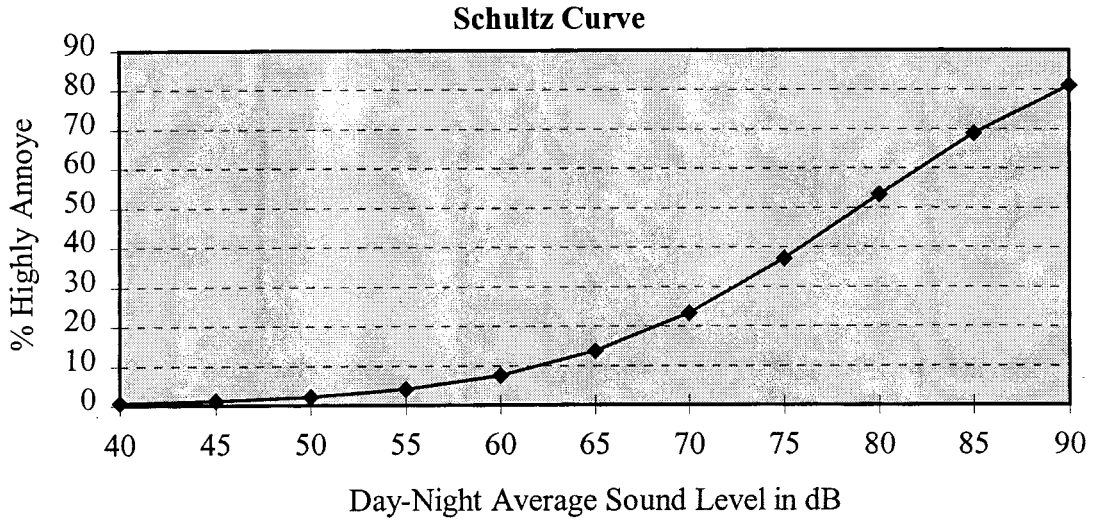
- Correlates well with the results of attitudinal surveys of residential noise impact;
- Increases with the duration of noise events, which is important to people's reaction;
- Takes into account the number of noise events of the full 24 hours in a day, which also is important to people's reaction;
- Takes into account the increased sensitivity to noise at night by including a 10-dB nighttime penalty between 10:00 p.m. and 7:00 a.m. to compensate for sleep disturbance and other effects;
- Allows composite measurements of all sources of community noise; and
- Allows quantitative comparison of noise from various sources with a community.

DNL is the only metric backed with a substantial body of scientific survey data on the reactions of people to noise. It provides a simple method to compare the effectiveness of alternative airport scenarios. Land use planners have acquired over 20 years of working experience applying this metric to make zoning and planning decisions. DNL is a sound and workable tool for land use planning and in relating aircraft noise to community reaction. Experience indicates that DNL provides a very good measure of impacts on the quality of the human environment, forming an adequate basis for decisions that influence major transportation infrastructure projects. In an August 1992 report, the FICON reaffirmed both DNL as the appropriate metric for measuring aviation noise exposure and DNL 65 dB as the Federal Government's level of significance for assessing noise impacts.

Some people challenge the use of DNL to assess aviation noise because it is a measure of exposure from cumulative events over time rather than a measure of exposure from a single noise event. Commonly cited as potential alternative metrics are the Sound Exposure Level (SEL), which describes cumulative noise exposure from a single event, and Maximum Level (L_{max}), the highest level during a single event. Although sometimes useful as supplemental measures of noise exposure, single event metrics pose problems. They present neither an accurate picture of noise exposure nor the overall impact of noise on a community. Because single event metrics by definition are not composites of cumulative events, 100 aircraft operations a day would be no worse than one operation. Similarly, one event at 90 dB would be assessed as worse than 100 events at 89 dB. These effects clearly do not reflect noise impacts or annoyance reactions accurately. Alternatively, DNL increases with the number of operations, while single event measures do not. DNL combines the number of operations with the loudness of each operation into a cumulative noise dose. The resulting values correlate well with independent tests of annoyance from all sources of noise.

Human response to noise involves both the maximum level and its duration, so the maximum sound level alone is not sufficient to evaluate the effect of noise on people. Clearly, people are bothered by individual noise events, but their sense of annoyance increases with the number of those noise events, and with those that occur late at night. The DNL metric provides a combined measure of these factors that can be used to evaluate existing and predicted future conditions on an unambiguous, single-number basis. Although DNL is an average of cumulative noise levels, sound levels of the loudest events control the DNL calculation. Both L_{max} and SEL measure individual sound events that may occur only once, or may occur several times during the day. The number of times these events occur and when they occur are important in measuring the noise environment. DNL is a time-average of the total sound energy over a 24–hour period, adjusted by providing a 10 dB penalty to sound levels occurring between 10PM and 7AM. This 10 dB penalty means that one nighttime sound event is equivalent to 10 daytime events of the same level. Accordingly, DNL combines both the intensity and number of single noise events with a nighttime weighting factor in a manner that is strongly influenced by maximum sound levels.

Recognizing that DNL often is criticized based on perceptions of community annoyance, the FICON reaffirmed that complaints are an inadequate indicator of the full extent of noise effects on a population. The DNL 65 dB level of significance does not mean that no one is annoyed below that level. Extensive research has been conducted to evaluate annoyance. In an attempt to meet demand for a usable and uniform relationship between noise and annoyance, T.J. Schultz reviewed the results of 161 social surveys where data were available to make a consistent judgment concerning what percent of the population was ''highly annoyed'' (%HA). The surveys were of community reactions to several types of transportation noises such as road traffic, railroad, and aircraft noises. The results agreed fairly well with one another, and Schultz developed an equation for describing the relationship between the level of exposure (in DNL) and percent of population highly annoyed. Schultz published the results of the surveys in 1978 in ''Synthesis of Social Surveys on Noise Annoyance.'' In 1992, the US Air Force updated Schultz's research with a total of 400 surveys. Comparison of the original and updated results indicate that they differ by less than two percent in the DNL range from 45 to 75 dB. The following chart presents the relationship between %HA and DNL:



The Schultz curve indicates that about 12 percent of people living at DNL 65 dB report themselves to be ''highly annoyed'' by transportation noise. About 3 percent are highly annoyed at a DNL of 55 dB.

Noise Analysis Criteria for Changes in DNL

The DNL 65 dB contour remains the FAA's lower limit for defining significant noise impact on people. For a variety of reasons, noise predictions and interpretations are frequently less reliable below DNL 65 dB. DNL prediction models tend to degrade in accuracy at large distances from the airport. Smaller proportions of the population are highly annoyed with successive decreases in noise levels below DNL 65 dB. The FICON studied criteria for predicting changes in community annoyance below DNL 65

dB. It found that a DNL 3 dB increase at the DNL 60 dB level is generally consistent with the existing DNL 1.5 dB screening criterion at the DNL 65 dB level. This finding was based on using the Schultz curve to relate changes in impact level with changes in DNL. Increases of 5 dB at DNL 55 dB, 3 dB at DNL 60 dB, and 1.5 dB at DNL 65 dB all resulted in a three percent increase in %HA.

For airport development and other actions in the vicinity of an airport, the FAA guidelines for screening based on changes in aviation noise impacts above and below DNL 65 dB follow:

DLN 65 dB and above—An increase in noise exposure of 1.5 dB or more at these levels is considered a significant addition of noise. A Federal action resulting in such an increase would require an environmental impact statement (EIS).

DLN 60–65 dB—Increases in noise of 3 dB or more that remain between DNL 60–65 dB do not result in significant exposure but can be noticeable and may be highly annoying to some people. The FAA will consider mitigation options but would not require an EIS in noise-sensitive areas between DNL 60–65 dB that are projected to have an increase of 3 dB or more as a result of the proposed changes.

For air traffic changes farther away from an airport, FAA recognizes that some actions in areas below DNL 60 dB may produce noticeable noise increases and generate adverse community reaction. Although increases in noise in these areas are well below the standard criteria for significant impact, the FAA's air traffic screening procedures provide mechanisms to identify whether there are extraordinary circumstances warranting an EA.

Supplemental Metrics

The FICON recognized that DNL can be supplemented by other metrics on a case-by-case basis, but advised continued agency discretion in the use of supplemental noise analysis. It found that the use of supplemental metrics is limited because threshold levels of significant impact have not been established and there is no accepted methodology for aggregating these values into a cumulative impact description. Supplemental metrics can be useful in characterizing specific events and enhancing the public's understanding of potential effects resulting from proposed changes in aircraft operations. Supplemental single event analysis sometimes is conducted to evaluate sleep disturbance and, less frequently, specific speech interference issues. For proposed FAA actions in the vicinity of national parks in pristine areas and land uses such a wildlife refuges where the Part 150 land use compatibility guidelines bear little relevance, the FAA supplements DNL noise analysis with other metrics on a case-by-case basis. The following metrics are useful for site-specific applications on a case-by-case basis:

Equivalent Sound Level (L_{eq}) is a cumulative metric that can be appropriate where aircraft noise can affect activity periods of less than 24-hour duration.

Maximum Sound Level (L_{max}) is a single event metric that can be used to describe the greatest sound level in decibels during a given time period at a noise-sensitive location.

Sound Exposure Level (SEL) is a single event metric that can be used to describe noise exposure at noise-sensitive locations. This metric can be expressed both in terms of maximum levels and number of occurrences at varying levels.

Time Above dBA Threshold (TA) is a metric that can be used in the same situations as L_{eq}, such as measuring noise exposure within specific time periods. The designation of threshold to be used in supplemental TA measurements may be defined with respect to speech interference or the ambient (background) noise level.

4.3 Aircraft Research in National Parks

In 1987, the U.S. Congress enacted Public Law (PL) 100–91, the National Parks Overflight Act, which called for the NPS to recommend to the FAA actions for the substantial restoration ''natural quiet'' to the Grand Canyon National Park (GCNP). One year later, the FAA issued the Special Federal Aviation Regulation (SFAR) 50–2, creating a Special Flight Rules Area, flight-free zones, and defined routes for commercial air tours and sightseeing within the GCNP. Another milestone occurred in 1995 when the NPS presented a report to Congress on aircraft noise in national parks.

The FAA and the NPS initiated a model validation process. In August 1999, the agencies hosted a two-day meeting at Grand Canyon National Park of eight internationally recognized acoustics experts (the Technical Review Committee (TRC)). Representatives from Harris, Miller, Miller and Hanson; Volpe National Transportation System Center; and Wylie Laboratories worked with the TRC to develop a protocol that would measure the output of various acoustic models against the actual acoustic environment in the Grand Canyon National Park. The desired outcome of the process is a level of confidence in the ability of the tested models to replicate the conditions found in the park. The on-site data was collected during the month of September 1999 and a Spring 2000 report is planned. The TRC will be asked to review and comment on the results.

4.4 Research on Low Frequency Noise

The issue of low frequency aircraft noise and its impact on structural integrity and human health was explored in detail as part of the environmental assessment of the introduction of Concorde supersonic transport operations into the United States. Potential impacts were found to be negligible. Field studies found that the noise-induced vibrations as a result of Concorde operations cause no structural damage. In addition, the Concorde sound pressure levels at low frequencies were found to be well below the EPA threshold for potential health impact. As a result of these findings, the FAA concluded that low frequency noise of subsonic aircraft in a typical airport environment had no significant impact on structures or human health. This does not mean that there may not be some noticeable vibration in certain cases.

Human annoyance resulting from the effects of aircraft noise induced structural vibration is a recently raised concern. Low frequency noise and perceptible vibration may be experienced when aircraft noise levels are high (near the start of takeoff roll) and there are many aircraft events. This same combination of factors also tends to lead to high DNL levels (generally within the 65 DNL contour or higher). However, unlike the widely accepted relationship between aircraft noise exposure in DNL and community annoyance, there does not currently exist a scientific consensus or Federal guidelines on the human annoyance effects of noise-induced structural vibration.

Overall evidence recently evaluated by the FAA suggests low frequency noise is not a separate impact phenomenon, but rather is connected to high cumulative aircraft noise exposure levels. It may be of concern under certain conditions in areas already within the 65 DNL contour due to higher frequency noise. Perceptible vibration due to low frequency noise may be a secondary effect under certain conditions (*e.g.,* home location relative to takeoff roll and aircraft fleet composition) in homes that are exposed to high levels of aircraft noise as calculated with the DNL metric. The

FAA supports and promotes further research on this issue through FICAN.

Section 5: Source Noise Reduction

Commercial air transportation became a major factor in the U.S. economy with the introduction of jet-powered civil transport aircraft into passenger service in the early 1960's. The economic vitality of jet service triggered explosive growth both in the air transportation industry and in those cities and industries it serviced. However, as airports grew in size and importance, the areas adversely impacted by aviation noise also expanded. Despite economic and transportation benefits, as air service expanded to new communities and flight frequencies increased, complaints about aviation's noise impact became common.

As noise became a major concern, both the Federal government and the aviation industry sponsored research into ways to resolve noise problems. In the 1960's, aircraft and engine manufacturers jointly developed the first generation of low-bypass ratio turbofan engines that were both lower in noise and more fuel-efficient than the turbojet engines then in use. In the early 1970s, another major technological advancement occurred with the introduction of the second generation of high-bypass turbofan engines. These research efforts contributed to considerable progress in aircraft noise reduction through quiet engine designs.

5.1 Aircraft Source Noise Standards

On July 21, 1968, Congress passed the Aircraft Noise Abatement Act of 1968 (49 U.S.C. 44709, 44715), giving the FAA its first express authority to regulate aircraft noise through the establishment of aircraft noise standards. Beginning in 1968, the FAA developed certification standards, first for measuring and then for limiting aircraft noise at the source. These certification standards, which paralleled technological improvements in airplane engine designs, are codified in 14 CFR Part 36. The adoption of Part 36 in 1969 prohibited the further escalation of aircraft noise levels of subsonic civil turbojet and transport category airplanes, and required new airplane types to be markedly quieter than the generation of turbojets that were developed in the late 1950's and early 1960's.

The historical evolution of the FAA's certification standards from Stage 1 to Stage 2 to Stage 3 assisted U.S. airframe manufacturers in gaining a competitive advantage by providing the quietest and most fuel-efficient airplanes available. Effective December 1, 1969, the first U.S. aircraft noise regulations in Part 36 set a limit on noise emissions of large aircraft of new design by establishing Stage 2 certification standards. Stage 2 criteria served as the basic standard for engine noise and were based on then-current technology and initially applied only to new types of airplanes. Under the Noise Control Act of 1972, the FAA was given broader authority to set limits for aircraft noise emissions. This authority is codified in 49 U.S.C. 44715.

On February 25, 1977, the FAA amended Part 36 to establish three levels (or stages) of aircraft noise with specified limits, and prescribed definitions for identifying those airplanes classified under each stage. It also required applicants for new type certificates applied for on or after November 5, 1975, to comply with what are now known as Stage 3 noise standards, and to prescribe the acoustical change requirements for airplanes in each noise level stage under Part 36. The amendment was ''intended to encourage the introduction of the newest generation of airplanes, as soon as practicable'' and provide a compliance schedule to maximize the incentive to replace rather than retrofit older aircraft. This amendment prescribed the noise level standards for that ''newest generation of airplanes.'' The three stages of aircraft noise established in Part 36 have been used as the noise operating limits for civil subsonic turbojet aircraft in the phaseouts of both Stage 1 and Stage 2 airplanes.

5.2 Airplane Operating Noise Limits—Stage 1 Phaseout

When the 1976 Policy was published, it announced a program which would ultimately prohibit operation within U.S. airspace of any civil, subsonic turbojet airplanes with a standard airworthiness certificate and with maximum takeoff weights of more than 75,000 pounds that had not been shown to meet the Stage 2 noise standards contained in Part 36. In accordance with the 1976 Policy, the FAA adopted regulations that in part established a phased compliance program for U.S. domestic operations to reduce aircraft noise. Subpart 1 of Part 91 required that civil subsonic airplanes with a gross weight of more than 75,000 pounds comply with Part 36 Stage 2 or Stage 3 noise levels by January 1, 1985, in order to operate in the United States. Compliance could be achieved by (1) replacing the older fleet with new, quieter airplanes; (2) re-engining the aircraft; or (3) using noise reduction technology, such as hushkits, that has been shown to be technologically feasible and economically reasonable for use on older turbojets.

On February 18, 1980, the Congress enacted the Aviation Safety and Noise Abatement Act of 1979 (ASNA). Title III of that Act required the FAA to promulgate regulations extending application of the January 1, 1985, cut-off date for turbojet aircraft to U.S. and foreign international operators if no international agreement could be achieved on a compliance deadline. Since no such agreement could be reached, on November 28, 1980, the FAA amended § 91.303 to make it applicable to all operators for their operations in the U.S. The ASNA also mandated that certain civil two-engine turbojet airplanes with 100 of fewer seats be given exemptions from the noise rule until January 1, 1988 (the so-called ''small community service'' exemptions). The FAA implemented the ''service to small community'' exemption for two-engine subsonic airplanes in § 91.307.

5.3 Airplane Operating Noise Limits—Stage 2 Phaseout

Through passage of the Airport Noise and Capacity Act of 1990 (ANCA), Congress directed that domestic and foreign civil subsonic turbojet airplanes with maximum weight of more than 75,000 pounds must meet Stage 3 standards to operate within the contiguous United States after December 31, 1999. In implementing this statutory requirement, the FAA promulgated a rule in 14 CFR Part 91, Subpart I, requiring that domestic and foreign airplanes that do not meet Part 36 Stage 3 noise levels either be retired or modified to meet those levels. To bring about the earliest feasible reduction of noise levels, interim compliance deadlines for phaseout of Stage 2 and transition to Stage 3 airplane fleets were established on the basis of technological and economic reasonableness. Interim compliance options and related deadlines are:

Phaseout Method

An operator could choose to reduce the number of Stage 2 airplanes it maintains on its operations specifications for operation in the contiguous United States to the required percentage of its established base level number on each compliance date as follows:

After December 31, 1994, 75 percent of its base level;

After December 31, 1996, 50 percent of its base level; and

After December 31, 1998, 25 percent of its base level.

Fleet Mix Method

An aircraft operator could choose to increase the number of Stage 3 airplanes it maintains on its operations specifications for operation in the contiguous United States so that its fleet consists of:

Not less than 55 percent Stage 3 airplanes after December 31, 1994;

Not less than 65 percent Stage 3 airplanes after December 31, 1996; and,

Not less than 75 percent Stage 3 airplanes after December 31, 1998.

New Entrant Compliance

A new entrant air carrier (a domestic or foreign air carrier beginning service in the contiguous United States after November 5, 1990) must increase the number of Stage 3 airplanes it maintains on its operations specifications for operation in the contiguous United States so that its fleet consists of:

At least 25 percent Stage 3 airplanes after December 31, 1994;

At least 50 percent Stage 3 airplanes after December 31, 1996; and

At least 75 percent Stage 3 airplanes after December 31, 1998.

The regulations require all operators of subject airplanes to report compliance progress to the FAA annually. They also provide separate criteria for interim and final compliance waivers. As prescribed in ANCA, a final compliance waiver may only be granted by the Secretary of Transportation (through delegation, by the FAA) to a domestic air carrier for no more than 15 percent of its fleet and that has achieved a fleet mix of at least 85 percent Stage 3 airplanes by July 1, 1999. Any final compliance waiver granted may not extend beyond December 31, 2003.

5.4 Potential Gains From Source Noise Reduction Research

Federal policy recognizes noise impacts on populations and emphasizes source reduction to alleviate those impacts. This policy initiated the Stage 1 phaseout, which subsequently was codified into Federal law. It also resulted in the establishment of Stage 3 standards. In conjunction with additional Federal legislation, the Federal government's aviation noise policy facilitated the phaseout of Stage 2 airplanes by the year 2000. In keeping with this policy, the FAA places a high priority on developing future aircraft noise reduction technology to support the continued expansion of the national aviation system.

In early 1992, the FAA and NASA began sponsorship of a multiyear program focused on achieving significant noise reduction technology advances. In October 1992, Congress mandated that the FAA and NASA jointly conduct an aircraft noise reduction research program, the goal of which is to develop, by the year 2001, technologies for subsonic jet aircraft to operate at reduced noise levels. Current and projected funding of this project in the FAA's and NASA's co-sponsored research program will exceed $200 million by the year 2000. The project's stated goal is to develop technology to reduce the community noise impact of the future subsonic airplanes by 10 dB (relative to 1992 technology).

Future Noise Standards

The FAA is a major participant on an ICAO Committee on Aviation Environmental Protection (CAEP) technical working group that is formulating proposals for an increase in stringency of the international noise standard for subsonic jet and large propeller-driven airplanes. The FAA plans to set new Stage 4 standards by early in the next century. New standards would result in a future timed transition to a generation of airplanes quieter than Stage 3, similar to source-noise reduction transitions that have been implemented since the 1976 Policy.

The Secretary of Transportation's flagship initiative supports the development of more stringent aircraft noise standards. FAA is aggressively pursuing the development of international certification noise standards for turbojet airplanes that will be more stringent than the current Stage 3 standards; and, developing models to assess new noise abatement technologies that will encourage introduction of quieter planes.

Source Noise Reductions for Aircraft Under 75,000 lbs.

Commercial and business aircraft of not more than 75,000 pounds gross weight make a significant contribution to aviation in the United States. They often provide the bridge between smaller communities and the major air carrier airports. Generally, this task is performed by commuter aircraft and specialized air traffic services. Privately owned business aircraft also make a contribution to the system by providing specialized point-to-point service for corporate executives and staff. This service saves valuable time and relieves hub congestion while providing increased aircraft capacity to the system. Each of these classes of smaller aircraft makes its unique contribution to the overall efficiency of aviation. Together, they extend air service to many smaller outlying areas, both rural settings and suburban.

The Stage 1 and Stage 2 airplane phaseouts affected only large commercial airplanes with a gross weight of more than 75,000 pounds. There are no provisions in either Federal law or FAA regulations that are directed at phasing out airplanes of not more than 75,000 pounds. In 1990–91, the FAA undertook a study in accordance with the provisions of 49 U.S.C. 47525 to determine whether requirements governing noise and access restrictions in Part 161 should apply to Stage 2 airplanes of not more than 75,000 pounds as well as to those above that weight. After careful consideration of the various issues involved and of comments received from the public, the FAA concluded that the analysis, notice, and comment provisions for proposed restrictions should apply to all Stage 2 aircraft operations regardless of gross weight. This conclusion was based on the need to protect the interests of all segments of aviation and of the general public.

The National Business Aviation Association (NBAA) passed a resolution in January 1998 that is a first step in voluntary elimination of noisy business aircraft. Coordinated with the FAA, the resolution calls for the NBAA's 5,200 members to refrain from adding Stage 1 aircraft to their fleets beginning in January 2000 and to end the operation of Stage 1 aircraft by January 2005. This resolution affects business aircraft at or below 75,000 pounds. In the absence of specific Federal legislation, the FAA encourages and supports voluntary efforts by the aviation industry that will result in reducing noise of Stage 1 and Stage 2 aircraft of not more than 75,000 pounds in gross weight.

Helicopter Noise Reduction Research

44 U.S.C. 44715 directs the FAA to prescribe and amend aircraft noise standards taking into consideration whether the standard is economically reasonable, technologically feasible and appropriate for the applicable aircraft, aircraft engine, appliance, or certificate. An FAA research project seeks to demonstrate the technological and economical feasibility of incorporating existing noise abatement technology concepts into the designs of light helicopters produced by small manufacturers. The project is a technology transfer effort that will address existing noise abatement design concepts for individual small helicopter designs. Prototype hardware will be constructed and tested, or existing airframe designs modified, to demonstrate the airworthiness and noise reduction potential of the noise abatement designs. The FAA-sponsored

activity is a follow-on to the similar NASA research program directed toward the larger, more technologically advanced manufacturers and involving the development of advanced noise design technologies.

General Aviation Noise Reduction Research

In 1994, Congress directed that the FAA and NASA jointly conduct a noise study of propeller-driven small airplanes and rotorcraft to identify noise reduction technologies, evaluate the status of R&D and determine the need for addition research activities. For propeller-drive small airplanes, the study identified the need for user-friendly tools to design quieter propellers, engine systems optimized for low noise, and demonstration of these concepts.

The FAA and NASA initiated a government/industry/university partnership for acoustics technologies following the findings of the study. This research supports the General Aviation Action Plan (GAAP), which was developed by the general aviation (GA) industry and the FAA. One of the goals of the GAAP is to promote the development of new methodologies and technologies that will reduce the overall perceived noise footprint of GA aircraft. In response, the FAA and NASA are co-sponsoring a research program that seeks to identify and develop propeller-driven aircraft noise reduction and control technologies. The objective of the project is to enable U.S. manufacturers to produce quieter propeller-driven airplanes.

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Airport Noise and Capacity Act of 1990 (ANCA) (49 U.S.C. 47521–47533).

National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*)

Regulations in 14 CFR

Part 36, Noise Standards: Aircraft Type and Airworthiness Certification.

Part 91, General Operating and Flight Rules; Subpart I, Operating Noise Limits.

Part 150, Airport Noise Compatibility Planning.

Part 161, Notice and Approval of Airport Noise and Access Restrictions.

[FR Doc. 00–17784 Filed 7–13–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2000–7601]

Notice of Request for Clearance of a New Information Collection: Design/Build Research Study

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of the FHWA to request the Office of Management and Budget's (OMB) approval for a new information collection involving responses to a questionnaire concerning design/build projects. The information to be collected will be used to analyze the affected public's perception of safety related issues and impacts on private property that may be attributed directly to design/build projects. This information is necessary to address certain details and provide feedback to the FHWA's evaluation of right-of-way acquisition and relocation on design/build projects.

DATES: Comments must be submitted on or before September 12, 2000.

ADDRESSES: All signed, written comments should refer to the docket number that appears in the heading of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10:00 a.m. and 5:00 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. David Walterscheid, (202) 366–9901, Office of Real Estate Services, Federal

Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 5:00 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Design/Build Research Study.

Background: The Transportation Equity Act for the 21st Century (TEA–21), section 1307, prescribes the interim provisions under which projects can be advanced utilizing design/build contracting procedures. TEA–21 mandates that regulations will be developed to carry out the amendments made by section 1307. The regulations will identify the criteria to be used by the Secretary of Transportation in approving the use of and establishing the procedures for design/build contracting by a State transportation department or a local transportation agency. With the increased funding available under TEA–21, States are expected to increase their use of design/build contracting to advance projects. One unique aspect of design/build contracting is that it authorizes construction at the time the project agreement is signed. This allows the contractor to begin construction on a parcel of land as soon as it is acquired. This process could lead to safety concerns and possible coercive actions for vacant landowners, homeowners and/or businesses that await acquisition of, or relocation from, their property for right-of-way purposes. Several design/build projects that included right-of-way acquisition activities have been identified. These projects are located in California, South Carolina and Virginia. The FHWA's Office of Real Estate Services in conjunction with South Carolina State University will conduct a survey of approximately 100 property owners, residents, business owners and various contractors involved in a design/build project to ascertain their perceptions of possible safety related issues or coercive actions that may have affected them. The information will be collected by telephone/written surveys, personal interviews and/or site visits. The information gathered from the survey will be used by the Office of Real Estate Services to assist in the drafting of the regulations as prescribed in TEA–21.

Respondents: The respondents to the survey will be approximately 100 property owners, residents, business owners and various design/build and right-of-way contractors located in California, South Carolina, and Virginia.

Estimated Average Burden per Response: The estimated average burden per response is 30 minutes.

Estimated Total Annual Burden: The estimated total annual burden for all respondents is 50 hours.

Frequency: This is a one-time survey.

Public Comments Invited: Interested parties are invited to send comments regarding any aspect of this information collection, including, but not limited to: (1) The necessity and utility of the information collection for the proper performance of the functions of the FHWA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance of this information collection.

Electronic Access: Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help. An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at telephone number 202–512–1661. Internet users may reach the **Federal Register's** home page at *http://www.nara.gov/fedreg* and the Government Printing Office's database at *http://www.access.gpo.gov/nara.*

Authority: The Transportation Equity Act for the 21st Century, (Pub. L. 105–178), section 1307 and 49 CFR 1.48.

Issued on: July 10, 2000.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. 00–17867 Filed 7–13–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Yellowstone and Carbon Counties, Montana

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA hereby gives notice that it intends to prepare an environmental impact statement (EIS) for the proposed reconstruction of US 212 between Rockvale and Laurel in Yellowstone and Carbon County, Montana.

FOR FURTHER INFORMATION CONTACT: Dale Paulson, Program Development Engineer, Federal Highway Administration, 2880 Skyway Drive, Helena, MT 59602; Telephone: (406) 449–5303 ext. 239; or Joel Marshik, P.E., Environmental Services and Tribal Liaison Manager, Montana Department of Transportation, PO Box 201001, 2701 Prospect Avenue, Helena, MT 59602–1001; Telephone: (406) 444–7632.

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 FHWA in cooperation with the Montana Department of Transportation (MDT), will prepare an EIS to determine the appropriate location, design and alternatives for the proposed future reconstruction of US 212 from Rockvale, Montana [Reference, or ''Mile'' Post (RP) 42.640±] to just south of Laurel, Montana (RP 53.841±). The EIS will examine the short and long-term impacts on the natural, physical, and human environments. The impact assessment will include, but not be limited to, impacts on wetlands, wildlife, and fisheries; social environment; changes in land use; aesthetics; changes in traffic; and economic impacts. Title VI of the Civil Rights Act (42 U.S.C. 2000d) and Environmental Justice (as outlined in Executive Order 12898) will also be addressed as part of the impact assessment. The EIS will also examine measures to mitigate significant adverse impacts resulting from the proposed action.

Comments are being solicited from appropriate Federal, State, and local agencies and from private organizations and citizens who have interest in this proposal. Public information meetings will be held in the project area to discuss the potential alternatives. A draft of the EIS will be available for public and agency review, and a public hearing will be held to receive comments. Public notice will be given of the time and place of all meetings and hearings.

Comments and/or suggestions from all interested parties are requested to ensure that the full range of all issues and significant environmental issues, in particular, are identified and reviewed. Comments or questions concerning this proposed action and/or its EIS should be directed to the FHWA or the Montana Department of Transportation (MDT) at the addresses listed previously.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this proposed action.)

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: July 10, 2000.

Dale Paulson,

Program Development Engineer, FHWA.

[FR Doc. 00–17840 Filed 7–13–00; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Federal Highway Administration

[FRA Docket No. FRA–1998–4759]

Financial Assistance To Eliminate Highway-Railroad Grade Crossing Hazards on Designated High-Speed Rail Corridors

AGENCIES: Federal Railroad Administration (FRA) and Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of solicitation of modified and new applications for the designation of additional high-speed corridors.

SUMMARY: On December 11, 1998, pursuant to the Transportation Equity Act for the 21st Century (TEA–21), the FRA and FHWA published a notice in the **Federal Register** (at 63 FR 68499–68501) soliciting applications from States for the designation of up to three additional high-speed rail corridors. Applications were received on behalf of three corridors by the March 11, 1999 deadline, namely, from the States of Maine and New Hampshire and the Commonwealth of Massachusetts: (1) Boston, Massachusetts and Portland, Maine; and from the State of Ohio: (2) Chicago, Illinois and Cleveland, Ohio (via Toledo, Ohio); and (3) Cleveland and Cincinnati, Ohio (via Columbus and Dayton).

Since receiving these applications, the FRA has been reviewing them carefully and seeking supplemental information from the States in order to assure that the statutory considerations pertaining to designation are properly addressed.

Circumstances have altered with respect to certain of the pending applications since their receipt by the FRA.

In collaboration with the prior applicant States for the Boston-Portland route, the State of Vermont has requested an expansion of the proposed designation for Northern New England, to include a route from Boston through Nashua, Manchester, and Concord, New Hampshire, thence to Montpelier and Burlington, Vermont, and potentially to St. Albans, Vermont and Montreal, P.Q., Canada.

The Midwestern States and Amtrak have continued to develop their plans for the Midwest Regional Rail Initiative (MRRI), of which the Chicago-Cleveland corridor would form an integral part. In recognition of the MRRI's progress and in response to the State of Ohio's request that Chicago-Cleveland be considered as an extension of the existing designated Chicago Hub Network, the FRA has elected to evaluate that route as an extension, rather than as an independent corridor. Since there are now two pending applications (Boston-Portland and Cleveland-Cincinnati) for three potential designations, the FRA can entertain additional applications with the certainty that at least one opportunity exists for a new designation.

Accordingly, in this notice, the FRA is (1) soliciting additional applications from States for designation of a high-speed rail corridor, and is (2) allowing applicant States additional time to modify (and include additional States in) their pending applications.

The FRA and the FHWA are jointly administering this program.

DATES: Signed, written comments on this notice must be received by the FRA on or before August 4, 2000. Completed applications for an additional corridor designation, or for modification of pending applications for designation submitted under the predecessor notice, at 63 FR 68499, must be received by the FRA on or before August 14, 2000.

ADDRESSES: The public is invited to submit written comments on this notice. Written comments should refer to the docket number appearing at the top of this notice and be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address. Docket hours at the Nassif Building are Monday through Friday, 10 a.m. to 5 p.m., excluding Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

Applications for corridor designation and requests for modifications of pending applications should be submitted to: The Honorable Jolene M. Molitoris, Administrator, Federal Railroad Administration, ATTN: HSR Designations, RDV–11, Mail Stop 20, 1120 Vermont Avenue, NW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Neil E. Moyer, Chief, Program Development Division, Office of Railroad Development, (telephone: 202–493–6365; E-mail address: Neil.Moyer@fra.dot.gov), or Mr. Gareth Rosenau, Attorney, Office of Chief Counsel, FRA, 1120 Vermont Avenue, NW., Mailstop 10, Washington, DC 20590 (telephone 202–493–6054; E-mail address: Gareth.Rosenau@fra.dot.gov).

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): http://dms.dot.gov. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communication software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register**'s home page at: http://www.nara.gov/fedreg and the Government Printing Office's database at: http://www.access.gpo.gov/nara.

Background

Purpose

The purpose of this notice is to afford States the opportunity (1) to submit applications for additional corridor designations under the 23 U.S.C. 104(d)(2) program to eliminate highway-railroad grade crossing hazards in designated high-speed rail corridors (Section 104(d)(2) Program), and (2) to submit requests to modify pending applications submitted under the previous notice at 63 FR 68499. The public is invited to submit comments on this notice.

Rules for Application Submissions

Applications for the designation of new high-speed rail corridors under the Section 104(d)(2) Program, and requests

for modification of pending applications, shall be submitted to the address cited in this notice, and electronically in either WordPerfect or MS Word format. Electronic versions are to be submitted either on 3–1/2 inch floppy disks, Zip disks, or compact disks (CDs) to the address above, or by electronic mail to Neil.Moyer@fra.dot.gov. Applications shall be submitted by the dates indicated in this notice, and shall comply with the requirements specified in this notice.

Past Designations of High-Speed Rail Corridors

As previously noted, the Secretary is authorized to designate eleven high-speed rail corridors under the Section 104(d)(2) Program. To date the DOT has designated the following eight corridors:

(1) California Corridor (San Francisco Bay Area to Los Angeles and San Diego);

(2) Pacific Northwest Corridor (Eugene, OR via Portland, OR and Seattle, WA to Vancouver, BC);

(3) Chicago Hub Corridor, extending from Chicago to St. Louis, Detroit, Cincinnati, and Minneapolis/St. Paul via Milwaukee;

(4) Florida Corridor (Miami—Orlando—Tampa);

(5) Southeast Corridor (Washington, DC—Richmond, VA (with an extension to Newport News, VA)—Raleigh, NC (with an extension to Columbia, SC, Savannah, GA, and Jacksonville, FL)—Greensboro, NC—Charlotte, NC (with an extension to Atlanta and Macon, GA).

(6) Gulf Coast Corridor, between Houston, TX, New Orleans, LA, and Mobile, AL; also New Orleans and Birmingham, AL;

(7) Keystone Corridor, between Philadelphia and Harrisburg, PA, over the route of the former Pennsylvania Railroad; and

(8) Empire State Corridor, between New York City, Albany, and Buffalo, NY, over the route of the former New York Central Railroad.

Of the designations to date, (1) through (5), above, were originally made in 1992 under Section 1010 of the Intermodal Surface Transportation Efficiency Act of 1991. Designations (6) through (8) were specified by the Congress in TEA–21 and implemented by the Secretary of Transportation in the predecessor notice at 63 FR 68499.

Applications From States for Additional Corridor Designation(s)

Any State, either singly or in conjunction with other States, may request the FRA to designate a corridor under the Section 104(d)(2) Program. As previously noted, applications for designation must be received by the FRA by August 14, 2000.

Section 104(d)(2) requires that the Secretary consider the following:

(1) Whether the proposed corridor includes rail lines where railroad speeds of 90 miles or more per hour are occurring or can reasonably be expected to occur in the future, as specifically mandated by Section 104(d)(2);

(2) The projected ridership associated with the proposed corridor;

(3) The percentage of the corridor over which trains will be able to operate at maximum cruise speed, taking into account such factors as topography and other traffic on the line;

(4) The projected benefits to nonriders, such as congestion relief on other modes of transportation servicing the corridor (including congestion in heavily traveled air passenger corridors);

(5) The amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities; and

(6) The cooperation of the owner of the right-of-way that can reasonably be expected in the operation of the high-speed rail passenger service in the corridor.

Applications from States for designation of high-speed rail corridors, and for modifications of pending applications for designation, will need to explicitly address, in as full and specific a manner as possible, each of the six criteria listed above.

Authority: 23 U.S.C. 315; 49 U.S.C. 20103; section 1103(c), Public Law 105–178, 112 Stat. 107, 122 (1998).

Issued in Washington, D.C. on July 5, 2000.

Mark E. Yachmetz,

Associate Administrator for Railroad Development, Federal Railroad Administration.

Frederick G. Wright, Jr.,

Program Manager, Safety Core Business Unit, Federal Highway Administration.

[FR Doc. 00–17757 Filed 7–13–00; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 00–15]

Notice of Request for Preemption Determination

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice and request for comment.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is publishing for comment a written request for the OCC's opinion about whether Federal law preempts certain provisions of the Massachusetts bank insurance sales statute and regulations promulgated pursuant to that statute by the Division of Banks and the Division of Insurance. This Notice refers to the statute and regulations collectively as the Massachusetts Law. The purpose of this notice and request for comment is to provide interested persons with an opportunity to submit comments prior to the OCC's issuance of a written opinion in this matter.

DATES: Comments must be received on or before August 14, 2000.

ADDRESSES: Comments should be sent to the Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW, Third Floor, Attention: Docket No. 00–15, Washington, DC 20219. You may submit comments electronically to regs.comments@occ.treas.gov or by facsimile transmission to (202) 874–5274. You can inspect and photocopy the comments at the OCC's Public Reference Room, 250 E Street, SW, Washington, DC, between 9:00 a.m. and 5:00 p.m. on business days. You can make an appointment to inspect the comments by calling (202) 874–5043.

FOR FURTHER INFORMATION CONTACT: MaryAnn Orr Nash, Senior Attorney, or Stuart Feldstein, Assistant Director, Legislative and Regulatory Activities Division, (202) 874–5090.

SUPPLEMENTARY INFORMATION:

Background

The OCC has received a request from the Massachusetts Bankers Association (Requester) for a determination that Federal law preempts certain provisions of the Massachusetts Law.

Section 114 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 generally requires the OCC to publish in the **Federal Register** a descriptive notice of certain requests that the OCC receives for preemption opinions. 12 U.S.C. 43. Under section 114, the OCC must publish notice before it issues any opinion letter or interpretive rule concluding that Federal law preempts the application to a national bank of any State law in four designated areas: Community reinvestment, consumer protection, fair lending, or the establishment of intrastate branches. Pursuant to section 114, interested persons have at least 30 days to submit written comments. Without making a determination as to whether section 114 applies to this request, the OCC has decided that it is appropriate to use

notice and comment procedures given the broad interest in the issues presented. The OCC will publish in the **Federal Register** any final opinion letter we issue concluding that Federal law preempts the provisions of Massachusetts Law that are the subject of the request.

Description of the Request for OCC Preemption Opinion

The OCC has been asked to determine whether section 104 the Gramm-Leach-Bliley Act (GLBA), Pub. L. 106–102, 113 Stat. 1338, 1352–59 (Nov. 12, 1999) (to be codified at 15 U.S.C. 6701), preempts certain specific provisions of the Massachusetts Law.

Section 104(d)(2)(A) of GLBA provides that ''[i]n accordance with the legal standards for preemption set forth in the decision of the Supreme Court of the United States in *Barnett Bank of Marion County,* N.A. v. *Nelson,* 517 U.S. 25 (1996), no State may, by statute, regulation, order, interpretation, or other action prevent or significantly interfere with the ability of a depository institution, or an affiliate thereof, to engage, directly or indirectly, either by itself or in conjunction with an affiliate or any other person, in any insurance sales, solicitation, or crossmarketing activity.'' However, GLBA does not preempt state actions that are ''substantially the same as but no more burdensome or restrictive than'' any of the thirteen specific actions described in section 104(d)(2)(B) of the Act (Safe Harbors). The Requester asserts that GLBA preempts three prohibitions contained in the Massachusetts Law and that none of the Safe Harbors protects these limitations.

The Referral Prohibition and the Referral Fee Prohibition

The Requester asserts that section 2A(b)(2) of the Massachusetts bank insurance sales statute, Mass. Gen. Laws Ann. Ch. 167F, § 2A (Lexis 2000 Supp.), and the corresponding regulations set forth in 209 CMR 49.06(3) and 211 CMR 142.05(3) (2000) prohibit non-licensed bank personnel from referring prospective customers to a licensed insurance agent or broker except upon an inquiry initiated by the customer (the Referral Prohibition). The Requester further asserts that these provisions prohibit non-licensed bank personnel from receiving any additional compensation for making a referral, even if the compensation is not conditioned upon the sale of insurance (the Referral Fee Prohibition). For example, section 2A(b)(1) of the Massachusetts statute provides that:

> Officers, tellers, and other employees of a bank who are not licensed as insurance agents may refer a customer of said bank to a licensed insurance agent of the bank only when such customer initiates an inquiry relative to the availability or acquisition of insurance products. No such officer, teller, or other employee shall be further or additionally compensated for making said referrals.

The Requester asserts that the Referral Prohibition and Referral Fee Prohibition are not protected by any of the Safe Harbors. The Requester contends that these prohibitions are broader than section 104(d)(2)(B)(iv), the Safe Harbor which generally protects restrictions prohibiting the payment or receipt of any commission, brokerage fee, or other valuable consideration for services as an insurance agent or broker to or by any persons other than validly licensed insurance personnel. This Safe Harbor specifically excludes from protection any state law limiting compensation for ''a referral by an unlicensed person of a customer or potential customer to a licensed insurance agent or broker that does not include a discussion of specific insurance policy terms and conditions.'' Based on this exclusion, the Requester asserts that the Referral Prohibition and Referral Fee Prohibition are the type of state limitation that Congress explicitly declined to protect in GLBA.

Similarly, the Requester contends that the Referral Prohibition and Referral Fee Prohibition extend beyond the protections of the Safe Harbor contained in section 104(d)(2)(B)(v). That Safe Harbor protects limitations on the payment of insurance commissions and referral fees to unlicensed personnel based upon the purchase of insurance by a prospective customer. The Requestor asserts that the Massachusetts Law does not come within this Safe Harbor because it prohibits referral fees regardless of whether they are based upon the sale of insurance.

The Requester further asserts that GLBA preempts both the Referral Prohibition and the Referral Fee Prohibition because these prohibitions significantly interfere with the ability of a depository institution to engage in insurance sales, solicitation, and crossmarketing activities. In the case of the Referral Prohibition, bank employees may not refer customers to licensed insurance personnel unless the customer initiates the inquiry. In the case of the Referral Fee Prohibition, a bank employee may not receive compensation for making a referral to licensed insurance personnel, even if such compensation is not contingent on the sale of insurance. The Requester asserts that these prohibitions effectively prevent bank employees from engaging in the crossmarketing activities permitted by the GLBA.

Waiting Period Requirement

The Requester also asserts that GLBA preempts section 2A(b)(4)(ii) of the Massachusetts bank insurance sales statute and the corresponding regulations, 209 CMR 49.06(5)(2000) and 211 CMR 142.06 (2000), that require a bank to refrain from making an insurance solicitation in connection with an application for an extension of credit until after the application has been approved and, in the case of an extension of credit secured by a mortgage on real estate, until after the customer has accepted the bank's written commitment to extend credit (the Waiting Period Requirement). Specifically, section 2A(b)(4)(ii) provides that:

> No solicitation for the sale of insurance in conjunction with any application for the extension of credit shall be permitted until said application has been approved, such approval and the disclosures required by this section have been provided to said applicant in writing, and the receipt of both said approval and disclosures has been acknowledged in writing by said applicant. The date, time and method of the communication of said approval and disclosures to the applicant, together with the applicant's acknowledgment of the receipt thereof, shall be made a permanent part of the bank record of such extension of credit. This paragraph shall not apply in situations where a bank contacts a customer in the course of direct or mass marketing of insurance products to a group of persons in a manner that bears no relation to any such person's loan application or credit decision.

The Requester asserts that none of the Safe Harbors protects the Waiting Period Requirement. Although the Safe Harbor contained in section 104(d)(2)(B)(viii) protects certain types of state anti-tying limitations, it specifically excludes any limitation that would prevent a depository institution from informing a customer that insurance is available from the depository institution. Thus, the Requester contends that the Waiting Period Requirement is not substantially the same as any of the Safe Harbors and, in fact, is the type of state limitation that Congress explicity declined to protect in GLBA.

The Requester further asserts that GLBA preempts the Waiting Period Requirement because it requires a depository institution to complete processing of a credit application before even informing an applicant that insurance is available through the institution. Thus, a depository institution may never have an opportunity to market its insurance

products to loan customers, who may arrange to obtain insurance through another firm while the loan is in process. Accordingly, the Requester asserts that the Waiting Period Requirement significantly interferes with the ability of a depository institution to sell, solicit, and cross-market insurance. The Requester also asserts that the Waiting Period Requirement is overbroad because it applies to all types of insurance and not simply insurance required in connection with a loan.

Request for Comments

The OCC requests comments on whether Federal law preempts the provisions of Massachusetts Law cited and described in this notice.

Dated: June 30, 2000.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 00–17826 Filed 7–13–00; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 940 and 940–PR

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 940, Employer's Annual Federal Unemployment (FUTA) Tax Return, and Form 940–PR, Planilla Para La Declaracion Anual Del Patrono—La Contribucion Federal Para El Desempleo (FUTA).

DATES: Written comments should be received on or before September 12, 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 Faye Bruce, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Employer's Annual Federal Unemployment (FUTA) Tax Return (Form 940) and Planilla Para La Declaracion Anual Del Patrono—La Contribucion Federal Para El Desempleo (FUTA) (Form 940–PR).

OMB Number: 1545–0028.

Form Number: 940 and 940–PR.

Abstract: Internal Revenue Code section 3301 imposes a tax on employers based on the first $7,000 of taxable wages paid to each employee. The tax is computed and reported on Forms 940 and 940–PR (Puerto Rico employers only). IRS uses the information on Forms 940 and 940–PR to ensure that employers have reported and figured the correct FUTA wages and tax.

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: Businesses or other for-profit organizations, individuals, or households, and farms.

Estimated Number of Respondents: 1,367,000.

Estimated Time Per Respondent: 14 hr., 26 min.

Estimated Total Annual Burden Hours: 19,736,544.

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: July 7, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–17793 Filed 7–13–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 8628, 8635, and 9383

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 8628, Order Blank for Federal Income Tax Forms for ''Plan Only'' Accounts, Form 8635, BPOL Order Blank for Federal Income Tax Forms, and Form 9383, Fax Order Blank for BPOL Reorders.

DATES: Written comments should be received on or before September 12, 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 Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 8628, Order Blank for Federal Income Tax Forms for ''Plan Only'' Accounts, Form 8635, BPOL Order Blank for Federal Income Tax Forms, and Form 9383, Fax Order Blank for BPOL Reorders.

OMB Number: 1545–1222.

Form Number: Forms 8628, 8635, and 9383.

Abstract: Forms 8628, 8635, and 9383 allow banks, post offices and libraries to order tax forms and publications to distribute to taxpayers at convenient locations. Participation is on a voluntary basis and done as a public service for the Internal Revenue Service.

Current Actions: There are no changes being made to these forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, and Federal, state, local or tribal governments.

Estimated Number of Respondents: 63,000.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 5,450.

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: June 30, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–17794 Filed 7–13–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 706–D

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 706–D, United States Additional Estate Tax Return Under Code Section 2057.

DATES: Written comments should be received on or before September 12, 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 Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: United States Additional Estate Tax Return Under Code Section 2057.

OMB Number: 1545–1680.

Form Number: 706–D.

Abstract: A qualified heir will use Form 706–D to report and to pay the additional estate tax imposed by Code section 2057. Section 2057 requires an additional tax when certain ''taxable events'' occur with respect to a qualified family-owned business interest received by a qualified heir. IRS will use the information to determine that the additional estate tax has been properly computed.

Current Actions: This a new form currently being developed.

Type of Review: Extension of OMB approval.

Affected Public: Individuals or households.

Estimated Number of Responses: 180.

Estimated Time Per Respondent: 2 hours, 42 minutes.

Estimated Total Annual Burden Hours: 486.

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: July 5, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–17795 Filed 7–13–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8844

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

8844, Empowerment Zone Employment Credit.

DATES: Written comments should be received on or before September 12, 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 Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Empowerment Zone Employment Credit.

OMB Number: 1545–1444.

Form Number: 8844.

Abstract: Employers who hire employees who live and work in one of the eleven designated empowerment zones can receive a tax credit for the first $15,000 of wages paid to each employee. The credit is applicable from the date of designation through the year 2004.

Current Actions: The order of Part II, Tax Liability Limit, was revised for this form. Section 501 of Public Law 106–170 extended the provision that allows individuals to offset the regular tax liability in full for personal credits. Previously filers were allowed to claim credits to the extent that the regular tax liability exceeded the tentative minimum tax. For tax years beginning in 2000 and 2001, personal nonrefundable credits may offset both the regular tax and the minimum tax. Also, the computation was changed in Part II to reflect and to conform to changes that were made to the tax computation on Form 1040. A new line 13 was added to show the sum of the regular tax before credits and the alternative minimum tax. Also, because the alternative minimum tax is added to the regular tax (line 13), we no longer need to differentiate how the credit is applied against income tax and alternative minimum tax. Therefore, lines 24 and 25 were eliminated. In addition, the instructions were revised to include two new urban empowerment zones, Cleveland, OH, and Los Angeles, CA.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, farms, and non-profit institutions.

Estimated Number of Respondents: 40,000.

Estimated Time Per Response: 14 hours, 19 minutes.

Estimated Total Annual Burden Hours: 572,400.

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: July 5, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–17796 Filed 7–13–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8586

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 8586, Low-Income Housing Credit.

DATES: Written comments should be received on or before September 12, 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 Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Low-Income Housing Credit.

OMB Number: 1545–0984.

Form Number: 8586.

Abstract: Internal Revenue Code section 42 permits owners of residential rental projects providing low-income housing to claim a tax credit for part of the cost of constructing or rehabilitating such low-income housing. Form 8586 is used by taxpayers to compute the credit and by the IRS to verify that the correct credit has been claimed.

Current Actions: The order of Part II, Tax Liability Limit, was revised for this form. Section 501 of Public Law 106–170 extended the provision that allows individuals to offset the regular tax liability in full for personal credits. Previously filers were allowed to claim credits to the extent that the regular tax liability exceeded the tentative minimum tax. For tax years beginning in 2000 and 2001, personal nonrefundable credits may offset both the regular tax and the minimum tax. Also, the computation was changed in Part II to reflect and to conform to changes that were made to the tax computation on Form 1040. A new line 10 was added to show the sum of the regular tax before credits and the alternative minimum tax.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 168,137.

Estimated Time Per Response: 13 hours, 31 minutes.

Estimated Total Annual Burden Hours: 2,271,531.

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: June 30, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–17797 Filed 7–13–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 6478

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 6478, Credit for Alcohol Used as Fuel.

DATES: Written comments should be received on or before September 12, 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 Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Credit for Alcohol Used as Fuel.

OMB Number: 1545–0231.

Form Number: 6478.

Abstract: IRC section 38(b)(3) allows a nonrefundable income tax credit for businesses that sell or use alcohol mixed with other fuels or sold as straight alcohol. Small ethanol producers are also allowed a nonrefundable credit for production of qualified ethanol. Form 6478 is used to compute the credits.

Current Actions: The order for figuring the tax liability limitation (lines 12 through 22) was revised for this form. Section 501 of Public Law 106–170 extended the provision that allows individuals to offset the regular tax liability in full for personal credits. Previously filers were allowed to claim credits to the extent that the regular tax liability exceeded the tentative minimum tax. For tax years beginning in 2000 and 2001, personal nonrefundable credits may offset both the regular tax and the minimum tax. Also, the computation was changed to reflect and to conform to changes that were made to the tax computation on Form 1040. A new line 14 was added to show the sum of the regular tax before credits and the alternative minimum tax.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,594.

Estimated Time Per Respondent: 12 hrs., 46 min.

Estimated Total Annual Burden Hours: 20,339.

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: July 6, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–17798 Filed 7–13–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 990–PF and 4720

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 990–PF, Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation, and Form 4720, Return of Certain Excise Taxes on Charities and Other Persons Under Chapters 41 and 42 of the Internal Revenue Code.

DATES: Written comments should be received on or before September 12, 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 Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 990–PF, Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation, and Form 4720, Return of Certain Excise Taxes on Charities and Other Persons Under Chapters 41 and 42 of the Internal Revenue Code.

OMB Number: 1545–0052.

Form Numbers: 990–PF and 4720.

Abstract: Internal Revenue Code section 6033 requires all private foundations, including section 4947(a)(1) trusts treated as private foundations, to file an annual information return. Section 53.4940–1(a) of the Income Tax Regulations requires that the tax on net investment income be reported on the return filed under section 6033. Form 990–PF is used for this purpose. Section 6011 requires a report of taxes under Chapter 42 of the Code for prohibited acts by private foundations and certain related parties. Form 4720 is used by foundations and/or related persons to report prohibited activities in detail and pay the tax on them.

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: Non-profit institutions.

Estimated Number of Respondents: 52,214.

Estimated Time Per Response: 201 hours, 45 minutes.

Estimated Total Annual Burden Hours: 10,533,968.

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: July 5, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–17799 Filed 7–13–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Letter 109C

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 Letter 109C, Return Requesting Refund Unlocatable or Not Filed; Send Copy.

DATES: Written comments should be received on or before September 12, 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 collection of information should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Return Requesting Refund Unlocatable or Not Filed; Send Copy.

OMB Number: 1545–0393.

Form Number: Letter 109C.

Abstract: If a taxpayer inquires about not receiving a refund and no return is found, this letter is sent requesting the taxpayer to file another return. The taxpayer must complete an affidavit stating that if they receive a second refund check, it will be returned to the IRS.

Current Actions: There are no changes being made to the letter at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individual or households, business or other for profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 18,223.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 1,513.

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: June 30, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–17800 Filed 7–13–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–246250–96]

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, REG–246250–96 (TD 8818), Public Disclosure of Material Relating to Tax-Exempt Organizations (§§ 301.6104(d)–3, 301.6104(d)–4, and 301.6104(d)–5).

DATES: Written comments should be received on or before September 12, 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 Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Public Disclosure of Material Relating to Tax-Exempt Organizations.

OMB Number: 1545–1560.

Regulation Project Number: REG–246250–96.

Abstract: Under section 6104(e) of the Internal Revenue Code, certain tax-exempt organizations are required to make their annual information returns and applications for tax exemption available for public inspection. In addition, certain tax-exempt organizations are required to comply with requests made in writing or in person from individuals who seek a copy of those documents or, in the alternative, to make their documents widely available. This regulation provides guidance concerning these disclosure requirements.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for profits institutions.

Estimated Number of Respondents: 1,100,000.

Estimated Average Time Per Respondent: 30 min.

Estimated Total Annual Burden Hours: 551,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 30, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–17801 Filed 7–13–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8871

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 8871, Political Organization Notice of Section 527 Status.

DATES: Written comments should be received on or before September 12, 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 Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Political Organization Notice of Section 527 Status.

OMB Number: 1545–1693.

Form Number: 8871.

Abstract: Public Law 106–230 amended Internal Revenue Code section 527(i) to require certain political organizations to provide information to the IRS regarding their name and address, their purpose, and the names and addresses of their officers, highly compensated employees, Board of Directors, and related entities within the meaning of section 168(h)(4)). Form 8871 is used to report this information to the IRS.

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: Not-for-profit institutions.

Estimated Number of Respondents: 10,000.

Estimated Time Per Respondent: 4 hours, 23 minutes.

Estimated Total Annual Burden Hours: 43,800.

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: July 7, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–17802 Filed 7–13–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

[FI–88–86]

Internal Revenue Service 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, FI–88–86 (TD 8458), Real Estate Mortgage Investment Conduits (§§ 1.860E–2(a)(5), 1.860E–2(a)(7), and 1.860E–2(b)(2)).

DATES: Written comments should be received on or before September 12, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Real Estate Mortgage Investment Conduits.

OMB Number: 1545–1276.

Regulation Project Number: FI–88–86.

Abstract: Internal Revenue Code section 860E(e) imposes an excise tax on the transfer of a residual interest in a real estate mortgage investment conduit (REMIC) to a disqualified party. The amount of the tax is based on the present value of the remaining anticipated excess inclusions. This regulation requires the REMIC to furnish, on request of the party responsible for the tax, information sufficient to compute the present value of the anticipated excess inclusions. The regulation also provides that the tax will not be imposed if the record holder furnishes to the pass-thru or transferor an affidavit stating that the record holder is not a disqualified party.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,600.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 525.

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: July 6, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–17803 Filed 7–13–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5558.

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 5558 Application for Extension of Time To File Certain Employee Plan Returns.

DATES: Written comments should be received on or before September 12, 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: Application for Extension of Time To File Certain Employee Plan Returns.

OMB Number: 1545–0212.

Form Number: 5558.

Abstract: This form is used by employers to request an extension of time to file the employee plan annual information return/report (Form 5500 series) or the employee plan excise tax return (Form 5330). The data supplied on Form 5558 is used to determine if such extension of time is warranted.

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 not-for-profit institutions.

Estimated Number of Respondents: 335,000.

Estimated Time Per Respondent: 33 min.

Estimated Total Annual Burden Hours: 185,724.

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: July 6, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–17804 Filed 7–13–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1000.

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 1000, Ownership Certificate.

DATES: Written comments should be received on or before September 12, 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: Ownership Certificate.

OMB Number: 1545–0054.

Form Number: 1000.

Abstract: Form 1000 is used by citizens, resident individuals, fiduciaries, and partnerships in connection with interest on bonds of a domestic, resident foreign, or nonresident foreign corporation containing a tax-free covenant and issued before January 1, 1934. IRS uses the information to verify that the correct amount of tax was withheld.

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 or households.

Estimated Number of Responses: 1,500.

Estimated Time Per Response: 3 hrs., 22 min.

Estimated Total Annual Burden Hours: 5,040.

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: July 6, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–17805 Filed 7–13–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 2210 and 2210–F

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 2210, Underpayment of Estimated Tax by Individuals, Estates, and Trusts, and Form 2210–F, Underpayment of Estimated Tax by Farmers and Fishermen.

DATES: Written comments should be received on or before September 12, 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 Faye Bruce, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Underpayment of Estimated Tax by Individuals, Estates, and Trusts (Form 2210) and Underpayment of Estimated Tax by Farmers and Fishermen (Form 2210–F).

OMB Number: 1545–0140.

Form Number: 2210 and 2210–F.

Abstract: Internal Revenue Code section 6654 imposes a penalty for failure to pay estimated tax. Form 2210 is used by individuals, estates, and trusts and Form 2210–F is used by farmers and fishermen to determine whether they are subject to the penalty and to compute the penalty if it applies. The Service uses this information to determine whether taxpayers are subject to the penalty, and to verify the penalty amount.

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: Individuals or households, business or other for-profit organizations, and farms.

Estimated Number of Respondents: 900,000.

Estimated Time Per Respondent: 2 hrs., 47 mins.

Estimated Total Annual Burden Hours: 2,481,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 7, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–17807 Filed 7–13–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0394]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, without change, for a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to verify school attendance of Restored Entitlement Program for Survivors (REPS) child beneficiaries.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before September 12, 2000.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Please refer to ''OMB Control No. 2900–0394'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Certification of School Attendance—REPS, VA Form 21–8926.

OMB Control Number: 2900–0394.

Type of Review: Reinstatement, without change, for a previously approved collection for which approval has expired.

Abstract: VA Form 21–8926, Certification of School Attendance—REPS is used to verify that an individual who is receiving REPS benefits based on schoolchild status is in fact enrolled full-time in an approved school and is otherwise eligible for continued benefits. The program pays VA benefits to certain surviving spouses and children of veterans who died in service prior to August 13, 1981 or who died as a result of a service-connected disability incurred or aggravated prior to August 13, 1981.

Affected Public: Individuals or households.

Estimated Annual Burden: 300 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,200.

Dated: June 5, 2000.

By direction of the Secretary.

Sandra McIntyre,

Management Analyst, Information Management Service.

[FR Doc. 00–17903 Filed 7–13–00; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0113]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATE: Comments must be submitted on or before August 14, 2000.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0113.''

SUPPLEMENTARY INFORMATION:

Title: Application for Fee Personnel Designation, VA Form 26–6681.

OMB Control Number: 2900–0113.

Type of Review: Revision of a currently approved collection.

Abstract: The form solicits information on the fee personnel applicant's background and experience in the real estate valuation field. VA regional offices and centers use the information contained on the form to evaluate applicants' experience for the purpose of designating qualified individuals to serve on the fee roster for their stations.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 6, 2000, at page 18150.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,067 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 6,200.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 12035, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0113'' in any correspondence.

Dated: June 5, 2000.

By direction of the Secretary.

Sandra McIntyre,

Management Analyst, Information Management Service.

[FR Doc. 00–17902 Filed 7–13–00; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans Advisory Committee on Environmental Hazards, Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Public Law 92–463) of October 6, 1972, that the Veterans' Advisory Committee on Environmental Hazards has been renewed for a 2-year period beginning July 5, 2000, through July 5, 2002.

Dated: July 5, 2000.

By direction of the Secretary.

Marvin R. Eason,

Committee Management Officer.

[FR Doc. 00–17900 Filed 7–13–00; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 65, No. 136

Friday, July 14, 2000

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 112

[FRL–6707–6]

RIN 2050–AE64

Oil Pollution Prevention and Response; Non–Transportation–Related Facilities

Correction

In rule document 00–13976 beginning on page 40776 in the issue of Friday, June 30, 2000, make the following correction:

Appendix F to Part 112 [Corrected]

On page 40816, in the first column, in amendatory instruction 11f., after ''section 1.8.3'' add ''and section 1.9''.

[FR Doc. C0–13976 Filed 7–13–00; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA084/101–5045a; FRL–6562–9]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revised Format for Materials Being Incorporated by Reference; Approval of Recodification of the Virginia Administrative Code

Correction

In the issue of Wednesday, July 5, 2000, on page 41525, in the correction of rule document 00–9535, amendatory instruction 2. and the corresponding table should read as follows:

§52.2420 [Corrected]

''2. On page 21334, under the heading ''*Article 29 Can Coating Application Systems [Rule 4-29]*'' add the following line to the end of the table:''

EPA-APPROVED REGULATIONS IN THE VIRGINIA SIP

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [Former SIP citation]
Article 29 Can Coating Application Systems [Rule 4–29]				
5–40–4150	Permits	4/17/95	[Insert publication date and **Federal Register** cite]	120–04–2915.

[FR Doc. C0–9535 Filed 7–13–00; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9, 122, 123, 124, and 130

[FRL–6733–2]

Revisions to the Water Quality Planning and Management Regulation and Revisions to the National Pollutant Discharge Elimination System Program in Support of Revisions to the Water Quality Planning and Management Regulation

Correction

In rule document 00–17831 beginning on page 43586 in the issue of Thursday, July 13, 2000, make the following correction:

On page 43586, in the third column, under **FOR FURTHER INFORMATION CONTACT:**, in the fifth line, ''(202) 260–9549'' should read ''(202) 401–4078''.

[FR Doc. C0–17831 Filed 7–13–00; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,
July 14, 2000

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6719–3]

RIN 2060–AG27

National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes national emission standards for hazardous air pollutants (NESHAP) for new and existing boat manufacturing facilities. The processes regulated include fiberglass resin and gel coat operations, carpet and fabric adhesive operations, and aluminum boat painting operations. The EPA has identified boat manufacturing as a major source of hazardous air pollutants (HAP), such as styrene, methyl methacrylate (MMA), methylene chloride (dichloromethane), toluene, xylenes, n-hexanes, methyl ethyl ketone (MEK), methyl isobutyl ketone (MIBK), and methyl chloroform (1,1,1-trichloroethane). These proposed standards will implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). We estimate the proposed NESHAP would reduce nationwide emissions of HAP from these facilities by approximately 36 percent from the 1997 level of emissions.

DATES: *Comments*. Submit comments on or before September 12, 2000.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by August 3, 2000, a public hearing will be held on August 14, 2000.

ADDRESSES: *Comments*. Written comments should be submitted (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–95–44, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. The EPA requests a separate copy also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

Public Hearing. If a public hearing is held, it will be held at EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina.

Docket. Docket No. A–95–44 contains supporting information used in developing the standards. The docket is located at the U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Morris, Organic Chemicals Group, Emission Standards Division (MD–13), U.S. EPA, Research Triangle Park, North Carolina 27711, (919) 541–5416, morris.mark@epamail.epa.gov. For public hearing information contact Maria Noell, Organic Chemicals Group, Emission Standards Division (MD–13), U.S. EPA, Research Triangle Park, North Carolina 27711, (919) 541–5607.

SUPPLEMENTARY INFORMATION:

Docket. The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

Public Hearing. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Maria Noell, Organic Chemicals Group, Emission Standards Division (MD–13), U.S. EPA, Research Triangle Park, North Carolina 27711, (919) 541–5607 at least 2 days in advance of the public hearing. Persons interested in attending the public hearing must also call Maria Noell to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed emission standards.

Comments. Comments and data may be submitted by electronic mail (e-mail) to: a-and-r-docket@epa.gov. Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems and will also be accepted on disks in WordPerfect'' version 5.1, 6.1 or Corel 8 file format. All comments and data submitted in electronic form must note the docket number: A–95–44. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Mark Morris, c/o OAQPS Document Control Officer (Room 740B), U.S. EPA, 411 W. Chapel Hill Street, Durham, NC 27701. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by the EPA, the information may be made available to the public without further notice to the commenter.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of the proposed NESHAP will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the proposed NESHAP will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at http://www.epa.gov/ttn/oarpg. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. Categories and entities potentially regulated by this action include:

Category	NAICS code	SIC code	Examples of regulated entities
Industrial	336612	3732	Boat manufacturing facilities that perform fiberglass production operations or aluminum coating operations.
		3731	Shipbuilding and repair facilities that perform fiberglass production operations or aluminum coating operations.
Federal Government	336612	3731 3732	Federally owned facilities (*e.g.,* Navy shipyards) that perform fiberglass production operations or aluminum coating operations.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in section II.A. of this preamble. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Outline. The information presented in this preamble is organized as follows:

I. Introduction
A. What is the purpose of the proposed NESHAP?
B. What is the statutory authority for the proposed NESHAP?
C. What are the potential health effects of the HAP emitted by the boat manufacturing industry?
D. How were the proposed NESHAP developed?
E. What processes and operations constitute boat manufacturing?
II. Summary of the Proposed NESHAP
A. What sources and operations are subject to the proposed NESHAP?
B. What pollutants are regulated by the proposed NESHAP?
C. What do the proposed NESHAP require?
D. What is the MACT model point value and how is it used in the proposed NESHAP?
E. When must I comply with the proposed NESHAP?
F. How do I demonstrate compliance with the proposed NESHAP?
G. How do I demonstrate compliance if I use an enclosure and an add-on control device?
III. Summary of Environmental, Energy, and Economic Impacts
A. What facilities are affected by the proposed NESHAP?
B. What are the air quality impacts?
C. What are the water quality impacts?
D. What are the solid and hazardous waste impacts?
E. What are the energy impacts?
F. What are the cost impacts?
G. What are the economic impacts?
IV. Rationale for the Proposed NESHAP
A. How did EPA determine the source category to regulate?
B. What pollutants are regulated under the proposed NESHAP?
C. What is the ''affected source'' and how did EPA select the operations to be regulated by the proposed NESHAP?
D. What is a new affected source?
E. How did EPA determine the MACT floor for existing sources?
F. How did EPA determine the MACT floor for new sources?
G. Did EPA consider control options more stringent than the MACT floor?
H. Why are some boat manufacturing operations not being covered by the proposed NESHAP?
I. How did EPA select the format of the proposed NESHAP?
J. How did EPA select the test methods for determining compliance with the proposed NESHAP?
K. How did EPA determine the monitoring and recordkeeping requirements?
L. How did EPA select the notification and reporting requirements?
V. Relationship to Other Standards and Programs under the CAA
A. National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices, and Routing to a Fuel Gas System or a Process (40 CFR Part 63, Subpart SS)
B. Shipbuilding and Repair (Surface Coating) NESHAP (40 CFR Part 63, Subpart II)
C. Wood Furniture Manufacturing Operations NESHAP (40 CFR Part 63 Subpart JJ)
D. Plastic Parts and Products (Surface Coating) NESHAP
E. Relationship Between Operating Permit Program and the Proposed Standards
VI. Administrative Requirements
A. Executive Order 12866, Regulatory Planning and Review
B. Paperwork Reduction Act
C. Executive Order 13132, Federalism
D. Executive Order 13084, Consultation and Coordination with Indian Tribal Governments
E. Unfunded Mandates Reform Act
F. Regulatory Flexibility Act
G. National Technology Transfer and Advancement Act
H. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks

I. Introduction

A. What Is the Purpose of the Proposed NESHAP?

The purpose of the proposed NESHAP is to protect the public health by reducing emissions of HAP from boat manufacturing facilities.

B. What Is the Statutory Authority for the Proposed NESHAP?

The CAA was created, in part, ''* * * to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population * * *'' (see section 101(b) of the CAA). The proposed NESHAP are consistent with the requirements of the CAA.

Section 112 of the CAA requires that we promulgate regulations for the control of HAP from both new and existing major sources. The CAA requires the regulations to reflect the maximum degree of reduction in emissions of HAP that is achievable taking into consideration the cost of achieving the emissions reductions, any non-air-quality health and environmental impacts, and energy requirements. This level of control is commonly referred to as the maximum achievable control technology.

We based the proposed NESHAP for boat manufacturing for new and existing sources on the MACT floor control level. The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that all major HAP emission sources achieve the level of control already achieved by the better-controlled and lower-emitting sources in each category. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources (or the best-performing 5 sources for categories or subcategories with fewer than 30 sources).

We estimate that major sources in the boat manufacturing source category collectively emit 9,000 megagrams per year (Mg/yr) (9,920 tons per year (tons/yr)) of HAP. A major source of HAP is defined as any stationary source or group of stationary sources within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 9.1 Mg/yr (10 tons/yr) or more of any single HAP or 22.7 Mg/yr or more (25 tons/yr) of multiple HAP.

In developing MACT, we also must consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of cost, non-air-quality health and environmental impacts, and energy requirements.

C. What Are the Potential Health Effects of the HAP Emitted by the Boat Manufacturing Industry?

The following is a summary of the potential health and environmental effects associated with exposure, at some level, to emitted pollutants that the proposed NESHAP would reduce.

Styrene. Humans exposed to styrene for short periods through inhalation may exhibit irritation of the eyes and mucous membranes, and gastrointestinal effects. Styrene inhalation over longer periods may cause central nervous system effects including headache, fatigue, weakness, and depression. Exposure may also damage peripheral nerves and cause changes to the kidney and blood. Chronic inhalation studies with animals have indicated that styrene affects the central nervous system, liver, and kidney, and irritates eye and nasal membranes. The EPA has developed a reference concentration of 1 milligram per cubic meter (mg/m^3) for styrene based on central nervous system effects in exposed workers. Inhalation of this concentration or less over a lifetime would be unlikely to result in adverse noncancer effects. Epidemiological studies have suggested an association between styrene exposure and increased incidence of leukemia and lymphoma. The EPA considers this evidence to be inconclusive because of multiple chemical exposures and inadequate information on the levels and duration of exposure. Animal cancer studies have produced variable results but provide limited evidence for carcinogenicity. The EPA has not classified styrene with respect to carcinogenicity. The EPA is currently reviewing its assessment of styrene.

Methyl methacrylate. Humans exposed to MMA for short periods through inhalation may experience depression of the central nervous system and irritation of the skin, eyes, and mucous membranes. Dermal exposure may cause a severe allergic response. Short-term animal studies have indicated that MMA inhalation damages the liver and lung. Kidney and liver lesions have been observed in humans who ingested MMA over longer periods and in animals exposed either orally or by inhalation. Workers exposed through inhalation have indicated headaches, fatigue, sleeping disturbances, and irritability. Exposed workers have also suffered reproductive effects, including pregnancy complications in women and sexual disorders in both men and women. Fetal abnormalities have been reported in animals exposed to MMA by injection and inhalation. The EPA has developed a reference concentration of 0.7 mg/m^3 for MMA. Inhalation of this concentration or less over a lifetime would be unlikely to result in adverse noncancer effects. Several animal studies observed no carcinogenic effects. The EPA has classified MMA in Group E, not likely to be carcinogenic in humans.

Methylene chloride. Short-term exposure of humans to high-levels of methylene chloride affects the central nervous system, causing impairment of vision and hearing. These effects are reversible once exposure ceases. Long-term exposure also affects the central nervous system, causing headaches, dizziness, nausea, and memory loss. Studies of methylene chloride exposure to animals have indicated effects to the liver, kidney, and cardiovascular system. Animal studies have indicated that methylene chloride inhalation causes tumors of the lung, liver, and mammary glands. Based on this evidence, EPA has classified methylene chloride in Group B2, a probable human carcinogen, with an inhalation unit risk of 4.7×10^{-7} per microgram per cubic meter ($\mu g/m^3$).

Toluene. Humans exposed to toluene for short periods may experience irregular heartbeat and effects to the central nervous system such as fatigue, sleepiness, headache, and nausea. Repeated exposure to high concentrations may induce loss of coordination, tremors, decreased brain size, and involuntary eye movements, and may impair speech, hearing, and vision. Chronic exposure to toluene in humans has also been indicated to irritate the skin, eyes, and respiratory tract, and to cause dizziness, headaches, and difficulty with sleep. Children exposed to toluene before birth may suffer central nervous system dysfunction, attention deficits, and minor face and limb defects. Inhalation of toluene by pregnant women may increase the risk of spontaneous abortion. The EPA has developed a reference concentration of 0.4 mg/m^3 for toluene. Inhalation of this concentration or less over a lifetime would be unlikely to result in adverse noncancer effects. No data exist that suggest toluene is carcinogenic. The EPA has classified toluene in Group D, not classifiable as to human carcinogenicity.

Xylenes. Short-term inhalation of mixed xylenes (a mixture of three closely related compounds) in humans may cause irritation of the nose and throat, nausea, vomiting, gastric irritation, mild transient eye irritation, and neurological effects. Long-term inhalation of xylenes in humans may result in central nervous system effects such as headache, dizziness, fatigue, tremors, and incoordination. Other reported effects include labored breathing, heart palpitation, severe chest pain, abnormal electrocardiograms, and possible effects on the blood and kidneys. Developmental effects have been indicated from xylene exposure via inhalation in animals. Not enough information exists to determine the carcinogenic potential of mixed xylenes. The EPA has classified xylenes in Group D, not classifiable as to human carcinogenicity.

n-Hexane. Short-term inhalation exposure of humans to high levels of n-hexane causes mild central nervous system depression. Dermal exposure may cause irritation of the skin and mucous membrane. The nervous system effects include dizziness, giddiness, slight nausea, and headache in humans, with numbness in the extremities, muscular weakness, blurred vision, headache, and fatigue observed. Neurotoxic effects have also been exhibited in rats. Mild inflammatory and degenerative lesions in the nasal cavity have been observed in rodents chronically exposed through inhalation. The reference concentration for hexane is 0.2 mg/m^3. The EPA estimates that inhalation of this concentration or less over a lifetime would not likely result in the occurrence of chronic noncancer effects. No information is available on the carcinogenic effects of hexane in humans or animals. The EPA has classified hexane as a Group D, not classifiable as to human carcinogenicity.

Methyl ethyl ketone (MEK). Short-term inhalation exposure to MEK in humans may irritate the eyes, nose, and throat, and cause central nervous system depression. Limited information is available on long-term effects of MEK exposure to humans, but chronic inhalation studies in animals have indicated effects on the central nervous system, liver, and respiratory system. The EPA's reference concentration for MEK is 1 mg/m^3, based on decreased fetal birth weight in mice. Inhalation of this concentration or less over a lifetime would be unlikely to result in adverse noncancer effects. Limited data exist on carcinogenic effects of MEK. The EPA has classified MEK in Group D, not classifiable as to human carcinogenicity.

Methyl isobutyl ketone (MIBK). Short-term exposure to MIBK may irritate the eyes and mucous membranes, and cause weakness, headache, and nausea. Long-term exposure by workers has been observed to cause nausea, headache, burning eyes, insomnia, intestinal pain, and slight enlargement of the liver. No information is available on reproductive or developmental effects of MIBK in humans, but studies with rats and mice have indicated neurological effects and increased liver and kidney weights. The EPA has not established a reference concentration or classified MIBK with respect to carcinogenicity.

1,1,1-trichloroethane. Short-term inhalation exposure of humans to 1,1,1-trichloroethane causes mild hepatic effects, central nervous system depression, dizziness, nausea, vomiting, diarrhea, loss of consciousness, and decreased blood pressure. Cardiac arrhythmia and respiratory arrest may result from the depression of the central nervous system. After long-term inhalation exposure to 1,1,1-trichloroethane, some liver damage was observed in mice and ventricular arrhythmias in humans. The reference concentration for 1,1,1-trichloroethane is under review by EPA. The EPA has classified 1,1,1-trichloroethane as a Group D, not classifiable as to human carcinogenicity, based on no reported human data and inadequate animal data.

D. How Were the Proposed NESHAP Developed?

We consulted many representatives of the boat manufacturing industry, State and Federal representatives, and material and equipment vendors in developing the proposed NESHAP. We held a series of approximately 50 stakeholder meetings over a period of nearly 4 years. These meetings were held to keep stakeholders informed and to solicit data and information on issues relevant to the NESHAP development. Stakeholders helped in data gathering, arranged site visits, and reviewed questionnaires. Stakeholders also shared data, identified issues and provided information to help resolve issues in the rulemaking process.

We identified the MACT floor control level with information obtained through questionnaire responses, site visits, telephone contacts, and operating permits.

E. What Processes and Operations Constitute Boat Manufacturing?

The proposed NESHAP regulate fiberglass and aluminum boat manufacturing operations. The emissions from these boat manufacturing operations and processes are fugitive emissions. Fugitive emissions result from HAP evaporating from the resins, gel coats, solvents, adhesives, and surface coatings used in manufacturing processes.

The following is a brief description of these processes and operations found at boat manufacturing facilities: fiberglass boat manufacturing operations; fabric and carpet adhesive operations; and aluminum boat surface coating operations.

Fiberglass boat manufacturing operations. Fiberglass boats are built from glass fiber reinforcements laid in a mold and saturated with a polyester or vinylester plastic resin. The resin hardens to form a rigid plastic part reinforced with the fiberglass. The resin is mixed with a catalyst as it is applied that causes a cross-linking reaction between the resin molecules. The cross-linking reaction causes the resin to harden from a liquid to a solid.

Fiberglass manufacturing processes are generally considered either ''open molding'' or ''closed molding.'' In open molding, fiberglass boat parts are built ''from the outside in'' according to three basic process steps:

(1) The mold is sprayed with a layer of gel coat, which is a pigmented polyester resin that hardens and becomes the smooth outside surface of the part.

(2) The inside of the hardened gel coat layer is coated with a ''skin coat'' of chopped glass fibers and polyester or vinylester resin.

(3) Additional layers of fiberglass cloth or chopped glass fibers saturated with resin are added until the part is the final thickness.

The same basic process is used to build or repair molds with tooling gel coat and tooling resin.

In closed molding, the resin is applied to fabric placed between the halves of a two-piece mold. Three basic types of closed molding used in boat manufacturing are resin infusion molding, resin transfer molding (RTM), and compression molding with sheet molding compound (SMC).

The polyester and vinylester resins that are used in fiberglass boat manufacturing contain styrene as a solvent and a cross-linking agent. Gel coats also contain MMA as a solvent, and styrene. Styrene and MMA are HAP, and a fraction evaporates during resin and gel coat application and curing. Resins and gel coats containing styrene and MMA are also used to make the molds used in producing fiberglass parts.

Mixing is done to stir the resin or gel coat and promoters, fillers, or other additives before being applied to the parts. Some HAP from the resin and gel coat are emitted during the mixing process.

Resin and gel coat application equipment requires solvent cleaning to remove uncured resin or gel coat when not in use. The resin or gel coat will catalyze in the hoses or gun if not flushed with a solvent after each use.

Fabric and carpet adhesive operations. The interiors of many types of fiberglass boats and aluminum boats are covered with carpeting or fabric to improve the appearance, provide traction, or deaden sound. The material is bonded to the interior with contact adhesives. The HAP-containing solvents, such as methylene chloride, toluene, xylenes, and methyl chloroform (1,1,1-trichloroethane), are used in these adhesives. The solvents evaporate as the adhesives dry.

Aluminum boat surface coatings. Aluminum boat hull topsides and decks are painted with coatings applied with spray guns. These coatings may be high-gloss polyurethane coatings or low-gloss single-part coatings. These surface coatings often contain HAP solvents, such as toluene, xylenes, and isocyanates.

The HAP-containing solvents are also used to clean surfaces before finishing (wipe-down solvents) and for cleaning paint and coating spray guns.

II. Summary of Proposed NESHAP

This preamble section discusses the proposed NESHAP as they apply to ''you,'' the owner or operator of a new or existing boat manufacturing facility.

A. What Sources and Operations Are Subject to the Proposed NESHAP?

The proposed NESHAP would regulate HAP from major sources that manufacture fiberglass boats or noncommercial, nonmilitary aluminum boats. Coating operations on aluminum commercial and military vessels are covered by the shipbuilding and repair NESHAP (40 CFR part 63, subpart II).

The proposed NESHAP apply to fiberglass boat manufacturers making all sizes and types of fiberglass boats using the operations listed below:

- All open molding operations, including pigmented gel coat, clear gel coat, production resin, tooling resin, and tooling gel coat.
- All closed molding resin operations.
- All resin and gel coat application equipment cleaning.
- All resin and gel coat mixing operations.
- All carpet and fabric adhesive operations.

The proposed NESHAP apply to aluminum boat manufacturing facilities performing the operations listed below:

- All aluminum boat surface coatings and associated spray gun cleaning and wipe-down solvent operations.
- All carpet and fabric adhesive operations.

B. What Pollutants are Regulated by the Proposed NESHAP?

The proposed NESHAP regulate the total HAP content in the materials used in each regulated operation. The proposed NESHAP do not set limits for individual species of HAP. The HAP emitted by boat manufacturing facilities typically include styrene, MMA, toluene, xylenes, methyl chloroform (1,1,1-trichloroethane), MEK, n-hexane, and MIBK. However, the total HAP content limit includes all HAP listed in section 112(b) of the CAA.

C. What Do the Proposed NESHAP Require?

The proposed NESHAP have various formats for the different operations being regulated. For open molding resin and gel coat operations, you must comply with a HAP emission limit that is calculated for your facility using MACT model point value equations, which are described in section II.D., for each open molding operation.

You can demonstrate compliance with the HAP emissions limit for your facility either by (1) averaging emissions with the MACT model point value equations, (2) complying with equivalent material HAP content requirements for each type of open molding operation, or (3) using an add-on control device. The HAP emissions limit and equivalent HAP content requirements are the same for new and existing sources. You may use averaging for all of your open molding operations or only for some of them. For those operations not included in the emissions average, you must comply with one of the alternative provisions.

For resin operations, different HAP content requirements apply to atomized and nonatomized resin application methods. The HAP content requirements for open molding are presented in table 2 of the proposed NESHAP. If you use an add-on control device to meet the emissions limit, the emissions limit is calculated using the MACT model point value operations and is in units of kilograms (kg) of HAP per megagram (1000 kg) of resin or gel coat consumed.

As stated above, you may use a combination of compliance options for the different resin and gel coat operations within your facility. For example, a hull production line may use several resins and gel coats. The skin coat resin may comply with the HAP content requirements, while you may decide to use the averaging approach to comply by averaging between the laminating resin and production gel coats. In another example, you could include in the average all production resins and pigmented gel coats at your facility, but decide not to include clear gel coat, tooling resin, and tooling gel coat. You could also use averaging to use a mix of atomized and nonatomized resin application methods but at different HAP contents from those in table 2 of the proposed NESHAP.

Other operations regulated by the proposed NESHAP would be subject to work practice requirements or HAP content limits. Resin and gel coat mixing containers with a capacity of 208 liters (55 gallons) or more must be covered. Routine resin and gel coat application equipment cleaning operations must use zero-HAP solvents, but solvents used to remove cured resin or gel coat from equipment would be exempt. The containers used to hold the exempt solvent and to soak the equipment with cured resin and gel coat must be covered. Carpet and fabric adhesive operations must use zero-HAP adhesives. Aluminum boat wipedown solvents and surface coatings would be subject to HAP content limits. Aluminum boat spray gun cleaning operations would be subject to a work practice requirement. The NESHAP for these operations are the same for new and existing sources. The proposed NESHAP have no averaging compliance options for these operations. Today's proposed NESHAP contain the specific requirements for each operation regulated by this proposal.

Compliance with all of the emissions limits in the proposed NESHAP are based on a 3-month rolling average except when an add-on control device is used. At the end of every month, you determine compliance for each operation based on the HAP content and material consumption data collected over the past 3 months. When an add-on control device is used, compliance is determined through a one-time test and subsequent monitoring.

D. What Is the MACT Model Point Value and How Is It Used In the Proposed NESHAP?

The MACT model point value is a number calculated for each open molding operation and is a surrogate for emissions. The MACT model point value is a way to rank the relative performance of different resin and gel coat emissions reduction techniques. This approach allows you to create control strategies using different resin and gel coat emissions reduction techniques. The proposed NESHAP provide equations to calculate MACT model point values based on HAP content and application method for each material that you use. These MACT model point values are then averaged and compared to limits in the proposed NESHAP to determine if your open molding operations are in compliance.

The MACT model point values have units of kilograms of HAP per megagram of resin or gel coat applied. It is important to note that the MACT model point values are surrogates for emissions, and the MACT model point value equations are used only for determining compliance with the emissions limit for open molding operations. The MACT model point value equations should not be used in other environmental programs for estimating emissions in place of true emission factor equations.

The MACT model point value equations account only for HAP content and application method. Other factors (including curing time, part thickness, and operator technique) can have significant effects on emissions, and these factors are not accounted for in the MACT model point value equations. Determining the HAP content of materials and the method of application is relatively easy, but it is difficult to determine the other factors. Therefore, these factors are not included in the MACT model point value equations.

E. When Must I Comply With the Proposed NESHAP?

Existing boat manufacturing facilities must comply within 3 years of the date the promulgated NESHAP are published in the **Federal Register**. New sources that commence construction after today's date must comply immediately upon startup or by the promulgation date, whichever is later.

F. How Do I Demonstrate Compliance With the Proposed NESHAP?

Unless you are using an add-on control device, you must measure and record the HAP contents of all the materials regulated by the proposed NESHAP. You may determine HAP content using EPA Method 311, but you may also use documentation provided by the material manufacturer, such as a material safety data sheet (MSDS) or HAP data sheet to show compliance. Although you may use either EPA Method 311 or the manufacturer's documentation to show compliance, EPA will use EPA Method 311 results to

determine compliance if they differ from the manufacturer's documentation.

Compliance with the HAP content limits is based on the weighted-average HAP content for each material on a 3-month rolling-average basis. Compliance is determined at the end of every month (12 times per year) based on the past 3 months of data. To determine weighted-average HAP content, you will also need to monitor and record the amount of each regulated material used per month, as well as HAP content.

If all of the material in a particular operation meets the applicable HAP content limit, then you would not need to record the amount of material used. Likewise, you would not need to perform and record any calculations to determine weighted-average HAP content.

For open molding resin and gel coat operations, how you show compliance will depend on which compliance option you choose. For example, if you choose to average among several open molding resin and gel coat operations, you will have greater operating flexibility, but you will also need to do more recordkeeping and calculations to show compliance than if you comply with the HAP content limits. Also, you must complete an implementation plan for the open molding operations at your facility that are included in an averaging option. The implementation plan must describe the resin and gel coat materials you plan to use, their HAP contents, and how you will apply those materials so that you are in compliance. The plan must also include calculations showing that your choice of materials and application methods will achieve compliance.

You must keep records of the HAP content of all materials that are subject to HAP content limits. You must also keep records of the amount of material used and any calculations you perform to determine compliance using weighted-average HAP contents or the averaging option for open molding operations. Every month, you must inspect the covers required by the work practice standards for resin and gel coat mixing containers and aluminum boat coating spray gun cleaners. You must also keep records of the results of these inspections and any repairs made to the covers. All records must be kept for 5 years (at least the last 2 years of records must be kept onsite).

Today's proposed NESHAP contain the specific monitoring, recordkeeping, and reporting requirements for each operation regulated by this proposal.

G. How Do I Demonstrate Compliance If I Use an Enclosure and an Add-On Control Device?

If you use an enclosure (such as a spray booth) and add-on control, you must use EPA Method 204 to prove that the enclosure is a total enclosure. If the enclosure is not a total enclosure, you must use a temporary enclosure to measure the fugitive emissions from the enclosure and the control device. Stack testing is used to determine compliance with the emissions limit. You must use either EPA Method 25A to measure emissions as total hydrocarbons (as a surrogate for total HAP) or EPA Method 18 for specific HAP.

During and after the initial performance test, you must monitor and record certain control device parameters to ensure that the control device continues to be operated as it was during the test. For example, for thermal oxidizers, you must monitor and record combustion temperature and maintain the temperature above an allowable minimum value. The monitoring requirements for several add-on control devices (including absorbers, adsorbers, and condensers) are contained in 40 CFR part 63, subpart SS, and are referenced in the proposed NESHAP. For other control devices not listed in subpart SS, you must identify parameters that demonstrate proper control device operation and have these parameters approved by the EPA. Monitored operating parameters must be kept within the allowable ranges to demonstrate compliance with the control device operating requirements.

III. Summary of Environmental, Energy, and Economic Impacts

A. What Facilities Are Affected by the Proposed NESHAP?

There are approximately 119 existing facilities manufacturing fiberglass boats or aluminum boats that are major sources and would be subject to the proposed NESHAP. The rate of growth for the boat manufacturing industry is estimated to be five new facilities per year for the next 5 years.

B. What Are the Air Quality Impacts?

The 1997 baseline emissions from the boat manufacturing industry are approximately 9,000 Mg/yr (9,920 tons/yr). The proposed NESHAP would reduce HAP from existing sources by 3,220 Mg/yr (3,550 tons/yr) from the baseline level, a reduction of 36 percent. Table 2 shows the amount of HAP reduced by each type of operation.

TABLE 2.—NATIONAL BASELINE EMISSIONS AND EMISSIONS REDUCTIONS FOR EACH TYPE OF OPERATION (1997 DATA)

Operation	Baseline emissions		Potential emissions reductions	
	Mg/yr	Percent of total	Mg/yr	Percent
Production resin	5,320	59.2	2,020	38
Tooling resin	80	0.9	30	43
Pigmented gel coat	2,440	27.0	330	14
Clear gel coat	190	2.1	5	2
Tooling gel coat	40	0.4	7	19
Closed molding resin	NE	NE	NE	NE
Resin and gel coat mixing	NE	NE	NE	NE
Fiberglass application equipment cleaning solvents	130	1.5	130	100
Carpet and fabric adhesives	543	6.0	540	100
Aluminum Wipedown Solvents	60	0.7	40	65
Aluminum Boat Surface Coatings	190	2.1	100	54
Totals	9,000	.....	3,223	36

NE means "not estimated."

The proposed NESHAP will not result in any increase in other air pollution emissions. While combustion devices can result in increased sulfur dioxide and oxides of nitrogen emissions, we do not expect anyone to comply by

installing new combustion devices during the next 5 years.

C. What Are the Water Quality Impacts?

We estimate that the proposed boat manufacturing NESHAP will have no adverse water quality impacts. We do not expect anyone to comply by using add-on control devices or process modifications that would generate wastewater.

D. What Are the Solid and Hazardous Waste Impacts?

We estimate that the proposed NESHAP will decrease the amount of solid waste generated by the boat manufacturing industry by approximately 360 Mg/yr (400 tons/yr). The decrease in solid waste is directly related to switching to nonatomized resin application equipment (*i.e.,* flowcoaters and resin rollers). Switching to flowcoaters results in a decrease in overspray because of a greater transfer efficiency of resin from flowcoaters to the part being manufactured. A decrease in resin overspray consequently reduces the amount of waste from disposable floor coverings, cured resin waste, and personal protective equipment (PPE) for workers. Disposable floor coverings are replaced on a periodic basis to prevent resin buildup on the floor. We estimate that solid waste generation of floor coverings will decrease by approximately 320 Mg/yr (350 tons/yr), and that cured resin solid waste will decrease by approximately 45 Mg/yr (50 tons/yr).

Decreased overspray from flowcoaters will result in a decreased usage of PPE, which also consequently reduces the amount of solid waste. Workers who use flowcoaters typically wear less PPE than when using spray guns because of the reduced presence of resin aerosols and lower styrene levels in the workplace. Because we did not have information on the many different types of PPE currently used, we did not estimate this decrease in solid waste.

Some facilities that switch from spray guns to flowcoaters may have a small increase of hazardous waste from the used flowcoater cleaning solvents. However, most facilities will not see an increase, and the overall impact on the industry will be small relative to the solid waste reductions. Nearly all flowcoaters require resin and catalyst to be mixed inside the gun (internal-mix) and must be flushed when work is stopped for more than a few minutes. External-mix spray guns do not need to be flushed because resin is mixed with catalyst outside the gun. Facilities that switch from external-mix spray guns to flowcoaters will use more solvent. Solvent usage should not change at facilities switching from internal-mix spray guns to flowcoaters.

The most common flushing solvents are acetone and water-based emulsifiers. Only a couple of ounces of solvent are typically needed to flush the mixing chamber and nozzle of flowcoaters and internal-mix spray guns. We have observed during site visits that this small quantity of solvent is usually sprayed into the air or onto the floor coverings and allowed to evaporate.

The EPA does not have adequate data to predict the potential solvent waste impact from switching to flowcoaters. The magnitude of the impact depends on the type of gun currently used (internal- or external-mix), the frequency of flushing, and the type of solvent used. However, because of the small amount of solvent used, and since most is allowed to evaporate, we believe the overall solvent waste increase will be small compared to the solid waste reductions.

E. What Are the Energy Impacts?

We estimate that energy consumption for new and existing facilities will not increase. No new or existing facilities are expected to install add-on control devices to comply with the proposed NESHAP in the first 5 years after promulgation. One facility currently uses a thermal oxidizer to control some of their styrene and MMA emissions from fiberglass boat manufacturing operations. No increase in energy use is anticipated to comply with the proposed NESHAP.

F. What Are the Cost Impacts?

We estimate that nationwide annual compliance costs for the existing facilities will be $14 million. This estimate includes annualized capital costs and increased material costs for purchasing more expensive, lower-HAP materials. Annual costs also include monitoring, recordkeeping, and reporting costs. The estimated annual cost of reduced HAP is $4,350/Mg ($3,950/ton).

Table 3 shows the estimated costs to reduce emissions from the operations at the 119 major source boat manufacturing facilities regulated by the proposed NESHAP.

TABLE 3.—COST IMPACTS

Type of operation	Nationwide annual costs (millions) in 1998 dollars
Production resin (including nonspray equipment)	4.9
Pigmented gel coat	2.1
Clear gel coat	0.05
Tooling resin	0.9
Tooling gel coat	0.1
Resin and gel coat new product testing cost	0.5
Fiberglass application equipment cleaning	0.3
Resin and gel coat mixing	0.04
Closed molding resin	0
Aluminum and fiberglass boat carpet and fabric adhesives and application equipment	2.5
Aluminum wipedown solvent	0.03
Aluminum boat surface coating	1.0
Monitoring, recordkeeping and reporting costs	1.6
Total	14

The capital costs would be for purchase of new resin application equipment, resin mixer covers, and adhesive application equipment. The estimated cost of new resin application equipment (flowcoaters) is $6,000 per unit (includes flowcoater, hoses, and resin and catalyst pumps). The estimated cost of new adhesive

application equipment is also approximately $6,000 per unit. The resin and gel coat mixer covers will be approximately $180 per year per container.

No capital costs are predicted for mold construction or aluminum boat surface coating operations.

G. What Are the Economic Impacts?

The EPA prepared an economic impact analysis to evaluate the primary and secondary impacts of the proposed NESHAP on the boat manufacturing market, consumers, and society. Because the characteristics of boats vary greatly throughout the industry, we evaluated the market by assessing the impacts on six separate market segments of the industry, including: outboard boats, inboard runabouts/sterndrive, inboard cruisers/yachts, jet boats/personal watercraft, sailboats, and canoes. The total annualized social cost (in 1994 dollars) of the proposed NESHAP on the industry is $13.0 million, which is 0.2 percent of total baseline revenue. Generally, the analysis indicates a minimal change in market prices and quantity of boats sold. Imports will increase negligibly, with a corresponding decrease in exports. The analysis also suggests a loss (at the maximum) of 48 employees out of the 51,500 employees in the industry. The impacts on specific market segments are summarized in the table below.

TABLE 4.—ECONOMIC IMPACT OF PROPOSED NESHAP ON BOAT MARKET SEGMENTS

Boat market segment	Change in price (percent)	Change in market output (percent)
Outboard Boats	0.1	−0.3
Inboard Runabouts/Sterndrive	0.1	−0.1
Inboard Cruisers/Yachts	0.0	−0.0
Jet Boats/Personal Watercraft	0.0	−0.0
Sailboats	0.1	−0.2
Canoes	0.1	−0.1

The analysis also predicts the number of facilities that would close as a result of the cost of complying with the proposed NESHAP. The EPA used market level information on total predicted change in quantity to infer how many plants would close if the quantity decrease was borne entirely by one (or more) facility. For example, if the market analysis predicts that 1,000 fewer boats are produced and the average facility produces 500 boats, then the impact is equivalent to two facility closures. Using this approach, the predicted reduction in quantity did not equal even one facility closure in any of the six market segments. While this does not mean that no facilities will close as a result of the proposed NESHAP, it does indicate that the proposed NESHAP have minimal total impacts, and that any facility closure will likely be the result of poor baseline cost conditions rather than a direct result of the compliance burden.

IV. Rationale for Proposed NESHAP

A. How Did EPA Determine the Source Category To Regulate?

The proposed NESHAP applies to fiberglass boat and aluminum boat manufacturing facilities that are located at major sources of HAP. Section 112(c) of the CAA directs us to list each category of major source emitting any HAP listed in section 112(b). Boat manufacturing (major sources only) was included on the initial list of source categories published on July 16, 1992 (57 FR 31576). The initial notice of the source category list stated that we would refine category descriptions during the rulemaking process, based on additional information available.

We redefined the category to include aluminum boat manufacturing facilities (64 FR 63025, November 18, 1999). The initial source category definition included only fiberglass boat manufacturing operations. We added aluminum boat manufacturing facilities to the source category because many of these facilities are major sources of HAP. Aluminum boats are defined as noncommercial, nonmilitary aluminum boats. Aluminum commercial and military boats are not included in the source category because the HAP-emitting process in the construction of these boats (surface coatings) is regulated by the shipbuilding and repair NESHAP (40 CFR 63, subpart II).

B. What Pollutants Are Regulated Under the Proposed NESHAP?

The proposed NESHAP regulate total HAP, rather than individual HAP compounds. A standard for total HAP simplifies compliance and enforcement, compared with standards for individual HAP compounds. Moreover, the proposed NESHAP will affect the formulation of chemical products used by the industry. It is not reasonable to regulate the content of individual constituents in these complex mixtures. Styrene is the HAP emitted in the largest magnitude (about 87 percent of emissions). Other HAP emitted from boat manufacturing facilities include MMA, methylene chloride (dichloromethane), toluene, xylenes, methyl chloroform (1,1,1-trichloroethane), n-hexane, and MIBK.

C. What Is the ''Affected Source'' and How Did EPA Select the Operations To Be Regulated by the Proposed NESHAP?

The affected source is the combination of all regulated operations at a single boat manufacturing facility. The following regulated operations are typically performed at fiberglass boat manufacturing facilities and are part of the affected source:

- Open molding operations, including pigmented gel coat, clear gel coat, production resin, tooling resin, and tooling gel coat;
- Closed molding resin operations;
- Resin and gel coat application equipment cleaning operations; and
- Resin and gel coat mixing operations.

Carpet and fabric adhesive operations are performed at both fiberglass boat and aluminum boat manufacturing facilities and are part of the affected source at those facilities.

The following regulated operations are typically performed at aluminum boat manufacturing facilities and are part of the affected source:

- Aluminum wipedown solvent operations;
- Aluminum boat surface coating operations; and
- Aluminum coating spray gun cleaning operations.

These are the typical operations found at fiberglass boat and aluminum boat manufacturing facilities, and we were able to determine MACT for these operations. If a single facility

manufactures both aluminum boat and fiberglass boats, the facility is a single affected source.

Mold sealing and release agents, mold stripping and cleaning solvents, solvents used to clean cured resin and gel coat from application equipment, wood coatings, fiberglass hull and deck coatings, and antifoulant coatings are not covered by the proposed NESHAP. See section IV.H. for the rationale for why these operations are not regulated by the proposed NESHAP.

We defined the affected source as the combination of all of these operations at a site to provide compliance flexibility. This broad source definition allows a manufacturer to determine compliance by averaging the HAP content of different products used throughout the facility within certain defined operations, and to use different application techniques as needed to meet product quality specifications. This approach is consistent with the way that the HAP content and application data were analyzed to determine the MACT floor.

D. What Is a New Affected Source?

A new affected source is any fiberglass boat or aluminum boat manufacturing facility that meets both of these criteria:

- It began construction after today's date, and
- It is a new fiberglass or aluminum boat manufacturing operation at a site that does not presently contain any boat manufacturing operations.

We selected this broad definition of new source for two reasons. First, the MACT for new and existing sources is the same, so there is no difference in emission control requirements for new and existing sources. Second, we concluded that it would be unreasonably costly to demonstrate compliance separately for both new and existing source operations that are located at the same site. Because the equipment is easily portable, it can be difficult to define exactly what would constitute a new line or operation. Also, it would be burdensome to monitor and record equipment and material usage for separate operations that were considered new and existing because the equipment is portable, and material is often dispensed from centralized bulk storage containers.

Although some sources might be required to achieve compliance earlier under a narrower new source definition, the small emissions reductions do not justify the additional long-term compliance burden.

E. How Did EPA Determine the MACT Floor for Existing Sources?

We determined separate MACT floors for each type of boat manufacturing operation based on data collected from about one-half of the major source boat manufacturers. We received data through questionnaire responses from 54 fiberglass and 13 aluminum boat manufacturers, site visits to 10 boat manufacturers (9 fiberglass and 1 aluminum), and through telephone contacts and operating permits for several more boat manufacturers. The data collected from the fiberglass boat manufacturers represent both large and small companies, as well as power and sailboat manufacturers who build vessels ranging in size from small runabouts to large, luxury yachts. Therefore, we believe the data are representative of the fiberglass boat industry segment. Our database also includes all the major source aluminum boat manufacturers known to us; therefore, the database also accurately represents this industry segment.

Using the data collected from boat manufacturers, we determined separate existing source MACT floors for each type of boat manufacturing operation (*e.g.,* open molding operations, carpet and fabric adhesives operations). For each operation, the facilities were ranked from lowest to highest emitting. Emissions were computed as a facilitywide average for each operation to account for the variety of materials within each operation that are required to construct a boat. For open molding resin operations (production and tooling), we estimated the HAP using the MACT model point value equations. This approach takes into account the combined effect of application method and the HAP content of the resins used, but is not an estimate of actual HAP to the atmosphere.

To determine MACT floors for the production resin operations, we evaluated open molding and closed molding as separate types of emission sources. Closed molding is a lower-emitting operation than open molding, but at this time has not been demonstrated to be generally applicable for all types of boats. Boat manufacturers typically use closed molding to achieve specific product qualities, such as two finished sides, higher fiber-to-resin ratios, or higher production levels that cannot be achieved with open molding. Therefore, closed molding operations were not used in setting the MACT floor for open molding.

Also, we determined MACT floors separately for fiberglass and aluminum boat manufacturers because the regulated operations at these facilities differ. The one exception was for carpet and fabric adhesive operations, where the MACT floor analysis was based on a combined data set. Fiberglass and aluminum boat manufacturers both have carpet and fabric adhesive operations and use the same adhesives.

We determined MACT floors based on the median facility of the lowest-emitting 12 percent for production resin, pigmented gel coat, tooling resin, tooling gel coat, resin and gel coat application equipment cleaning and carpet and fabric adhesives. For clear gel coat, closed molding resin, aluminum boat surface coatings, aluminum coating spray gun cleaning operations, and aluminum wipe-down solvents, we used the median of the five lowest-emitting facilities because we had data on fewer than 30 sources. We selected the median facility rather than the arithmetic average of the lowest-emitting facilities in order to represent the performance of an actual facility.

A more detailed summary of the results of the MACT floor analysis, the data and the considerations used to determine the MACT floors for the boat manufacturing source category can be found in Docket No. A–95–44.

F. How Did EPA Determine the MACT Floor for New Sources?

We believe that the existing source MACT floor also represents the new source floor. The existing source MACT floor represents the greatest degree of emissions reductions that is achievable under all circumstances within each particular operation regulated by the proposed NESHAP.

For new sources, the CAA requires the MACT floor to be based on the degree of emissions reductions achieved in practice by the best-controlled similar source. A variety of chemical materials and application methods are available for each operation within the boat manufacturing source category. The suitability of these materials and methods depends on several product and manufacturing requirements. These requirements typically include part size and shape, strength, durability, production volume and schedule, product mix, color, and worker safety.

Therefore, an emission control option (*e.g.,* HAP content and application method) that is applicable at one facility with a particular mix of these requirements may not be applicable at another facility with different requirements. While some facilities are using lower-HAP materials and techniques than represented by the existing source MACT floor, we do not

believe that the lowest-emitting options are universally applicable to all new boat manufacturers. Sometimes, the lower-HAP materials are used to produce particular colors and geometric shapes that do not represent the range of boats that are manufactured. Accordingly, the lowest-HAP-emitting facilities may not be using materials or techniques that can be used by new sources in all circumstances.

Some facilities do use the lower-HAP materials or techniques for particular products. However, we have no data to precisely define the particular combination of requirements where these lower-emitting options can be used and still maintain the minimum required strength and durability requirements of these products. These facilities, consequently, do not represent the new source MACT floor, and we are unable to establish subcategories for purposes of determining a more stringent MACT floor for new sources. The existing source MACT floor level of control is universally applicable to all boat manufacturers because it has been demonstrated at several different facilities that produce a range of products that represent the industry, and that use different combinations of materials and methods to achieve the emissions reductions. Therefore, the existing source MACT floor is achievable by all new sources and also represents the new source floor.

G. Did EPA Consider Control Options More Stringent Than the MACT Floor?

Because no control options more stringent than the MACT floor are feasible for new and existing sources, we have determined that MACT for new and existing sources is the MACT floor level of control. We considered three potential options for MACT that might be more stringent than the MACT floors, but found that these options were not achievable. The options we considered were lower-HAP materials, zero-HAP materials and add-on control devices. The following analysis applies equally to new and existing source MACT.

As noted in the discussion of the new source MACT floor in the previous section, some facilities use materials with HAP contents lower than the new and existing source MACT floor. However, as also noted in that discussion, EPA does not have the data to define subcategories in which these lower-HAP materials can be used. Therefore, these lower-HAP materials are not a viable option more stringent than the MACT floor for new or existing sources.

For carpet and fabric adhesives, as well as resin and gel coat application equipment cleaning solvents, the new and existing source MACT floor is zero-HAP materials. In these two cases, zero-HAP materials are also MACT for new and existing sources because no more stringent level of control is achievable.

For the other operations regulated by the proposed NESHAP, no zero-HAP substitutes are currently available. No zero-HAP substitutes for polyester and vinylester resins or gel coats have been demonstrated for large-scale production boat manufacturing. The zero-HAP alternatives for aluminum wipe-down solvents, such as acetone, are too volatile and flammable for this operation. No waterborne coatings or powder coatings have been demonstrated as substitutes for the solvent-borne coatings currently used in aluminum boat surface coating operations.

We also evaluated add-on control devices. We are aware of one facility using a thermal oxidizer to control HAP from resin and gel coat operations in the manufacture of small jet boats. Thermal oxidizers are generally effective controls for HAP emission sources.

The experience of the jet boat facility with thermal oxidation suggests that thermal oxidation has not been effectively demonstrated as a control option for boat manufacturing. During the MACT analysis, no emission test data were available to us or to the State permitting authority to confirm the performance of this control device. Also, after several years of operation, the facility had not received an operating permit with an enforceable emission limit and was still operating under an extension of their construction permit.

Moreover, the facility with the thermal oxidizer uses restricted airflow to capture concentrated HAP near the surface of the molds. The restricted airflow management is feasible at this facility because the facility is dedicated to the construction of only two models of small jet boats, 4.4 and 5.5 meters (14.5 and 18 feet, respectively) long. The restricted airflow management was implemented with the intention to use robotics to apply some of the resin and gel coat.

The restricted airflow management as practiced at this facility would not be suitable for other facilities in the industry. All other facilities produce a variety of products and parts and must have the operational flexibility to change product mix over time. Restricted airflow management would not be feasible in operations where workers apply the resin and gel coat, and a range of different types of boats are produced.

Accordingly, we have concluded that thermal oxidizers have not been demonstrated for this industry. While theoretically feasible, we have no data to demonstrate the cost or the effectiveness of the thermal oxidizer at the air flow rates and HAP concentrations that exist at typical boat manufacturing plants.

H. Why Are Some Boat Manufacturing Operations Not Being Covered by the Proposed NESHAP?

The proposed NESHAP would not regulate the following operations:

- Mold sealing and release agents;
- Mold stripping and cleaning solvents;
- Solvents used to clean cured resin and gel coat from application equipment;
- Wood coatings;
- Fiberglass hull and deck coatings; and
- Antifoulant coatings.

We excluded wood finishing operations, fiberglass hull and deck coating operations, and antifoulant coating (bottom coating) operations because they are performed only by a relatively small percentage of boat manufacturers and are not typical of the majority of major source boat manufacturers. These three operations collectively account for about only 0.5 percent of HAP from major source boat manufacturers.

The proposed NESHAP would not regulate mold sealing and release agents and mold stripping and cleaning solvents because we were unable to set MACT floors or determine MACT for these operations. In both cases, the information and data available to us suggest that mold maintenance practices, part shape and size, and production schedules determine emissions more than the HAP content of these materials. The EPA does not have sufficient data to identify and prescribe work practices to reduce emissions from these operations. Therefore, the proposed NESHAP do not regulate these materials. A more detailed explanation of why we could not determine the MACT is in Docket No. A–95–44. These two operations collectively emit less than 1 percent of HAP from boat manufacturing.

Most boat manufacturers in our database use mold sealing and release agents that contain only a small percentage of HAP (less than 10 percent HAP) sold by two suppliers. Boat manufacturers use the same group of products but in different amounts leading to differences in facilitywide average HAP. Differences among facilities are probably due to differences

in facility-specific work practices that are dictated by production requirements, such as mold cycle time and frequency, the size and shape of parts, and mold maintenance. We do not have sufficient data to identify the MACT floor or MACT based on differences in work practices among facilities.

Mold stripping and cleaning solvents are not regulated by the proposed NESHAP because we do not have sufficient data to determine a MACT floor. The amount of HAP used per unit of mold surface area applied depends on facility-specific mold maintenance practices and production requirements. These may include mold cycle time, how often the mold is used, and even whether the mold is stored indoors or outdoors. The size of the part may also influence mold maintenance. We do not have sufficient data to identify those differences in production requirements or work practices that determine mold cleaning solvent usage. Therefore, we cannot identify a MACT floor or MACT.

We are not regulating solvents used for cleaning cured resin or gel coat from application equipment because we know of no emission controls. Cured resin or gel coat inside a gun is usually the result of operator error or an equipment failure. To clean cured resin and gel coat, an aggressive solvent is needed and no low-HAP alternatives are available. The equipment is usually soaked in a covered bucket resulting in little evaporation of the solvent. The amount of solvent needed per year is determined by the size of the facility, degree of operator error, and equipment failure rates. Because operator error and equipment failure are hard to predict, we could determine no basis for an annual limit of solvent usage that would be achievable by all facilities. The proposed NESHAP, therefore, allow HAP-containing solvents only for cleaning cured resin and gel coat from the application equipment. The use of HAP-containing solvents for routine gun flushing is prohibited.

I. How Did EPA Select the Format of the Proposed NESHAP?

We decided to offer several formats for complying with the proposed NESHAP. The purpose of multiple formats is to provide the flexibility to comply in the most cost effective and efficient manner. We considered the following factors in selecting the format of the proposed NESHAP:

- The format must allow for multiple compliance techniques for the various types of facilities in the industry.
- The format must simplify compliance and ensure that the cost of compliance is not excessive.
- The format must be enforceable.

The format of the proposed NESHAP is based on a combination of HAP content limits, equipment standards, and work practice standards. Section 112(h) of the CAA states that ''* * * if it is not feasible in the judgement of the Administrator to prescribe or enforce an emission standard for control of a hazardous air pollutant or pollutants, the Administrator may, in lieu thereof, promulgate a design, equipment, work practice, or operational standard, or combination thereof * * *.'' Section 112(h)(2) further defines the phrase ''not feasible to prescribe or enforce an emission standard'' as any situation in which ''* * * a hazardous air pollutant or pollutants cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, * * * or the application of measurement methodology to a particular class of sources is not practicable * * *.''

In general, numerical emission limits are not feasible to prescribe or enforce. Most boat manufacturing operations occur in large buildings where emissions are released to the atmosphere through general building ventilation, windows, and doors. These emission points have high air volumes and low HAP concentrations that would pose unreasonably high costs to capture the emissions. Some coating operations are carried out in spray booths that are vented through a single stack, but these emissions also have high air volumes and low HAP concentrations. Therefore, the most reasonable format for these situations is to specify HAP content limits for materials, application equipment requirements, and work practices to minimize emissions.

The formats of the proposed NESHAP include both numerical emission limits and work practice/equipment standards (HAP content limits and application equipment requirements). We included both types of formats so boat manufacturers could choose to comply using either averaging provisions, low-HAP materials and alternative application equipment, or add-on controls. However, very few boat manufacturers will probably choose to comply with emission limit controls because it is not practical to capture the emissions for use with add-on controls.

The following subsections describe the selection of the formats for each type of limit included in the proposed NESHAP.

HAP Content Limits for Fiberglass Boat Manufacturing Operations. The proposed NESHAP for open molding operations, resin and gel coat equipment cleaning solvents, and carpet and fabric adhesives include weight-percent HAP content limits for these materials. The HAP content is an accurate measure of the relative emission potential of materials. The HAP content is already reported on the material safety data sheet for each material. Therefore, HAP content can simplify compliance by allowing you to purchase compliant materials. If you add HAP to your materials before use, you must include the additional HAP in your HAP content calculations; do not include HAP catalysts used for resins and gel coats in the HAP content calculation.

Emission Averaging Using Kilogram of HAP per Megagram of Material Applied. The proposed NESHAP for open molding operations include a HAP emissions limit that is kilogram of HAP per megagram of material applied. This format is used in the emissions averaging compliance option. This format was selected to provide compliance flexibility by allowing you to use varying HAP content materials and different application techniques in the open molding operations and average the emissions using the MACT model point value equations described in section II.D. The averaging approach will allow you to use higher-HAP materials and spray application techniques for some open molding operations while using lower-HAP materials and lower-emitting application methods for others.

The proposed NESHAP do not allow you to average between open and closed molding resin operations. However, the EPA is soliciting comments on allowing averaging between open and closed molding operations under certain circumstances. Industry representatives have requested this option and have argued that it will encourage pollution prevention and long-term emissions reductions by encouraging the development of more widely applicable closed molding technologies.

The EPA developed separate MACT floors and standards for open and closed molding processes because open molding is currently considered a separate manufacturing process from closed molding. The NESHAP for open molding require you to use low-emitting resins and application methods to reduce emissions. On the other hand, closed molding is an inherently low-emitting process, so the proposed NESHAP impose no additional requirements to reduce emissions from closed molding. Because today's proposed NESHAP have no numerical emission limit for closed molding, you cannot ''over control'' closed molding

for greater emissions reductions to offset excess emissions from open molding. Therefore, the proposed NESHAP do not include closed molding in the averaging approach that is based on a source-wide emission limit for resin and gel coat operations.

The EPA is, however, considering the feasibility of allowing closed molding as a control technology in a source-wide limit in cases where the closed molding is used as a substitute or replacement for an existing open molding operation. Here, any reduction from switching to closed molding could be applied to excess emissions from other open molding operations. Consider, for example, a boat manufacturing facility that makes 16-foot and 20-foot boats on two separate lines using open molding. If the facility adopts closed molding on the 20-foot line and ceases open molding, then this is an operational change that reduces emissions from the 20-foot boat line. The excess emissions reductions (above the level that would be required by the open molding standard) would allow the operator to use higher-HAP materials on the 16-foot boat line.

Under this proposal, EPA would allow averaging only when the closed molding resin application is a replacement for existing open molding resin application. This proposal includes this restriction because MACT for open molding resin application is nonatomized application of resin with 35 percent HAP content. If this restriction were not included, a facility spray applying a higher-HAP resin and using closed molding could comply without any emissions reductions simply by averaging the open and closed molding. Moreover, a facility that adds new closed molding capacity to increase production would be allowed to switch to higher HAP materials in their existing open molding operations. In these cases, the facility would not be reducing emissions from the open molding operations and would not be achieving an open molding control level equal to MACT (*i.e.,* 35 percent HAP content and nonatomized application).

Therefore, EPA is soliciting comments on allowing averaging between open and closed molding by including closed molding in a source-wide emission limit. Under this proposal, you could average open and closed molding if you meet all of the following three conditions: (1) Your facility must be an existing source that is operating prior to today's proposal date, (2) you must begin the closed molding operation after today's proposal date, and (3) the closed molding operation must replace an equivalent amount of open molding production capacity that existed before today's proposal date. The EPA welcomes comments on the feasibility of this approach, and whether it would provide any additional operating flexibility to existing boat manufacturing facilities or encourage more closed molding.

HAP Content Limits for Aluminum Boat Surface Coatings. The proposed standard for aluminum boat surface coatings is expressed as mass of HAP per volume of coating solids. For coating operations, weight-percent HAP is not an accurate predictor of relative HAP. For this operation, the amount of coating needed to cover a surface is determined by the solids content of the coating. Coatings with similar weight-percent HAP contents, but different solids contents, will have different HAP because different amounts of coating will be needed for the same job.

In addition, coatings often have low-HAP solvents added to control viscosity and achieve other coating liquid properties. Such low-HAP solvents reduce HAP content as weight-percent, but increase the volume needed to achieve the same dry-film thickness. The proposed format of mass of HAP per volume of coating solids assures that coatings are being compared on an equal basis.

HAP Content Limit for Aluminum Wipe-Down Solvents. The proposed standard for aluminum wipe-down solvents is expressed as mass of HAP per volume of solids from aluminum primers or clear coats applied to bare aluminum. This format allows you to use a greater range of solvents and compares HAP on an equal basis.

The data available to us indicate that weight-percent HAP content for the wipe-down solvents is not an accurate predictor of emissions. Some facilities using higher-HAP solvents have lower HAP per unit of coating applied than those using lower-HAP solvents. These data indicate it is possible to use some higher-HAP solvents more efficiently than lower-HAP solvents and, therefore, a limit on solvent HAP content could be counterproductive.

Ideally, we would use HAP mass per unit surface area, but this is not practicable. It is not practical to measure or monitor the surface area to be cleaned prior to coating because of the complicated three-dimensional shape of aluminum boats and the variety of boats produced. Therefore, the volume of solids of aluminum clear coat primer applied to bare aluminum was selected as a surrogate for the amount of surface area to be cleaned prior to coating.

Selection of Averaging Time for Demonstrating Compliance. As a boat manufacturer, you must show compliance with the emissions limits in the proposed NESHAP on a 3-month, rolling-average basis. You must determine compliance at the end of each month from the data collected over the past 3 months. A 3-month averaging time provides a balance between operating flexibility and enforceability of the proposed standard. The 3-month period is sufficiently long so that you can identify potential compliance problems and change your operations in time to maintain compliance. The rolling-average aspect provides an enforceable emission limit 12 times per year.

Many boat manufacturers already track material usage monthly to comply with State regulations and permit requirements, so monthly tracking is consistent with current practice. Tracking on a more frequent basis would be unnecessarily burdensome. Boat manufacturers need a 3-month rolling-average period to respond to both short-term variations in HAP content that is inherent in all chemical products and short-term needs for higher-HAP materials.

J. How Did EPA Select the Test Methods for Determining Compliance With the Proposed NESHAP?

The proposed NESHAP give you the option of complying by either meeting HAP content limits (among other requirements) or using an enclosure and add-on control device to meet numerical emission limits. The reference method for measuring the HAP content of resin, gel coat, adhesives, aluminum boat surface coatings, and wipe-down solvents subject to the proposed NESHAP is EPA Method 311 (Analysis of Hazardous Air Pollutant Compounds in Paints and Coatings by Direct Injection Into a Gas Chromatograph). This is an established method that is appropriate for measuring the types of HAP used in these materials. You may use alternative methods for measuring HAP content if approved by EPA.

The proposed NESHAP do not require a compliance test for HAP content, nor do they require you to test every shipment of materials that you receive. You are responsible, however, for ensuring, by any means that you choose (*e.g.,* periodic testing, manufacturers' certification), that the HAP content of your materials complies with the requirements of the proposed NESHAP. We may require you to conduct a test at any time using EPA Method 311 (or any approved alternative method) to confirm the HAP content in the compliance reports that you submit. If there is any inconsistency between the results of the

EPA Method 311 test and any other means of determining HAP content, the Method 311 results will govern.

If you choose to use an enclosure and add-on control device, you must determine the capture efficiency of the enclosure and measure the HAP from the control device. To determine the capture efficiency of the enclosure, you must use EPA Method 204 (Criteria for and Verification of Permanent or Temporary Total Enclosure). If the enclosure meets the criteria in EPA Method 204 for a permanent total enclosure, then you may assume that its capture efficiency is 100 percent. If the enclosure is not a total enclosure, then you must build a total temporary enclosure (TTE) around it that meets the definition of a TTE in EPA Method 204. You must then measure emissions from both the control device and the TTE and use the combined emissions to determine compliance.

To measure HAP, you may use either EPA Method 18 (Measurement of Gaseous Organic Compound Emissions by Gas Chromatography) to measure the sum of individual species of HAP or EPA Method 25A (Determination of Total Gaseous Organic Matter Concentration Using a Flame Ionization Analyzer) for total hydrocarbons (THC) as a surrogate for total HAP. The EPA Method 25A allows you the flexibility to use a simpler method than EPA Method 18 that does not speciate HAP in cases where measuring THC is sufficient to demonstrate compliance. You can measure THC as a surrogate for total HAP if most of the THC emitted from an enclosure are HAP, such as styrene and MMA from resin and gel coat operations. For compliance determinations, the EPA will assume that all THC measured with EPA Method 25A are HAP.

K. How Did EPA Determine the Monitoring and Recordkeeping Requirements?

The monitoring and recordkeeping requirements you must meet will depend on how you choose to comply with the proposed NESHAP. For each compliance option, the proposed monitoring and recordkeeping requirements are the minimum necessary to determine initial and ongoing compliance and are consistent with the general provisions (40 CFR part 63, subpart A).

Compliance with HAP Content Limits. For all operations subject to HAP content limits, you must perform three tasks: monitor and record the HAP content of the material used, monitor and record the monthly consumption of the material, and record the computations to show that the weighted average HAP content over the past 3 months meets the standard. If all the materials used in an operation meet the HAP content limit, then you only need to record HAP content, and you do not need to track monthly consumption or record the computations.

Compliance with Averaging Provisions. To comply with the averaging provisions for open molding operations, you must monitor and record HAP content, amount of material applied by spray, and the amount applied by nonspray; and you must record the computations needed to show compliance. You must use these data as well as the MACT model point value equations in the proposed NESHAP to calculate the HAP emitted for the materials used in that operation for the past 3 months. Compliance is then determined relative to the allowable HAP limit calculated for those operations for the past 3 months.

Compliance with Equipment and Work Practice Standards. The proposed NESHAP require resin and gel coat mixing containers to be fitted with covers that have no visible gaps. The proposed NESHAP also require that aluminum coating spray guns be cleaned in enclosed gun cleaners or sprayed into containers that can be closed when not in use. You will be required to inspect container covers and enclosed gun cleaners each month to ensure the covers are in place and properly maintained. You must record the results of the inspections. The inspections should be sufficient to ensure that the covers are in place and properly maintained. We believe that monthly inspections are a reasonable interval because the nature of failure in these pieces of equipment is likely due to wear and tear and not a sudden failure. Longer time periods between inspections, however, would allow a failure to go too long before being repaired.

The proposed NESHAP for production resin and tooling resin will require most manufacturers to use nonatomized resin application methods to comply. These methods include flowcoaters and pressure-fed resin rollers, among others. We could identify no parameters to monitor whether these methods were being used. Rather, compliance would be determined during enforcement inspections as to whether these methods were being used. As long as flowcoaters, pressure-fed resin rollers, or other similar devices are installed and operated according to manufacturer's specifications, they will comply with the requirements to use nonatomized resin application methods.

Compliance for Sources Using Enclosures and Add-on Control Devices. You have the option of using an enclosure and add-on control instead of complying with HAP content or application equipment standards. The requirements in the proposed NESHAP are consistent with other air quality regulations that require capture and control of emissions. They are the minimum needed to demonstrate that the capture and control system is operated properly.

You must initially demonstrate compliance with the emission limit by demonstrating that the enclosure is a total enclosure or by also measuring the fugitive emissions that escape the enclosure. You must also measure the efficiency of the add-on control using EPA Method 25A for THC (as a surrogate for HAP) or EPA Method 18 for HAP. The EPA Method 18 measures individual HAP that you sum to calculate total HAP.

After the initial compliance test, you must monitor control device parameters to demonstrate that the control device continues to be operated as it was during the initial test. In the case of thermal oxidizers, you must monitor and record combustion temperature every 15 minutes both during and after the performance test. You must calculate the average temperature achieved during the test. After the test, you must maintain the average temperature at or above the temperature achieved during the performance test. Temperature monitors and recorders are standard features on thermal oxidizers. For other devices, you must determine appropriate parameters to monitor and receive our approval to use these parameters.

L. How Did EPA Select the Notification and Reporting Requirements?

The required notices and reports are the minimum needed to determine if you are subject to the proposed NESHAP and whether you are in compliance. You must submit an initial notification stating that you are subject to the proposed NESHAP. After the compliance date for your facility, you must submit a notification of your compliance status. You must also submit semiannual reports of your compliance status. If you have an add-on control device and you identify deviations, you must submit quarterly reports of your compliance status until we approve a request to return to semiannual reporting.

If your facility is a new source, you will have additional preconstruction notification requirements. You will also have additional notification and

reporting requirements if you use an add-on control device, including notifications and reports for the control device performance test. These notification and reporting requirements are consistent with those specified in the general provisions (subpart A) for part 63 and are the minimum needed for us to determine compliance for sources with add-on control devices.

The startup, shutdown, and malfunction plan specified by the general provisions will be required only for sources using an add-on control device and will apply only to the add-on control device. For operations not using a control device, the nature of the materials and equipment used to comply with the proposed boat manufacturing NESHAP is such that malfunctions will not lead to excess emissions.

V. Relationship to Other Standards and Programs Under the CAA

A. National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices, and Routing to a Fuel Gas System or a Process (40 CFR Part 63, Subpart SS)

If you use an add-on control device other than a thermal oxidizer to control emissions from resin and gel coat operations, you will need to comply with certain provisions in 40 CFR part 63, subpart SS, for add-on controls. The standards in subpart SS cited by the proposed NESHAP are applicable to most sources using an add-on control device. The proposed NESHAP cite these sections in subpart SS rather than repeating them in the proposed regulatory text.

B. Shipbuilding and Repair (Surface Coating) NESHAP (40 CFR Part 63, Subpart II)

Coating operations on commercial or military aluminum boats and ships are subject to the Shipbuilding and Repair NESHAP. Today's proposed boat manufacturing NESHAP cover coating operations only on nonmilitary and noncommercial aluminum boats. Some boat manufacturers may be potentially subject to both NESHAP because they manufacturer both noncommercial, nonmilitary aluminum boats and either commercial or military vessels. However, there is no conflict between the two NESHAP because the coating operations on any single vessel would be subject to only one NESHAP depending on the intended function of that vessel.

C. Wood Furniture Manufacturing Operations NESHAP (40 CFR Part 63, Subpart JJ)

Boat manufacturers, particularly builders of large yachts, build wood furniture (such as beds, cabinets, and partitions) into the boat interiors and finish this furniture with stains, sealers, and varnishes that are similar to finishing materials used for household furniture. However, wood furniture finishing operations on boats are not subject to the requirements of 40 CFR part 63, subpart JJ, because the EPA has determined that wood furniture on a boat is integral to the boat cabin and is not comparable to the furniture regulated by 40 CFR part 63, subpart JJ (see Docket No. A–95–44). Wood surface coating operations are not covered by the proposed boat manufacturing NESHAP.

D. Plastic Parts and Products (Surface Coating) NESHAP

The NESHAP for plastic parts are still being developed and could potentially cover antifoulant and hull and deck surface coating operations at fiberglass boat facilities.

E. Relationship Between Operating Permit Program and the Proposed Standards

Under the operating permit program codified at 40 CFR parts 70 and 71, all major sources subject to standards under section 111 or 112 of the CAA must obtain an operating permit (See § 70.3(a)(1) and § 71.3(a)(1)). Therefore, all major sources subject to the proposed NESHAP must obtain an operating permit. Area sources in this source category are not regulated by the proposed NESHAP, and, therefore, would not be required to obtain an operating permit unless a State with an approved operating permit program chooses to permit all nonmajor sources.

Some boat manufacturers may be major sources based solely on their potential to emit even though their actual emissions are below the major source level. These boat manufacturers may choose to obtain a federally enforceable limit on their potential to emit so that they are no longer considered major sources and not subject to the proposed NESHAP. Sources that opt to limit their potential to emit (*e.g.,* limits on operating hours or amount of material used) are referred to by the EPA as ''synthetic area'' sources. To become a synthetic area source, you must contact your local permitting authority to obtain an operating permit with the appropriate operating limits. These operating limits will then be federally enforceable under § 70.6(b).

The EPA believes that the boat manufacturing category could benefit from the development of a general permit. Under part 70, State permitting authorities are allowed to develop general permits for categories of sources containing numerous similar sources. In deciding which source should be covered by general permits, State regulators must consider three primary criteria: (1) Source categories covered by general permits should contain similar operations and emit pollutants with similar characteristics; (2) sources should not be subject to case-by-case standards; and (3) sources should be subject to the same or substantially similar requirements governing operation, emissions, monitoring, reporting, and recordkeeping.

There are several benefits to a general permit. If a general permit developed by a permitting authority has been approved after public participation and EPA and affected State review, the permitting authority may then grant or deny a general permit to a source without further public participation or EPA and affected State review. The action of granting or denying a general permit is also not subject to judicial review. Another benefit of a general permit that would be particularly advantageous for the boat manufacturing industry is that sources may use general permits strictly for the purposes of becoming synthetic area sources (*i.e.,* limiting their potential to emit).

VI. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether a proposed regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees,

or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this proposed rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is, therefore, not subject to OMB review.

B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An ICR document has been prepared by EPA (ICR No. 1966.01) and a copy may be obtained from Sandy Farmer by mail at the Collection Strategies Division, Office of Environmental Information, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Avenue, NW, Washington, DC 20460, by e-mail at ''farmer.sandy@epa.gov,'' or by calling (202) 260–2740. A copy may also be downloaded from the internet at ''http://www.epa.gov/icr.''

The proposed NESHAP contain monitoring, reporting, and recordkeeping requirements. The required notices and reports are the minimum needed by us to determine who is subject to the NESHAP and whether you are in compliance. The proposed recordkeeping requirements are the minimum necessary to determine initial and ongoing compliance. Based on reported information, we would decide which boat manufacturers and what records or processes should be inspected. The recordkeeping and reporting requirements are consistent with the general provisions of 40 CFR part 63.

These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to us for which a claim of confidentiality is made will be safeguarded according to our policies in 40 CFR part 2, subpart B, ''Confidentiality of Business Information.''

The EPA expects the proposed NESHAP to affect a total of 134 boat manufacturing facilities over the first 3 years. The EPA assumes that five new boat manufacturing facilities will become subject to the proposed NESHAP during each of the first 3 years. The EPA expects 119 existing facilities to be affected by the proposed NESHAP, and these existing facilities will begin complying in the third year.

The estimated average annual burden for the first 3 years after promulgation of the proposed NESHAP for industry and the implementing agency is outlined below. You can find the details of this information collection in the ''Standard Form 83 Supporting Statement for ICR No. 1966.01,'' in Docket No. A–95–44.

Affected entity	Total hours	Labor costs	Capital costs	Operating and mainte-nance costs	Total costs
Industry	10,343	635,526	0	895	636,421
Implementing agency	2,456	141,073	0	0	141,073

The EPA estimates that there are no capital or startup costs for these new facilities because they are expected to comply by limiting the HAP content of materials. The implementing agency would not incur any capital or startup costs.

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.

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. Control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques. Send comments on the ICR to the Director, Collection Strategies Division, Office of Environmental Information, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Avenue NW, Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after July 14, 2000, a comment to OMB is best assured of having its full effect if OMB receives it by August 14, 2000. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Executive Order 13132, Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed rule. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local

officials early in the process of developing the proposed rule.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and the Agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the Agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. No boat manufacturing facilities subject to the proposed NESHAP are owned by State or local governments. Therefore, State and local governments will not have any direct compliance costs resulting from this proposed rule. Furthermore, EPA is directed to develop the proposed NESHAP by section 112 of the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule.

D. Executive Order 13084, Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, we may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or we consult with those governments. If we comply by consulting, we are required by Executive Order 13084 to provide to the OMB in a separately identified section of the preamble to the rule, a description of the extent of our prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires us to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. No tribal governments are believed to be affected by this proposed rule. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this proposed rule.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, we must generally prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows us to adopt an alternative other than the least costly, most cost effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before we establish any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of our regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more by State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The total cost to the private sector is approximately $14 million per year. This proposed rule contains no mandates affecting State, local, or Tribal governments. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA.

We have determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them.

F. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 601, *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), requires us to give special consideration to the effect of Federal regulations on small entities and to consider regulatory options that might mitigate any such impacts. We must prepare a regulatory flexibility analysis unless we certify that the rule will not have a ''significant economic impact on a substantial number of small entities.'' Small entities include small businesses, small organizations, and small governmental jurisdictions.

For the purposes of assessing the impacts of today's proposed rule on small entities, a small entity is defined as: (1) A small business whose parent company has fewer than 500 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.''

We have determined that 66 out of the 2,307 small firms in the industry (2.9 percent) may be affected by this proposed rule. In a screening of impacts on these small firms, we found that 47 firms have costs that comprise less than 1 percent of firm revenues, and 19 firms have estimated compliance costs that exceed 1 percent of their revenues. Based on available data of industry profit margins, the average return on sales for the industry is 3.4 percent. Of the 19 firms with costs greater than one percent of revenues, only one firm is estimated to experience costs exceeding 3 percent of revenues. Thus, reviewing the range of costs to be borne by small businesses in light of the 3.4 percent profit margins typical of this industry, the Agency has determined the costs are

typically small and, overall, do not constitute a significant impact on a substantial number. In addition, this proposed rule is likely to also increase profits at the 2,241 small firms that are not affected by the proposed rule due to the very slight increase in market prices. The economic impacts are summarized in section III.G. of this document and in the economic impact analysis contained in Docket No. A–95–44.

Although this proposed rule will not have a significant economic impact on a substantial number of small entities, EPA has tried to reduce the impact of this proposed rule on small entities. We have met with ten of these small firms and their trade association. They have been fully involved in this rulemaking, and their concerns have been considered in the development of this proposed rule. In developing these proposed standards, we have provided the maximum degree of flexibility to minimize impacts on small businesses by providing several different compliance options, several of which require a minimum amount of recordkeeping and reporting. Also, these proposed standards, which are based on MACT floor level control technology, reflect the minimum level of control allowed under the CAA. Small businesses that are subject to the proposed rule will not be systematically impacted more than larger operations. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

Pursuant to the provisions of 5 U.S.C. 605(b), we hereby certify that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

G. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Publication L. No. 104–113), all Federal agencies are required to use voluntary consensus standards in their regulatory and procurement activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA requires Federal agencies to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

Consistent with the NTTAA, EPA conducted searches to identify voluntary consensus standards for use in emissions testing. The search for emissions testing procedures identified 16 voluntary consensus standards that appeared to have possible use in lieu of EPA standard reference methods. However, after reviewing the available standards, EPA determined that six of the candidate consensus standards identified for measuring emissions of HAP or surrogates subject to emission standards in the rule would not be practical due to lack of equivalency, documentation and validation data. Nine of the remaining candidate consensus standards are under development or under EPA review. The EPA plans to follow, review and consider adopting these standards after their development and further review by EPA is completed.

The ASTM D4457–85 (Reapproved 1991) is an acceptable alternative to EPA Method 311 for only dichloromethane (methylene chloride) and 1,1,1–trichlorethane (methyl chloroform). The EPA is requesting comment on the incorporation by reference of ASTM D4457 for the purposes of the proposed NESHAP. Five consensus standards (ASTM D1979–91, ASTM D3432–89, ASTM D4747–87, ASTM D4827–93, and ASTM PS 9–94) are already incorporated by reference in EPA Method 311.

The ASTM D6420–99 is currently under EPA review as an approved alternative to EPA Method 18. The EPA will compare this final ASTM standard to methods previously approved as alternatives to EPA Method 18 with specific applicability limitations. These methods, designated as ALT–017 and CTM-028, are available through EPA's Emission Measurement Center Internet site at www.epa.gov/ttn/emc/tmethods.html. The final ASTM D6420–99 standard is very similar to these approved alternative methods, which may be equally suitable for specific applications. The EPA plans to continue their review of the final standard and will consider adopting the ASTM standard at a later date.

The EPA requests comment on compliance demonstration requirements proposed in this rulemaking and specifically invites the public to identify potentially applicable voluntary consensus standards. Comments should explain why this regulation should adopt these voluntary consensus standards in lieu of EPA's standards. Emission test methods and performance specifications submitted for evaluation should be accompanied with a basis for the recommendation, including method validation data and the procedure used to validate the candidate method (if method other than Method 301, 40 CFR part 63, appendix A was used).

H. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposal is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks. Additionally, this proposed rule is not economically significant as defined by Executive Order 12866.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous air pollutants, Reporting and recordkeeping requirements, and Volatile organic compounds.

Dated: June 12, 2000.

Carol M. Browner,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Part 63 is amended by adding subpart VVVV to read as follows:

Subpart VVVV—National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing

Sec.

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What the Subpart Covers

§ 63.5680 What is the purpose of this subpart?

(a) This subpart establishes national emission standards for hazardous air pollutants (HAP) for new and existing boat manufacturing facilities with resin and gel coat operations, carpet and fabric adhesive operations, or aluminum boat surface coating operations. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission standards.

§ 63.5683 Does this subpart apply to me?

(a) This subpart applies to you if you meet both of the criteria listed in paragraphs (a)(1) and (2) of this section.

(1) You are the owner or operator of a boat manufacturing facility that builds fiberglass boats or aluminum boats.

(2) Your boat manufacturing facility is a major source of HAP either in and of itself, or because it is collocated with other sources of HAP, such that all sources combined constitute a major source.

(b) A boat manufacturing facility is a facility that manufactures hulls or decks of boats from fiberglass or aluminum, or assembles boats from premanufactured hulls and decks, or builds molds to make fiberglass hulls or decks. A facility that manufactures only parts of boats (such as hatches, seats, or lockers) or boat trailers is not considered a boat manufacturing facility for the purpose of this subpart.

(c) A major source is any stationary source or group of stationary sources located within a contiguous area and under common control that emits or can potentially emit, considering controls, in the aggregate, 9.1 megagrams (10 tons) or more per year of a single HAP or 22.7 megagrams (25 tons) or more per year of a combination of HAP.

(d) This subpart does not apply to aluminum coating operations on aluminum boats intended for commercial or military use, antifoulant coatings, fiberglass assembly adhesives, fiberglass hull and deck coatings, mold sealing and release agents, mold stripping and cleaning solvents, and wood coatings as defined in § 63.5779. This subpart does not apply to materials contained in handheld aerosol cans.

§ 63.5686 How do I demonstrate that my facility is not a major source?

(a) To demonstrate that your facility is not a major source based on emissions, you must demonstrate that your facility does not emit, and does not have the potential to emit, considering federally enforceable permit limits, 9.1 megagrams (10 tons) or more per year of a single HAP or 22.7 megagrams (25 tons) or more per year of a combination of HAP. To calculate your facility's potential to emit, you must include emissions from the boat manufacturing facility and all other sources that are collocated and under common ownership or control with the boat manufacturing facility.

(b) To demonstrate that you are not a major source based on material consumption, you must: manufacture either fiberglass or aluminum boats at your facility, but not both; demonstrate that you are not collocated with another source of HAP; and meet the requirement in paragraph (b)(1) or (2) of this section.

(1) If your facility is a fiberglass boat manufacturing facility, you must demonstrate that it consumes less than 45.4 megagrams (50 tons) per year of all polyester- and vinylester-based resins and gel coats, including tooling and

production resins and gel coats, and clear gel coats.

(2) If your facility is an aluminum boat manufacturing facility, you must demonstrate that it consumes less than 18.2 megagrams (20 tons) per year of all carpet and fabric adhesives, surface wipe-down and application gun cleaning solvents, and paints and coatings.

§ 63.5689 What parts of my facility are covered by this subpart?

The affected source (the portion of your boat manufacturing facility covered by this subpart) is the combination of all of the boat manufacturing operations listed in paragraphs (a) through (f) of this section.

(a) Open molding resin and gel coat operations (including pigmented gel coat, clear gel coat, production resin, tooling gel coat, and tooling resin).

(b) Closed molding resin operations.

(c) Resin and gel coat mixing operations.

(d) Resin and gel coat application equipment cleaning operations.

(e) Carpet and fabric adhesive operations.

(f) Aluminum hull and deck coating operations, including solvent wipe-down operations and paint spray gun cleaning operations, on aluminum boats.

§ 63.5692 How do I know if my boat manufacturing facility is a new affected source or an existing affected source?

(a) A boat manufacturing facility is a new affected source if it meets the criteria in paragraphs (a)(1) through (3) of this section.

(1) You commence construction of the affected source after July 14, 2000.

(2) It is a major source.

(3) It is a completely new boat manufacturing affected source where no other boat manufacturing affected source existed prior to the construction of the new affected source.

(b) For the purposes of this subpart, an existing affected source is any affected source that is not a new affected source.

§ 63.5695 When must I comply with this subpart?

You must comply with the standards in this subpart by the dates specified in table 1 to this subpart.

Standards for Open Molding Resin and Gel Coat Operations

§ 63.5698 What emission standard must I meet for open molding resin and gel coat operations?

(a) You must control HAP emissions from the five open molding operations listed in paragraphs (a)(1) through (5) of this section to the emission standard specified in paragraph (b) of this section.

(1) Production resin.

(2) Pigmented gel coat.

(3) Clear gel coat.

(4) Tooling resin.

(5) Tooling gel coat.

(b) You must limit HAP emissions from open molding operations to the standard specified by equation 1, based on a 3-month rolling average.

$$\text{HAP Limit} = \left[46\left(M_R\right) + 159\left(M_{PG}\right) + 291\left(M_{CG}\right) + 54\left(M_{TR}\right) + 214\left(M_{TG}\right)\right] \qquad \text{(Eq. 1)}$$

Where:

HAP Limit= total allowable HAP that can be emitted from the open molding operations, kilograms.

M_R = mass of production resin used in the past 3 months, megagrams.

M_{PG} = mass of pigmented gel coat used in the past 3 months, megagrams.

M_{CG} = mass of clear gel coat used in the past 3 months, megagrams.

M_{TR} = mass of tooling resin used in the past 3 months, megagrams.

M_{TG} = mass of tooling gel coat used in the past 3 months, megagrams.

(c) The open molding emission standard is the same for both new and existing sources.

§ 63.5701 What are my options for complying with the open molding emission standard?

You must use one or more of the options listed in paragraphs (a) through (c) of this section to meet the emission standard in § 63.5698 for the resins and gel coats used in open molding operations at your facility.

(a) *Maximum achievable control technology (MACT) model point value averaging option.* (1) Demonstrate that emissions from the open molding resin and gel coat operations that you average meet the emission standard in § 63.5698 based on weighted-average MACT model point values as described in § 63.5710. Compliance with this option is based on a 3-month rolling average.

(2) Those operations and materials not included in the average must comply with either paragraph (b) or (c) of this section.

(b) *Compliant materials option.* Demonstrate compliance with the emission standard in § 63.5698 by using open molding resins and gel coats that meet the HAP content requirements in table 2 to this subpart. Compliance with this option is based on a 3-month rolling average.

(c) *Add-on control option.* Use an enclosure and add-on control device and demonstrate that the resulting emissions meet the emission standard in § 63.5698. Compliance with this option is based on a control device performance test and control device monitoring.

§ 63.5704 What are the general requirements for complying with the open molding emission standard?

(a) *Maximum achievable control technology model point value averaging option.* For those open molding operations and materials complying using the MACT model point value averaging option, you must demonstrate compliance by performing the steps in paragraphs (a)(1) through (5) of this section.

(1) Use the methods specified in § 63.5758 to determine the HAP content of resins and gel coats.

(2) Complete the calculations described in § 63.5710 to show that the HAP emissions do not exceed the standard specified in § 63.5698.

(3) Keep records as specified in paragraphs (a)(3)(i) through (iv) of this section for each resin and gel coat.

(i) Hazardous air pollutant content.

(ii) Amount of material used per month.

(iii) Application method used for production resin and tooling resin. This record is not required if all production resins and tooling resins are applied with nonatomized technology.

(iv) Calculations performed to demonstrate compliance based on MACT model point values, as described in § 63.5710.

(4) Prepare and submit the implementation plan described in § 63.5707 to the Administrator and keep it up to date.

(5) Submit semiannual compliance reports to the Administrator as specified in § 63.5764.

(b) *Compliant materials option.* For each open molding operation complying using the compliant materials option, you must demonstrate compliance by performing the steps in paragraphs (b)(1) through (4) of this section.

(1) Use the methods specified in § 63.5758 to determine the HAP content of resins and gel coats.

(2) Complete the calculations described in § 63.5713 to show that the weighted-average HAP content does not exceed the requirement specified in table 2 to this subpart.

(3) Keep records as specified in paragraphs (b)(3)(i) through (iv) of this section for each resin and gel coat.

(i) Hazardous air pollutant content.

(ii) Application method for production resin and tooling resin. This record is not needed if all production resins and tooling resins are applied with nonatomized technology.

(iii) Amount of material used per month. This record is not needed for an operation if all materials used for that operation comply with the HAP content requirements.

(iv) Calculations performed, if needed, to demonstrate compliance based on weighted-average HAP content as described in § 63.5713.

(4) Submit semiannual compliance reports to the Administrator as specified in § 63.5764.

(c) *Add-on control option.* If you are using an add-on control device, you must demonstrate compliance by performing the steps in paragraphs (c)(1) through (5) of this section.

(1) Conduct a performance test of the control device as specified in §§ 63.5719 and 63.5722 to demonstrate initial compliance.

(2) Use the performance test results to determine control device parameters to monitor after the performance test as specified in § 63.5725.

(3) Comply with the control device monitoring and operating requirements specified in § 63.5725 to demonstrate continuous compliance.

(4) Keep the records specified in § 63.5767.

(5) Submit to the Administrator the notifications and reports specified in §§ 63.5761 and 63.5764.

§ 63.5707 What is an implementation plan for open molding operations and when do I need to prepare one?

(a) You must prepare an implementation plan for all open molding operations for which you comply by using the MACT model point value averaging option described in § 63.5704(a).

(b) The implementation plan must describe the steps you will take to bring the open molding operations covered by this subpart into compliance. For each operation included in the MACT model point value average, your implementation plan must include, at a minimum, the elements listed in paragraphs (b)(1) through (3).

(1) A description of each operation included in the average.

(2) The maximum HAP content of the materials used, the application method used (if any atomized resin application methods are used in the average), and any other methods used to control emissions.

(3) Calculations showing that the operations covered by the plan will comply with the open molding emission standard specified in § 63.5698.

(c) You must submit the implementation plan to the Administrator with the notification of compliance status specified in § 63.5761.

(d) You must keep the implementation plan on site and provide it to the Administrator when asked.

(e) If you revise the implementation plan, you must submit the revised plan with your next semiannual compliance report specified in § 63.5764.

§ 63.5710 How do I demonstrate compliance using MACT model point value averaging?

(a) Compliance using the MACT model point value averaging option is demonstrated on a 3-month rolling-average basis and is determined at the end of every month (12 times per year).

(b) At the end of every month, use equation 2 to demonstrate that the HAP emissions from those operations included in the average do not exceed the emission standard in § 63.5698. (Include terms in equation 1 in § 63.5698 and equation 2 for only those operations and materials included in the average.)

$$\text{HAP emissions} = \left[(PV_R)(M_R) + (PV_{PG})(M_{PG}) + (PV_{CG})(M_{CG}) + (PV_{TR})(M_{TR}) + (PV_{TG})(M_{TG}) \right] \qquad \text{(Eq. 2)}$$

Where:

HAP emissions=HAP emissions calculated using MACT model point values for each operation included in the average, kilograms.

PV_R=Weighted-average MACT model point value for production resin used in the past 3 months, kilograms per megagram.

M_R=Mass of production resin used in the past 3 months, megagrams.

PV_{PG}=Weighted-average MACT model point value for pigmented gel coat used in the past 3 months, kilograms per megagram.

M_{PG}=Mass of pigmented gel coat used in the past 3 months, megagrams.

PV_{CG}=Weighted-average MACT model point value for clear gel coat used in the past 3 months, kilograms per megagram.

M_{CG}=Mass of clear gel coat used in the past 3 months, megagrams.

PV_{TR}=Weighted-average MACT model point value for tooling resin used in the past 3 months, kilograms per megagram.

M_{TR}=Mass of tooling resin used in the past 3 months, megagrams.

PV_{TG}=Weighted-average MACT model point value for tooling gel coat used in the past 3 months, kilograms per megagram.

M_{TG}=Mass of tooling gel coat used in the past 3 months, megagrams.

(c) At the end of every month, use equation 3 to compute the weighted-average MACT model point value for each open molding resin and gel coat operation included in the average.

$$PV_{OP} = \frac{\sum_{i=1}^{n} (M_i PV_i)}{\sum_{i=1}^{n} (M_i)} \qquad \text{(Eq. 3)}$$

Where:

PV_{OP}=weighted-average MACT model point value for each open molding operation (PV_R, PV_{PG}, PV_{CG}, PV_{TR}, and PV_{TG}) included in the average, kilograms of HAP per megagram of material applied.

M_i=mass of resin or gel coat i used within an operation in the past 3 months, megagrams.

n=number of different open molding resins or gel coats used within an operation in the past 3 months.

PV_i=the MACT model point value for resin or gel coat i used within an operation in the past 3 months, kilograms of HAP per megagram of material applied.

(d) You must use the equations in table 3 to this subpart to calculate the MACT model point value (PV_i) for each resin and gel coat used in each operation in the past 3 months.

(e) If the HAP emissions, as calculated in paragraph (b) of this section, are less than the HAP limit calculated in § 63.5698(b), then you are in compliance with the emission standard in § 63.5698

for those operations and materials included in the average.

§ 63.5713 How do I demonstrate compliance using compliant materials?

(a) Compliance using the HAP content requirements listed in table 2 to this subpart is based on a 3-month rolling average that is calculated at the end of every month.

(b) At the end of every month, review the HAP contents of the resins and gel coats used in the past 3 months in each operation. If all resins and gel coats used in an operation have HAP contents no greater than the applicable HAP content requirements in table 2 to this subpart, then you are in compliance with the emission standard specified in § 63.5698 for that 3-month period for that operation. In addition, you do not need to complete the weighted-average HAP content calculation contained in paragraph (c) of this section for that operation.

(c) At the end of every month, you must use equation 4 to calculate the weighted-average HAP content for all resins and gel coats used in that operation in the past 3 months.

$$\text{Weighted-Average HAP Content (\%)} = \frac{\sum_{i=1}^{n}\left(M_i HAP_i\right)}{\sum_{i=1}^{n}\left(M_i\right)} \qquad \text{(Eq. 4)}$$

Where:

M_i = mass of open molding resin or gel coat i used in the past 3 months in an operation, megagrams.

HAP_i = HAP content, by weight percent, of open molding resin or gel coat i used in the past 3 months in an operation. Use the methods in § 63.5758 to determine HAP content.

n = number of different open molding resins or gel coats used in the past 3 months in an operation.

(d) If the weighted-average HAP content does not exceed the applicable HAP content requirement specified in table 2 to this subpart, then you are in compliance with the emission standard specified in § 63.5698.

Demonstrating Compliance for Open Molding Operations Controlled by Add-On Control Devices

§ 63.5716 When must I conduct a performance test?

(a) You must conduct an initial control device performance test within 180 calendar days after the compliance date specified in § 63.5695 and according to the provisions in § 63.7(a)(2).

(b) If you commenced construction between today's date and the effective date of the subpart, you must demonstrate initial compliance with either the proposed emission standard or the promulgated emission standard no later than 180 calendar days after the effective date of the regulation or within 180 calendar days after startup of the source, whichever is later, according to § 63.7(a)(2)(ix).

(c) If you commenced construction between today's date and the effective date of the subpart, and you chose to comply with the proposed emission standard when demonstrating initial compliance, you must conduct a second compliance demonstration for the promulgated emission standard within 3 years and 180 calendar days after the effective date of the subpart, or after startup of the source, whichever is later, according to § 63.7(a)(2)(ix).

(d) You must conduct a performance test every 5 years as part of renewing your 40 CFR part 70 or part 71 operating permit.

§ 63.5719 How do I conduct a performance test?

(a) You must capture the emissions using a permanent enclosure (such as a spray booth or similar containment device) and direct the captured emissions to the add-on control device.

(b) You must measure emissions as specified in paragraph (b)(1) or (2) of this section.

(1) If the enclosure vented to the control device is a permanent total enclosure as defined in Method 204 of appendix M to 40 CFR part 51, then you may measure emissions only at the outlet of the control device.

(2) If the permanent enclosure vented to the control device is not a total enclosure, you must build a temporary total enclosure, as defined in Method 204 of appendix M to 40 CFR part 51, around the permanent enclosure. You must then simultaneously measure emissions from the control device outlet and the emissions from the total temporary enclosure outlet. You determine compliance from the combined emissions from the control device outlet and the total temporary enclosure outlet.

(c) You must conduct the control device performance test using the emission measurement methods specified in paragraphs (c)(1) through (3) of this section.

(1) Use either Method 1 or 1A of appendix A to 40 CFR part 60, as appropriate, to select the sampling sites.

(2) Use Method 2, 2A, 2C, 2D, 2F or 2G of appendix A to 40 CFR part 60, as appropriate, to measure gas volumetric flow rate.

(3) Use Method 18 of appendix A to 40 CFR part 60 to measure HAP emissions or use Method 25A of appendix A to 40 CFR part 60 to measure total gaseous organic emissions as a surrogate for total HAP emissions. If you use Method 25A, you must assume that all gaseous organic emissions measured as carbon are HAP emissions. If you use Method 18 and the number of HAP in the exhaust stream exceeds five, you must take into account the use of multiple chromatographic columns and analytical techniques to get an accurate measure of at least 90 percent of the total HAP mass emissions. Do not use Method 18 to measure HAP emissions from a combustion device; use instead Method 25A and assume that all gaseous organic mass emissions measured as carbon are HAP emissions.

(d) The control device performance test must consist of three runs and each run must last at least 1 hour. The production conditions during the test runs must represent normal production conditions with respect to the types of parts being made and material application methods. The production conditions during the test must also represent maximum potential emissions with respect to the HAP content of the materials being applied and the material application rates.

(e) During the test, you must also monitor and record separately the amounts of production resin, tooling resin, pigmented gel coat, clear gel coat, and tooling gel coat applied inside the enclosure that is vented to the control device.

§ 63.5722 How do I use the performance test data to demonstrate initial compliance?

Demonstrate initial compliance with the open molding emission standard as

described in paragraphs (a) through (c) of this section:

(a) Calculate the HAP limit you must achieve using equation 1 in § 63.5698. For determining initial compliance, the HAP limit is based on the amount of material used during the performance test, in megagrams, rather than during the past 3 months. Calculate the limit using the megagrams of resin and gel coat applied inside the enclosure during the three runs of the performance test and equation 1 in § 63.5698.

(b) Add the total measured emissions, in kilograms, from all three of the 1-hour runs of the performance test.

(c) If the total emissions from the three 1-hour runs of the performance test are less than the HAP limit calculated in paragraph (a) of this section, then you have demonstrated initial compliance with the emission standard in § 63.5698 for those operations performed in the enclosure and controlled by the add-on control device.

§ 63.5725 What are the requirements for monitoring and demonstrating continuous compliance?

(a) You must establish control device parameters that indicate proper operation of the control device.

(b) You must install, operate, and maintain a continuous parameter monitoring system as specified in paragraphs (b)(1) through (6) of this section.

(1) The continuous parameter monitoring system must complete a minimum of one cycle of operation for each successive 15-minute period. You must have a minimum of four successive cycles of operation to have a valid hour of data.

(2) You must have valid data from at least 90 percent of the hours during which the process operated.

(3) You must determine the hourly average of all recorded readings.

(4) You must determine the daily average of all recorded readings for each operating day.

(5) You must determine the 30-day average for each 30-day period.

(6) You must record the results of each inspection, calibration, and validation check.

(c) *Enclosure bypass line.* You must meet the requirements of paragraph (c)(1) and either paragraph (c)(2) or (3) of this section for each enclosure ventilation system that contains bypass lines that could divert emissions from a control device.

(1) If the bypass lines are opened, you must include a description of the bypass and its duration in the compliance reports required in § 63.5764(c).

(2) You must properly install, operate, and maintain a flow measurement device that records the presence of a gas stream flow in each bypass line. You must meet the requirements in paragraph (b) and paragraphs (c)(2)(i) through (v) of this section for each flow measurement device.

(i) Locate the flow sensor and other necessary equipment such as straightening vanes in a position that provides a representative flow.

(ii) Use a flow sensor with a minimum tolerance of 2 percent of the flow rate.

(iii) Reduce swirling flow or abnormal velocity distributions due to upstream and downstream disturbances.

(iv) Conduct a flow sensor calibration check at least semi-annually.

(v) At least monthly, inspect all components for integrity, all electrical connections for continuity, and all mechanical connections for leakage.

(3) You must secure the bypass line in a nondiverting position with a seal in such a way that the valve or closure mechanism cannot be opened without breaking the seal. You must inspect the seal at least once per month and record the results of the inspection.

(d) *Thermal oxidizers.* If you are using a thermal oxidizer or incinerator as an add-on control device, you must comply with the requirements in paragraphs (d)(1) through (6) of this section.

(1) You must install a combustion temperature monitoring device in the firebox of the thermal oxidizer or incinerator, or in the duct immediately downstream of the firebox before any substantial heat exchange occurs. You must meet the requirements in paragraph (b) and paragraphs (d)(1)(i) through (vii) of this section for each temperature monitoring device.

(i) Locate the temperature sensor in a position that provides a representative temperature.

(ii) Use a temperature sensor with a minimum tolerance of 2.2° C or 0.75 percent of the temperature value, whichever is larger.

(iii) Shield the temperature sensor system from electromagnetic interference and chemical contaminants.

(iv) If a chart recorder is used, it must have a sensitivity in the minor division of at least 20° F.

(v) Perform an electronic calibration at least semiannually according to the procedures in the manufacturer's owners manual. Following the electronic calibration, you must conduct a temperature sensor validation check in which a second or redundant temperature sensor placed nearby the process temperature sensor must yield a reading within 16.7° C of the process temperature sensor's reading.

(vi) Conduct calibration and validation checks any time the sensor exceeds the manufacturer's specified maximum operating temperature range or install a new temperature sensor.

(vii) At least monthly, inspect all components for integrity and all electrical connections for continuity, oxidation, and galvanic corrosion.

(2) Before or during the performance test, you must conduct a performance evaluation of the combustion temperature monitoring system according to § 63.8(e). Section 63.8(e) specifies the general requirements for continuous monitoring systems and requirements for notifications, the site-specific performance evaluation plan, conduct of the performance evaluation, and reporting of performance evaluation results.

(3) During the performance test required by § 63.5716, you must monitor and record the combustion temperature and determine the average combustion temperature for the three 1-hour test runs.

(4) Following the performance test, you must continuously monitor the combustion temperature and record the average combustion temperature no less frequently than every 15 minutes.

(5) You must operate the incinerator or thermal oxidizer so that the average combustion temperature in any 3-hour period does not fall below the average combustion temperature recorded during the performance test.

(6) If the average combustion temperature in any 3-hour period falls below the average combustion temperature recorded during the performance test, or if you fail to collect the minimum data specified in paragraph (d)(4) of this section, it is a deviation.

(e) *Absorbers, condensers, and carbon adsorbers.* If you are using an absorber, condenser, or carbon adsorber as an add-on control device, you must comply with the operating, testing, and monitoring requirements in § 63.990.

(f) *Other control devices.* If you are using a control device other than those listed in paragraphs (d) and (e) of this section, then you must comply with the operating, testing, and monitoring requirements in § 63.995.

Standards for Closed Molding Resin Operations

§ 63.5728 What standards must I meet for closed molding resin operations?

(a) If a resin application operation meets the definition of closed molding specified in § 63.5779, there is no

requirement to reduce emissions from that operation.

(b) If the resin application operation does not meet the definition of closed molding, then you must comply with the standard for open molding resin operations specified in § 63.5698.

(c) Open molding resin operations that precede a closed molding operation must comply with the standard for open molding resin and gel coat operations specified in § 63.5698. Examples of these operations include gel coat or skin coat layers that are applied before lamination is performed by closed molding.

Standards for Resin and Gel Coat Mixing Operations

§ 63.5731 What standards must I meet for resin and gel coat mixing operations?

(a) All resin and gel coat mixing containers with a capacity equal to or greater than 208 liters (55 gallons) must have a cover with no visible gaps in place at all times.

(b) The work practice standard in paragraph (a) of this section does not apply when material is being manually added to or removed from a container, or when mixing or pumping equipment is being placed in or removed from a container.

(c) To demonstrate compliance with the work practice standard in paragraph (a) of this section, you must visually inspect all mixing containers subject to this standard at least once per month. The inspection should ensure that all containers have covers with no visible gaps between the cover and the container, or between the cover and equipment passing through the cover.

(d) You must keep records of which mixing containers are subject to this standard and the results of the inspections, including a description of any repairs or corrective actions taken.

Standards for Resin and Gel Coat Application Equipment Cleaning Operations

§ 63.5734 What standards must I meet for resin and gel coat application equipment cleaning operations?

(a) For routine flushing of resin and gel coat application equipment (*e.g.,* spray guns, flowcoaters, brushes, rollers, and squeegees), you must use a cleaning solvent that contains no HAP. This emission standard does not apply to solvents used for removing cured resin or gel coat from application equipment.

(b) You must store HAP-containing solvents used for removing cured resin or gel coat in containers with covers. The covers must have no visible gaps and must be in place at all times, except when equipment is placed in or removed from the container. Cured resin or gel coat means resin or gel coat that has changed irreversibly from a liquid to a solid.

(c) Recycled cleaning solvents that contain trace amounts of HAP (5 percent HAP or less by weight) are considered to contain no HAP for the purposes of this subpart.

§ 63.5737 How do I demonstrate compliance with the resin and gel coat application equipment cleaning standards?

(a) Determine and record the HAP content of the cleaning solvents subject to the standards specified in § 63.5734 using the methods specified in § 63.5758.

(b) Record the amount of cleaning solvents purchased as recycled cleaning solvents, and, therefore, may contain trace amounts of HAP.

(c) At least once per month, you must visually inspect any containers holding HAP-containing solvents used for removing cured resin and gel coat to ensure that the containers have covers with no visible gaps. Keep records of the monthly inspections and any repairs made to the covers.

Standards for Carpet and Fabric Adhesive Operations

§ 63.5740 What standards must I meet for carpet and fabric adhesive operations?

(a) You must use carpet and fabric adhesives that contain no HAP.

(b) To demonstrate compliance with the emission standard in paragraph (a) of this section, you must determine and record the HAP content of the carpet and fabric adhesives using the methods in § 63.5758.

Standards for Aluminum Boat Surface Coating Operations

§ 63.5743 What standards must I meet for aluminum boat surface coating operations?

(a) You must use aluminum wipe-down solvents with a weighted-average HAP content that does not exceed 2.57 kilograms of HAP per liter of solids from aluminum primers and clear coats applied over bare aluminum (21.5 pounds of HAP per gallon of solids). Compliance is based on a 3-month rolling average that is calculated at the end of every month. This limit does not apply to surfaces receiving decals or adhesive graphics.

(b) You must use aluminum boat surface coatings (including thinners, activators, primers, topcoats, and clear coats) with a weighted-average HAP content that does not exceed 1.22 kilograms of HAP per liter of coating solids (10.2 pounds of HAP per gallon of coating solids). Compliance is based on a 3-month rolling average that is calculated at the end of every month.

(c) You must comply with the work practice standard in paragraph (c)(1), (2), or (3) of this section when cleaning aluminum coating spray guns with HAP-containing solvents. You do not need to comply with these work practice standards if you are using a cleaning solvent that contains no HAP.

(1) Clean spray guns in an enclosed device. Keep the device closed except when you place spray guns in or remove them from the device.

(2) Disassemble the spray gun and manually clean the components in a vat. Keep the vat closed when you are not using it.

(3) Clean spray guns by placing solvent in the pressure pot and forcing the solvent through the gun. Do not use atomizing air during this procedure. Direct the used cleaning solvent from the spray gun into a container that you keep closed when you are not using it.

§ 63.5746 How do I demonstrate compliance with the standards for aluminum wipe-down solvents and aluminum coatings?

To demonstrate compliance with the emission standards for aluminum wipe-down solvents and aluminum coatings specified in § 63.5743 (a) and (b), you must meet the requirements of paragraphs (a) through (f) of this section.

(a) Determine and record the HAP content (kilograms of HAP per kilogram of material, or weight fraction) of each aluminum wipe-down solvent and aluminum coating (including primers, topcoats, clear coats, thinners, and activators). Use the methods in § 63.5758 to determine HAP content.

(b) Obtain from the aluminum coating manufacturer's formulation the solids content (liters of solids per liter of coating, or volume fraction) of each aluminum surface coating, including primers, topcoats, and clear coats. Keep records of the solids content.

(c) Compliance is based on a 3-month rolling average calculated at the end of every month.

(d) At the end of every month, use the procedures in § 63.5749 to calculate the HAP from aluminum wipe-down solvents per liter of coating solids. Use the procedures in § 63.5752 to calculate the kilograms of HAP from aluminum coatings per liter of coating solids.

(e) Keep records of the calculations used to determine compliance.

(f) *Approval of alternative means of demonstrating compliance.* You may apply to the Administrator for permission to use an alternative means (such as an add-on control system) of limiting emissions from aluminum

wipe-down solvent and coating operations and demonstrating compliance with the standards in paragraphs (a) and (b) in § 63.5743.

(1) The application must include the information listed in paragraphs (f)(1)(i) through (iii) of this section.

(i) An engineering evaluation that compares the emissions using the alternative means to the emissions that would result from using the strategy specified in paragraphs (a) through (d) of this section. The engineering evaluation may include the results from an emission test that accurately measures the capture efficiency and control device efficiency achieved by the control system and the composition of the associated coatings so that the emissions comparison can be made.

(ii) A proposed monitoring protocol that includes operating parameter values to be monitored for compliance and an explanation of how the operating parameter values will be established through a performance test.

(iii) Details of appropriate recordkeeping and reporting procedures.

(2) The Administrator will approve the alternative means of limiting emissions if the Administrator determines that HAP emissions will be no greater than if the source uses the procedures described in paragraphs (a) through (d) of this section to demonstrate compliance.

(3) The Administrator's approval may specify operation, maintenance, and monitoring requirements to ensure that emissions from the regulated operations are no greater than those that would otherwise result from regulated operations in compliance with this subpart.

§ 63.5749 How do I calculate the HAP content of aluminum wipe-down solvents?

(a) Use equation 5 to calculate the weighted-average HAP content of aluminum wipe-down solvents used in the past 3 months.

$$HAP_{WD} = \frac{\sum_{i=1}^{n}\left(Vol_{WDi}\right)\left(D_{WDi}\right)\left(W_{WDi}\right)}{\sum_{j=1}^{m}\left(Vol_{Pj}\right)\left(Solids_{Pj}\right)} \qquad \text{(Eq. 5)}$$

Where:

HAP_{WD} = weighted-average HAP content of aluminum wipe-down solvents, kilograms of HAP per liter of solids from aluminum primers and clear coats applied to bare aluminum.

n = number of different wipe-down solvents used in the past 3 months.

Vol_{WDi} = volume of aluminum wipe-down solvent i used in the past 3 months, liters.

D_{WDi} = density of aluminum wipe-down solvent i, kilograms per liter.

W_{WDi} = mass fraction of HAP in aluminum wipe-down solvent i.

m = number of different aluminum primers and clear coats used in the past 3 months that were applied to bare aluminum.

Vol_{Pj} = volume of aluminum primer or clear coat j used in the past 3 months, liters.

$Solids_{Pj}$ = solids content of aluminum primer or clear coat j, liter solids per liter of coating.

(b) Compliance is based on a 3-month rolling average. If the weighted-average HAP content does not exceed 2.57 kilograms of HAP per liter of solids (21.5 pounds of HAP per gallon solids), then you are in compliance with the emission standard specified in § 63.5743(a).

§ 63.5752 How do I calculate the HAP content of aluminum boat surface coatings?

(a) Use equation 6 to calculate the weighted-average HAP content for all aluminum surface coatings used in the past 3 months.

$$HAP_{SC} = \frac{\sum_{i=1}^{m}\left(Vol_{Ci}\right)\left(D_{Ci}\right)\left(W_{Ci}\right)+\sum_{j=1}^{n}\left(Vol_{Tj}\right)\left(D_{Tj}\right)\left(W_{Tj}\right)}{\sum_{i=1}^{m}\left(V_{Si}\right)\left(Vol_{Ci}\right)} \qquad \text{(Eq. 6)}$$

Where:

HAP_{SC} = weighted-average HAP content for all aluminum coating materials, kilograms of HAP per liter of coating solids.

m = number of different coatings used in the past 3 months.

Vol_{Ci} = total volume of coating i used in the past 3 months, liters.

D_{Ci} = density of coating i, kilograms per liter.

W_{Ci} = mass fraction of HAP in coating i, kilograms of HAP per kilogram of coating.

n = number of different thinners and activators used in the past 3 months.

Vol_{Tj} = total volume of thinner or activator j used in the past 3 months, liters.

D_{Tj} = density of thinner or activator j, kilograms per liter.

W_{Tj} = mass fraction of HAP in thinner or activator j, kilograms of HAP per kilogram of thinner or activator.

V_{Si} = volume fraction of solids in coating i, liter solids per liter coating, from coating manufacturer's formulation.

(b) Compliance is based on a 3-month rolling average. If the weighted-average HAP content does not exceed 1.22 kilograms of HAP per liter of coating solids (10.2 pound per gallon), then you are in compliance with the emission standard specified in § 63.5743(b).

§ 63.5755 How do I demonstrate compliance with the aluminum boat surface coating spray gun cleaning standards?

You must demonstrate compliance with the aluminum coating spray gun cleaning work practice standards by meeting the requirements of paragraph (a) or (b) of this section.

(a) Demonstrate that solvents used to clean the aluminum coating spray guns contain no HAP by determining HAP content with the methods in § 63.5758. Keep records of the HAP content determination.

(b) For HAP-containing solvents, comply with the requirements in paragraph (b)(1) or (2), and (b)(3) of this section.

(1) If you are using an enclosed spray gun cleaner, visually inspect it at least once per month to ensure that covers are in place and will close properly when the cleaner is not in use, and that there are no leaks from hoses or fittings.

(2) If you are manually cleaning the gun or spraying solvent into a container that can be closed, visually inspect all solvent containers at least once per month to ensure that the containers have covers.

(3) Keep records of the monthly inspections and any repairs that are made to the enclosed gun cleaners or the covers.

Methods for Determining Air Pollutant Content

§ 63.5758 How do I determine the HAP content of materials?

(a) To determine the HAP content of the materials used in your open molding resin and gel coat operations, carpet and fabric adhesive operations, or aluminum boat surface coating operations, use EPA Method 311 of appendix A to 40 CFR part 63. You may use EPA Method 311, an alternative method as provided in paragraph (b) of this section, or any other reasonable means for determining the HAP content. Other reasonable means of determining HAP content include, but are not limited to, a material safety data sheet (MSDS) or a manufacturer's hazardous air pollutant data sheet as defined in § 63.5779. You are not required to test the materials that you use, but the Administrator may require a test using EPA Method 311 (or an approved alternative method) to confirm the reported HAP content. If the results of an analysis by EPA Method 311 are different from the HAP content determined by another means, the EPA Method 311 results will govern compliance determinations, except as provided in paragraph (b) of this section.

(b) You may use an alternative to EPA Method 311 for determining HAP content if that method has been approved by the Administrator according to § 63.7(f). The Administrator will approve alternative methods on a case-by-case basis.

(c) If HAP content data are reported by a material supplier or manufacturer as a range, the upper limit of that range will be used for determining compliance.

Notifications, Reports, and Records

63.5761 What notifications must I submit and when?

(a) You must submit all of the notifications in table 4 to this subpart that apply to you, by the dates in table 4 to this subpart. The notifications are described more fully in the sections of 40 CFR part 63, subpart A, General Provisions, referenced in table 4 to this subpart.

(b) If you change any information submitted in any notification, you must submit the changes in writing to the Administrator within 15 calendar days after the change.

63.5764 What reports must I submit and when?

(a) You must submit the applicable reports specified in paragraphs (b) through (d) of this section. To the extent possible, you must organize each report according to the operations covered by this subpart and the compliance procedure followed for that operation.

(b) If your facility is not controlled by an add-on control device (*i.e.,* you are complying with HAP content limits, application equipment requirements, or MACT model point value averaging provisions), you must submit a semiannual compliance report. The semiannual reporting period is each subsequent 6-month period after your compliance date. Unless the Administrator has approved a different schedule, you must submit each report so that it is postmarked or delivered no later than 30 calendar days following the end of each reporting period. The compliance report must include the information specified in paragraphs (b)(1) through (8) of this section.

(1) Company name and address.

(2) Name, title, and signature of the responsible official certifying the accuracy of the report.

(3) A statement certifying as to the truth, accuracy, and completeness of the report.

(4) The date of the report and the beginning and ending dates of the reporting period.

(5) A description of any changes in the manufacturing process, continuous monitoring system, or controls since the last compliance report.

(6) A statement or table showing, for each regulated operation, the applicable HAP content limit, application equipment requirement, or MACT model point value averaging provision with which you are complying. The statement or table must also show the actual weighted-average HAP content or weighted-average MACT model point value (if applicable) for each operation during each of the rolling 3-month averaging periods that end during the reporting period.

(7) If you were in compliance with a standard during the reporting period, you must include a statement to that effect.

(8) If you were not in compliance with a standard or identified deviations during the reporting period, you must also include the information listed in paragraphs (b)(8)(i) through (iv) of this section in the semiannual compliance report.

(i) A description of the operation that was not in compliance with the standard.

(ii) The quantity, HAP content, and application method (if relevant) of the materials not in compliance.

(iii) A description of any corrective action you took to minimize noncompliance and actions you have taken to prevent it from happening again.

(iv) A statement of whether or not your facility was in compliance for the 3-month averaging period that ended at the end of the reporting period.

(c) If your facility has an add-on control device, you must submit semiannual compliance reports and quarterly excess emission reports as specified in § 63.10(e). The contents of the reports and the schedule for submitting them are specified in § 63.10(e).

(d) If your facility has an add-on control device, you must complete a startup, shutdown, and malfunction plan as specified in § 63.6(e), and you must submit the startup, shutdown, and malfunction reports specified in § 63.10(e)(5).

63.5767 What records must I keep?

You must keep the records specified in paragraphs (a) through (d) of this section in addition to records specified in individual sections of this subpart.

(a) You must keep a copy of each notification and report that you submitted to comply with this subpart.

(b) You must keep all documentation supporting any notification or report that you submitted.

(c) If your facility is not controlled by an add-on control device (*i.e.,* you are complying with HAP content limits, application equipment requirements, or MACT model point value averaging provisions), you must keep the records specified in paragraphs (c)(1) through (3) of this section.

(1) The total amounts of open molding production resin, pigmented gel coat, clear gel coat, tooling resin, and tooling gel coat used per month and the weighted-average HAP contents for each

operation, expressed as weight-percent. For open molding production resin and tooling resin, you must also record the amounts of each applied by atomized and nonatomized methods.

(2) The total amount of aluminum coating used per month (including primers, top coats, clear coats, thinners, and activators) and the weighted-average HAP content as determined in § 63.5752.

(3) The amount of each aluminum wipe-down solvent used per month and the weighted-average HAP content as determined in § 63.5749.

(d) If your facility has an add-on control device, you must keep the records specified in § 63.10(b) relative to control device startup, shut down, and malfunction events; control device performance tests; and continuous monitoring system performance evaluations.

63.5770 In what form and for how long must I keep my records?

(a) Your records must be readily available and in a form so they can be easily inspected and reviewed.

(b) You must keep each record for 5 years following the date that each record is generated.

(c) You must keep each record on site for at least 2 years after the date that each record is generated. You can keep the records offsite for the remaining 3 years.

(d) You can keep the records on paper or an alternative media, such as microfilm, computer, computer disks, magnetic tapes, or on microfiche.

Other Information You Need to Know

63.5773 What parts of the general provisions (40 CFR part 63, subpart A) apply to me?

You must comply with the requirements of the general provisions in 40 CFR part 63, subpart A, as specified in table 5 to this subpart.

63.5777 Who implements and enforces this subpart?

(a) If the Administrator has delegated authority to your State or local agency, the State or local agency has the authority to implement and enforce this subpart.

(b) In delegating implementation and enforcement authority of this subpart to a State or local agency under section 40 CFR part 63, subpart E, the authorities that are retained by the Administrator of the U.S. EPA and are not transferred to the State or local agency are listed in paragraphs (b)(1) and (2) of this section.

(1) Under § 63.6(g), the authority to approve alternatives to the standards listed in paragraphs (b)(1)(i) through (vii) of this section is not delegated.

(i) § 63.5698—Standard for open molding resin and gel coat operations.

(ii) § 63.5728—Standards for closed molding resin operations.

(iii) § 63.5731(a)—Standards for resin and gel coat mixing operations.

(iv) § 63.5734—Standards for resin and gel coat application equipment cleaning operations.

(v) § 63.5740(a)—Standards for carpet and fabric adhesive operations.

(vi) § 63.5743—Standards for aluminum boat surface coating operations.

(vii) § 63.5746(f)—Approval of alternative means of demonstrating compliance with the standards for aluminum boat surface coating operations.

(2) Under § 63.7(f), the authority to approve alternatives to the test methods listed in paragraphs (b)(2)(i) through (iv) of this section are not delegated.

(i) § 63.5719(b)—Method for determining whether an enclosure is a total enclosure.

(ii) § 63.5719(c)—Methods for measuring emissions from a control device.

(iii) § 63.5725(d)(1)—Performance specifications for thermal oxidizer combustion temperature monitors.

(iv) § 63.5758—Method for determining hazardous air pollutant content of regulated materials.

Definitions

§ 63.5779 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, in § 63.2, and in this section as follows:

Add-on control means an air pollution control device, such as a thermal oxidizer, that reduces pollution in an air stream by destruction or removal before discharge to the atmosphere.

Administrator means the Administrator of the United States Environmental Protection Agency (EPA) or an authorized representative (for example, a State delegated the authority to carry out the provisions of this subpart).

Aluminum boat means any marine or freshwater vessel that meets both of the following two criteria: the hull or the deck is constructed primarily of aluminum, and the vessel is designed and manufactured for noncommercial and nonmilitary purposes.

Aluminum boat surface coating operation means the application of primers or top coats to aluminum boats. Aluminum boat surface coating operations do not include the application of wood coatings or antifoulant coatings to aluminum boats.

Aluminum coating spray gun cleaning means the process of flushing or removing paints or coatings from the interior or exterior of a spray gun used to apply aluminum primers or top coats to aluminum boats.

Aluminum wipe-down solvents means solvents used to remove oil, grease, welding smoke, or other contaminants from the aluminum surfaces of a boat before priming or painting. Aluminum wipe-down solvents contain no coating solids; aluminum surface preparation materials that contain solids are considered coatings for the purpose of this subpart and are not wipe-down solvents.

Antifoulant coating means any coating that is applied to the underwater portion of a boat specifically to prevent or reduce the attachment of biological organisms and that is registered with EPA as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. section 136, *et seq.*). For the purpose of this subpart, primers used with antifoulant coatings to prepare the surface to accept the antifoulant coating are considered antifoulant coatings.

Atomized resin application means a resin application technology in which the resin leaves the application equipment and breaks into droplets or an aerosol as it travels from the application equipment to the surface of the part. Atomized resin application includes, but is not limited to, resin spray guns and resin chopper spray guns.

Boat means any type of vessel, other than a seaplane, that can be used for transportation on the water.

Boat manufacturing facility means a facility that manufacturers the hulls or decks of boats from fiberglass or aluminum or assembles boats from premanufactured hulls and decks or builds molds to make fiberglass hulls or decks. A facility that manufacturers only parts of boats (such as hatches, seats, or lockers) or boat trailers, but no boat hulls or decks or molds for fiberglass boat hulls or decks, is not considered a boat manufacturing facility for the purpose of this subpart.

Carpet and fabric adhesive means any chemical material that permanently attaches carpet, fabric, or upholstery to any surface of a boat.

Clear gel coat means gel coats that are clear or translucent so that underlying colors are visible. Clear gel coats are used to manufacture parts for sale. Clear gel coats do not include tooling gel coats used to build or repair molds.

Closed molding means any molding process in which pressure is used to distribute the resin through the

reinforcing fabric placed between two mold surfaces to either saturate the fabric or fill the mold cavity. The pressure may be clamping pressure, fluid pressure, atmospheric pressure, or vacuum pressure used either alone or in combination. The mold surfaces may be rigid or flexible. Closed molding includes, but is not limited to, compression molding with sheet molding compound, infusion molding, resin injection molding (RIM), vacuum-assisted resin transfer molding (VARTM), resin transfer molding (RTM), and vacuum-assisted compression molding. Processes in which a closed mold is used only to compact saturated fabric or remove air or excess resin from the fabric (such as in vacuum bagging), are not considered closed molding. Open molding steps, such as application of a gel coat or skin coat layer by conventional open molding prior to a closed molding process, are not closed molding.

Cured resin and gel coat means resin or gel coat that has been catalyzed and changed from a liquid to a solid.

Deviation means any instance in which an affected source subject to this subpart or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including, but not limited to, any emission limit, operating limit, or work practice requirement;

(2) Fails to meet any term or condition which is adopted to implement an applicable requirement in this subpart and which is included in the operating permit for any affected source required to obtain such permit; or

(3) Fails to meet any emission limit, operating limit, or work practice requirement in this subpart during any startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Enclosure means a structure, such as a spray booth, that surrounds a source of emissions and captures and directs the emissions to an add-on control device.

Fiberglass assembly adhesive means any chemical material used in the joining of one fiberglass part to another to form a temporary or permanently bonded assembly. Assembly adhesives include, but are not limited to, methacrylate adhesives and putties made from polyester or vinylester resin mixed with inert fillers or fibers.

Fiberglass boat means a vessel in which either the hull or deck is built from a composite material consisting of a thermosetting resin matrix reinforced with fibers of glass, carbon, aramid, or other material.

Fiberglass hull and deck coatings means coatings applied to the exterior or interior surface of fiberglass boat hulls and decks on the completed boat. Polyester and vinylester resins and gel coats used in building fiberglass parts are not fiberglass hull and deck coatings for the purpose of this subpart.

Gel coat means a thermosetting resin surface coating containing styrene (Chemical Abstract Service or CAS No. 100–42–5) or methyl methacrylate (CAS No. 80–62–6), either pigmented or clear, that provides a cosmetic enhancement or improves resistance to degradation from exposure to the elements.

Hazardous air pollutant or HAP means any air pollutant listed in, or added to the list in section 112(b) of the Clean Air Act.

Hazardous air pollutant content or HAP content means the amount of HAP contained in a regulated material at the time it is applied to the part being manufactured. If no HAP is added to a material as a thinner or diluent, then the HAP content is the same as the HAP content of the material as purchased from the supplier. For resin and gel coat, HAP content does not include any HAP contained in the catalyst added to the resin or gel coat during application to initiate curing. For filled resins, HAP content is the fraction of HAP contained in the resin before any filler is added.

Hazardous air pollutant data sheet (HDS) means documentation furnished by a material supplier or an outside laboratory to provide the HAP content of the material by weight, measured using EPA Method 311, manufacturer's formulation data, or an equivalent method. For aluminum coatings, the HDS also documents the solids content by volume, determined from the manufacturer's formulation data. The purpose of the HDS is to help the affected source in showing compliance with the HAP content limits contained in this subpart. The HDS must state the maximum total HAP concentration, by weight, of the material. It must include any HAP concentrations equal to or greater than 0.1 percent by weight for individual HAP that are carcinogens, as defined by the Occupational Safety and Health Administration Hazard Communication Standard (29 CFR part 1910), and 1.0 percent by weight for all other individual HAP, as formulated. The HDS must also include test conditions if EPA Method 311 is used for determining HAP content.

Maximum achievable control technology (MACT) model point value means a number calculated for open molding operations that is a surrogate for emissions and is used to determine if your open molding operations are in compliance with the provisions of this subpart. The units for MACT model point values are kilograms of HAP per megagram of resin or gel coat applied.

Manufacturer's certification means documentation furnished by a material supplier that shows the HAP content of a material and includes a HDS.

Mold means the cavity or surface into or on which gel coat, resin, and fibers are placed and from which finished fiberglass parts take their form.

Mold sealing and release agents means materials applied to a mold to seal, polish, and lubricate the mold to prevent parts from sticking to the mold. Mold sealers, waxes, and glazing and buffing compounds are considered mold sealing and release agents for the purposes of this subpart.

Mold stripping and cleaning solvents means materials used to remove mold sealing and release agents from a mold before the mold surface is repaired, polished, or lubricated during normal mold maintenance.

Month means a calendar month.

Nonatomized resin application means any application technology in which the resin is not broken into droplets or an aerosol as it travels from the application equipment to the surface of the part. Nonatomized resin application technology includes, but is not limited to, flowcoaters, chopper flowcoaters, pressure fed resin rollers, resin impregnators, and hand application (for example, paint brush or paint roller).

Open molding resin and gel coat operation means any process in which the reinforcing fibers and resin are placed in the mold and are open to the surrounding air while the reinforcing fibers are saturated with resin. For the purposes of this subpart, open molding includes operations in which a vacuum bag or similar cover is used to compress an uncured laminate to remove air bubbles or excess resin, or to achieve a bond between a core material and a laminate.

Pigmented gel coat means opaque gel coats used to manufacture parts for sale. Pigmented gel coats do not include tooling gel coats used to build or repair molds.

Production resin means any resin used to manufacture parts for sale. Production resins do not include tooling resins used to build or repair molds, or fiberglass assembly adhesives as defined in this section.

Recycled resin and gel coat application equipment cleaning solvent means cleaning solvents returned to the supplier or another party to remove resin or gel coat residues so that the solvent can be reused.

Resin means any thermosetting resin containing styrene (CAS No. 100–42–5) or methyl methacrylate (CAS No. 80–62–6) and used to encapsulate and bind together reinforcement fibers in the construction of fiberglass parts.

Resin and gel coat application equipment cleaning means the process of flushing or removing resins and gel coats from the interior or exterior of equipment that is used to apply resin or gel coat in the manufacture of fiberglass parts.

Resin and gel coat mixing operation means any operation in which resin or gel coat is combined with additives that include, but are not limited to, fillers, promoters, or catalysts.

Roll-out means the process of using rollers, squeegees, or similar tools to compact reinforcing materials saturated with resin to remove trapped air or excess resin.

Skin coat is a layer of resin and fibers applied over the gel coat to protect the gel coat from being deformed by the next laminate layers.

Tooling resin means the resin used to build or repair molds (also known as tools) or prototypes (also known as plugs) from which molds will be made.

Tooling gel coat means the gel coat used to build or repair molds (also known as tools) or prototypes (also known as plugs) from which molds will be made.

Vacuum bagging means any molding technique in which the reinforcing fabric is saturated with resin and then covered with a flexible sheet that is sealed to the edge of the mold and where a vacuum is applied under the sheet to compress the laminate, remove excess resin, or remove trapped air from the laminate during curing. Vacuum bagging does not include processes that meet the definition of closed molding.

Wood coatings means coatings applied to wooden parts and surfaces of boats, such as paneling, cabinets, railings, and trim. Wood coatings include, but are not limited to, primers, stains, sealers, varnishes, and enamels. Polyester and vinylester resins or gel coats applied to wooden parts to encapsulate them or bond them to other parts are not wood coatings.

Tables To Subpart VVVV

TABLE 1 TO SUBPART VVVV.—COMPLIANCE DATES FOR NEW AND EXISTING BOAT MANUFACTURING FACILITIES

If your facility is * * *	and * * *	then you must comply by this date:
1. An existing source	is a major source on or before the promulgation date of the rule.	3 years after the promulgation date of the rule.
2. An area source	becomes a major source after the promulgation date of the rule.	1 year after becoming a major source or 3 years after the promulgation date of the rule, whichever is later.
3. A new source	is a major source at startup [a]	upon startup or the promulgation date of the rule, whichever is later.

[a] Your facility is a major source if it is a stationary source or group of stationary sources located within a contiguous area and under common control that emits or can potentially emit, considering controls, in the aggregate, 9.1 megagrams (10 tons) or more per year of a single hazardous air pollutant or 22.7 megagrams (25 tons) or more per year of a combination of hazardous air pollutants.

TABLE 2 TO SUBPART VVVV.—ALTERNATIVE HAP CONTENT REQUIREMENTS FOR OPEN MOLDING RESIN AND GEL COAT OPERATIONS

For this operation * * *	And this application method * * *	You must not exceed this weighted-average HAP content (weight percent) requirement:
1. Production resin operations	Atomized (spray)	28 percent.
2. Production resin operations	Nonatomized (nonspray)	35 percent.
3. Pigmented gel coat operations	Any method	33 percent.
4. Clear gel coat operations	Any method	48 percent.
5. Tooling resin operations	Atomized (spray)	30 percent.
6. Tooling resin operations	Nonatomized (nonspray)	39 percent.
7. Tooling gel coat operations	Any method	40 percent.

TABLE 3 TO SUBPART VVVV.—MACT MODEL POINT VALUE EQUATIONS FOR OPEN MOLDING OPERATIONS [a]

For this operation * * *	And this application method * * *	Use this formula to calculate the MACT model plant value for each resin and gel coat
1. Production resin, tooling resin	(i) Atomized	$0.014 \times (\text{Resin HAP\%})^{2.425}$
	(ii) Atomized, plus vacuum bagging with roll-out	$0.01185 \times (\text{Resin HAP\%})^{2.425}$
	(iii) Atomized, plus vacuum bagging without roll-out	$0.00945 \times (\text{Resin HAP\%})^{2.425}$
	(iv) Nonatomized	$0.014 \times (\text{Resin HAP\%})^{2.275}$
	(v) Nonatomized, plus vacuum bagging with roll-out	$0.0110 \times (\text{Resin HAP\%})^{2.275}$

TABLE 3 TO SUBPART VVVV.—MACT MODEL POINT VALUE EQUATIONS FOR OPEN MOLDING OPERATIONS [a]—Continued

For this operation * * *	And this application method * * *	Use this formula to calculate the MACT model plant value for each resin and gel coat
	(vi) Nonatomized, plus vacuum bagging without roll-out	$0.0076 \times (\text{Resin HAP\%})^{2.275}$
2. Pigmented gel coat, clear gel coat, tooling gel coat.	All methods	$0.445 \times (\text{Gel coat HAP\%})^{1.675}$

[a] Equations calculate MACT model point value in kilograms of HAP per megagrams of resin or gel coat applied. The equations for vacuum bagging with roll-out are applicable when a facility rolls out the applied resin and fabric prior to applying the vacuum bagging materials. The equations for vacuum bagging without roll-out are applicable when a facility applies the vacuum bagging materials immediately after resin application without rolling out the resin and fabric. HAP% = HAP content expressed as a weight-percent value between 0 and 100%.

TABLE 4. TO SUBPART VVVV—APPLICABILITY AND TIMING OF NOTIFICATIONS

If your facility * * *	You must submit * * *	By this date * * *
1. Is an existing source subject to this subpart ..	an initial notification containing the information specified in § 63.9(b)(2).	no later than the dates specified in § 63.9(b)(2).2.
2. Is a new source subject to this subpart	the notifications specified in § 63.9(b)(3) to (5)	no later than the dates specified § 63.9(b)(4) and (5).
3. Qualifies for a compliance extension as specified in § 63.9(c).	a request for a compliance extension as specified in § 63.9(c).	no later than the dates specified in § 63.6(i).
4. Is complying with HAP content limits, application equipment requirements, or MACT model point value averaging provisions.	a notification of compliance status as specified in § 63.9(h).	no later than 30 calendar days after the end of the first 3-month averaging period after your facility's compliance date.
5. Is complying by using an add-on control device.	(i) a notification of intent to conduct a performance test as specified in § 63.9(e).	no later than the date specified in § 63.9(e).
	(ii) a notification of the date for the continuous monitoring system performance evaluation as specified in § 63.9(g).	with the notification of intent to conduct a performance test.
	(iii) a notification of compliance status as specified in § 63.9(h).	no later than 60 calendar days after the completion of the add-on control device performance test and continuous monitoring system performance evaluation.

TABLE 5.—TO SUBPART VVVV.—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART VVVV

Citation	Requirement	Applies to subpart VVVV	Explanation
§ 63.1(a)(1)–(4)	General Applicability	Yes.	
§ 63.1(a)(5)	.....	No	[Reserved].
§ 63.1(a)(6)–(8)	.....	Yes.	
§ 63.1(a)(9)	.....	No	[Reserved].
§ 63.1(a)(10)–(14)	.....	Yes.	
§ 63.1(b)	Initial Applicability Determination	Yes.	
§ 63.1(c)(1)	Applicability After Standard Established	Yes.	
§ 63.1(c)(2)	.....	Yes	Area sources are not regulated by subpart VVVV.
§ 63.1(c)(3)	.....	No	[Reserved].
§ 63.1(c)(4)–(5)	.....	Yes.	
§ 63.1(d)	.....	No	[Reserved].
§ 63.1(e)	Applicability of Permit Program	Yes.	
§ 63.2	Definitions	Yes	Additional definitions are found in § 63.5779.
§ 63.3	Units and Abbreviations	Yes.	
§ 63.4(a)(1)–(3)	Prohibited Activities	Yes.	
§ 63.4(a)(4)	.....	No	[Reserved].
§ 63.4(a)(5)	.....	Yes.	
§ 63.4(b)–(c)	Circumvention/Severability	Yes.	
§ 63.5(a)	Construction/Reconstruction	Yes.	
§ 63.5(b)(1)	Requirements for Existing, Newly Constructed, and Reconstructed Sources..	Yes.	
§ 63.5(b)(2)	.....	No	[Reserved].
§ 63.5(b)(3)–(6)	.....	Yes.	

TABLE 5.—TO SUBPART VVVV.—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART VVVV—Continued

Citation	Requirement	Applies to subpart VVVV	Explanation
§ 63.5(c)		No	[Reserved].
§ 63.5(d)	Application for Approval of Construction/Reconstruction.	Yes.	
§ 63.5(e)	Approval of Construction/Reconstruction	Yes.	
§ 63.5(f)	Approval of Construction/Reconstruction Based on prior State Review.	Yes.	
§ 63.6(a)	Compliance with Standards and Maintenance Requirements—Applicability.	Yes.	
§ 63.6(b)(1)–(5)	Compliance Dates for New and Reconstructed Sources.	Yes	§ 63.5695 specifies compliance dates.
§ 63.6(b)(6)		No	[Reserved].
§ 63.6(b)(7)		Yes.	
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources	Yes	§ 63.5695 specifies compliance dates.
§ 63.6(c)(3)–(c)(4)		No	[Reserved].
§ 63.6(c)(5)		Yes	Any area source that becomes a major source must comply by the date in § 63.5695 for existing sources or by the date 1 year after becoming a major source, whichever is later.
§ 63.6(d)		No	[Reserved].
§ 63.6(e)(1)–(2)	Operation and Maintenance Requirements	No	Operating requirements for open molding operations with add-on controls are specified in § 63.5725.
§ 63.6(e)(3)	Startup, Shut Down, and Malfunction Plans	Yes	Only sources with add-on controls must complete startup, shutdown, and malfunction plans.
§ 63.6(f)	Compliance with Nonopacity Emission Standards.	Yes.	
§ 63.6(g)	Use of an Alternative Nonopacity Emission Standard.	Yes.	
§ 63.6(h)	Compliance with Opacity/Visible Emissions Standards.	No	Subpart VVVV does not specify opacity or visible emission standards.
§ 63.6(i)(1)–(14)	Extension of Compliance with Emission Standards.	Yes.	
§ 63.6(i)(15)		No	[Reserved].
§ 63.6(i)(16)		Yes.	
§ 63.6(j)	Exemption from Compliance with Emission Standards.	Yes.	
§ 63.7	Performance Test Requirements	Yes.	
§ 63.8(a)(1)–(2)	Monitoring Requirements—Applicability	Yes	All of § 63.8 applies only to sources with add-on controls. Additional monitoring requirements for sources with add-on controls are found in § 63.5725.
§ 63.8(a)(3)		No	[Reserved].
§ 63.8(a)(4)		No	Subpart VVVV does not refer directly or indirectly to § 63.11.
§ 63.8(b)(1)	Conduct of Monitoring	Yes.	
§ 63.8(b)(2)–(3)	Multiple Effluents and Multiple Continuous Monitoring Systems (CMS).	Yes	Applies to sources that use a CMS on the control device stack.
§ 63.8(c)(1)–(4)	Continuous Monitoring System Operation and Maintenance.	Yes.	
§ 63.8(c)(5)	Continuous Opacity Monitoring Systems (COMS).	No	Subpart VVVV does not have opacity or visible emission standards.
§ 63.8(c)(6)–(8)	Continuous Monitoring System Calibration Checks and Out-of-Control Periods.	Yes.	
§ 63.8(d)	Quality Control Program	Yes.	
§ 63.8(e)	CMS Performance Evaluation	Yes.	
§ 63.8(f)(1)–(5)	Use of an Alternative Monitoring Method	Yes.	
§ 63.8(f)(6)	Alternative to Relative Accuracy Test	Yes	Applies only to sources that use continuous emission monitoring systems (CEMS).
§ 63.8(g)	Data Reduction	Yes.	
§ 63.9(a)	Notification Requirements—Applicability	Yes.	
§ 63.9(b)	Initial Notifications	Yes.	
§ 63.9(c)	Request for Compliance Extension	Yes.	
§ 63.9(d)	Notification That a New Source Is Subject to Special Compliance Requirements.	Yes.	
§ 63.9(e)	Notification of Performance Test	Yes	Applies only to sources with add-on controls.
§ 63.9(f)	Notification of Visible Emissions/Opacity Test.	No	Subpart VVVV does not have opacity or visible emission standards.

TABLE 5.—TO SUBPART VVVV.—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART VVVV—Continued

Citation	Requirement	Applies to subpart VVVV	Explanation
§ 63.9(g)(1)	Additional CMS Notifications—Date of CMS Performance Evaluation.	Yes	Applies only to sources with add-on controls.
§ 63.9(g)(2)	Use of COMS Data	No	Subpart VVVV does not require the use of COMS.
§ 63.9(g)(3)	Alternative to Relative Accuracy Testing	Yes	Applies only to sources with CEMS.
§ 63.9(h)(1)–(3)	Notification of Compliance Status	Yes.	
§ 63.9(h)(4)		No	[Reserved].
§ 63.9(h)(5)–(6)	Notification of Compliance Status (continued).	Yes.	
§ 63.9(i)	Adjustment of Deadlines	Yes.	
§ 63.9(j)	Change in Previous Information	Yes.	
§ 63.10(a)	Recordkeeping/Reporting—Applicability	Yes.	
§ 63.10(b)(1)	General Recordkeeping Requirements	Yes	§§ 63.5767 and 63.5770 specify additional recordkeeping requirements.
§ 63.10(b)(2)(i)–(xi)	Recordkeeping Relevant to Startup, Shutdown, and Malfunction Periods and CMS.	Yes	Applies only to sources with add-on controls.
§ 63.10(b)(2)(xii)–(xiv)	General Recordkeeping Requirements	Yes.	
§ 63.10(b)(3)	Recordkeeping Requirements for Applicability Determinations.	Yes	Specifies applicability determinations for non-major sources.
§ 63.10(c)	Additional Recordkeeping for Sources with CMS.	Yes	Applies only to sources with add-on controls.
§ 63.10(d)(1)	General Reporting Requirements	Yes	§ 63.5764 specifies additional reporting requirements.
§ 63.10(d)(2)	Performance Test Results	Yes	§ 63.5764 specifies additional requirements for reporting performance test results.
§ 63.10(d)(3)	Opacity or Visible Emissions Observations	No	Subpart VVVV does not specify opacity or visible emission standards.
§ 63.10(d)(4)	Progress Reports for Sources with Compliance Extensions.	Yes.	
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports.	Yes	Applies only to sources with add-on controls
§ 63.10(e)(1)	Additional CMS Reports-General	Yes	Applies only to sources with add-on controls.
§ 63.10(e)(2)	Reporting Results of CMS Performance Evaluations.	Yes	Applies only to sources with add-on controls.
§ 63.10(e)(3)	Excess Emissions/CMS Performance Reports.	Yes	Applies only to sources with add-on controls.
§ 63.10(e)(4)	COMS Data Reports	No	Subpart VVVV does not specify opacity or visible emission standards.
§ 63.10(f)	Recordkeeping/Reporting Waiver	Yes.	
§ 63.11	Control Device Requirements—Applicability	No	Facilities subject to subpart VVVV do not use flares as control devices.
§ 63.12	State Authority and Delegations	Yes	§ 63.5776 lists those sections of subpart A that are not delegated.
§ 63.13	Addresses	Yes.	
§ 63.14	Incorporation by Reference	No	Subpart VVVV does not incorporate any material by reference.
§ 63.15	Availability of Information/ Confidentiality	Yes.	

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Part III

Department of the Interior

Bureau of Indian Affairs

25 CFR Part 15 et al.

Trust Management Reform: Leasing/Permitting, Grazing, Probate and Funds Held in Trust and Encumbrances of Tribal Land—Contract Approvals; Proposed Rules

DEPARTMENT OF THE INTERIOR

25 CFR Parts 15, 114, 115, 162 and 166

RIN 1076–AEOO

Trust Management Reform: Leasing/Permitting, Grazing, Probate and Funds Held in Trust

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Department of the Interior, Bureau of Indian Affairs (BIA), proposes to revise its regulations in the areas of probate, funds held in trust for Indian tribes and individual Indians, leasing/permitting, and grazing. These revisions are meant to further fulfill the Secretary's fiduciary responsibility to federally-recognized tribes and individual Indians. Particularly, revisions to the probate regulations would institute necessary procedures to expedite the probate process for Indian decedents' estates. Revisions to regulations dealing with funds held in trust will standardize the process for collecting, distributing, and accounting for individual Indian monies and monies held in trust for tribal governments. Revisions to leasing/permitting regulations will implement the Indian Agricultural Resource Management Act and will address appropriate procedures for entering into leases and permits on Indian lands and, more importantly, in properly determining and accounting for the value of such leases to individual land owners and tribal entities. Revisions in the grazing permit regulations will address similar concerns and further standardize the process and forms utilized in granting permits on Indian lands. In the interests of economy of administration, and because all the proposed revisions clarify and standardize Departmental policy, they are proposed under one rulemaking vehicle.

DATES: Written comments must be submitted no later than October 12, 2000.

ADDRESSES: Comments (2 copies) should be addressed to: U.S. Forest Service (CAET), 200 E. Broadway, Missoula, MT 59807 Attn: Trust Rule. Comments on the information collection burdens should be copied to the same address with the original comment sent to: Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503 Attn: Interior Desk Officer.

FOR FURTHER INFORMATION CONTACT: Duncan L. Brown, Department of the Interior, Office of the Secretary, 1849 C Street, NW, MS 7412 MIB, Washington, DC 20240, telephone 202/208–4582.

SUPPLEMENTARY INFORMATION:

I. Background
II. Part by Part Analysis
III. Public Comments
IV. Procedural Requirements
A. Review Under Executive Order 12866
B. Review Under Executive Order 12988
C. Review Under the Regulatory Flexibility Act
D. Review Under Small Business Regulatory Enforcement Fairness Act of 1996
E. Review Under the Paperwork Reduction Act
F. Review Under Executive Order 13132 Federalism
G. Review Under the National Environmental Policy Act
H. Review Under the Unfunded Mandates Reform Act of 1995

I. Background

In an effort to strengthen the services provided by the Secretary of the Interior to federally-recognized tribes and individual Indians and in recognition of its fiduciary responsibility to such tribes and individuals as identified in the Department's ''Trust Management Improvement Project—High Level Implementation Plan,'' as revised and updated on February 29, 2000. The Department of the Interior, BIA, identified certain parts within 25 CFR that needed immediate attention and subsequent revision. These parts were identified through an internal review by the BIA in consultation with the Office of the Special Trustee for American Indians (OST), and from tribal responses to consultations held in the field over a period of years. Additionally, tribal non-governmental organizations were consulted for their opinions on what areas of BIA trust management needed clarification and more uniform application of policy and administration throughout Indian Country. The importance of the protection of tribal trust resources and the administration of monies held in trust for individual Indians and tribal governments were identified as critical to providing better services to federally-recognized tribes and individual Indians. Surface leasing and permitting of tribal and individual Indian resources, including grazing permits, were identified as those areas which generate the most revenues from individual Indian and tribal resources. Additionally, addressing the severe backlog in the Department's disposition of Indian decedents' estates was identified as an important step in assuring the orderly transfer of Indian trust funds and lands. Therefore, this proposed rulemaking was initiated as an appropriate response to the Administration's stated goal of improving the administration and management of individual Indian and tribal trust resources. The proposed rule was developed with attention to Secretarial Order 3215, ''Principles for the Discharge of the Secretary's Trust Responsibility,'' of April 28, 2000.

The development of this proposed rulemaking was achieved through informal consultation with affected tribal governments and Indian individuals. Drafts of the various parts were initially developed through the use of in-house teams within the Bureau of Indian Affairs. These teams consisted of federal personnel from headquarters and the field, and included program officers and Department attorneys possessing extensive knowledge and experience with the particular subject matter of the parts. These drafts were then shared with tribal entities and national tribal organizations for their input and recommendations for improvement. In many cases, areas were further expanded to respond to tribal concern with clarity and ease of administration. Tribal participation was further secured through the National Congress of American Indians (for member tribes), which established a working group to assist in the development of the regulations, and from BIA field personnel who contacted their respective tribes on a regional basis and transmitted drafts of the rulemaking to them for discussion and comment. In accordance with the government-to-government relationship with tribes, formal consultations will be scheduled during the comment period to facilitate an informed final rule.

While the proposed rulemaking responds to many of the concerns of Indian Country and the Administration's initiatives, the leasing and grazing parts of the rulemaking respond (in part) to the American Indian Agricultural Resource Management Act of 1993 (AIARMA)(107 Stat. 2011), as amended. One of the requirements of AIARMA was the development of regulations to implement the Act. The regulations for AIARMA were to protect, conserve, utilize, and maintain the highest productive potential on Indian agricultural lands through the application of sound conservation practices and techniques. In addition, the regulations were to meet the objectives of increasing productivity and the diversity and availability of agricultural products for subsistence, income, and employment; to manage agricultural resources consistent with integrated resource management plans;

to enable Indian farmers and ranchers to achieve the maximum potential from their resources; to promote self-sustaining Indian communities; and to assist in a reasonable annual return for Indian resources. One of the specific requirements of AIARMA was the development of regulations that would establish civil penalties for the commission of trespass on Indian agricultural lands and the designation of responsibility within the Department of the Interior for the detection and investigation of Indian agricultural lands trespass. Consequently, the Bureau of Indian Affairs is designated as the responsible agency in this proposed rulemaking.

This proposed rule rewrites parts 15, 115, 162 and 166 of 25 CFR in their entirety and removes the text of part 114 in its entirety. This revision is meant to streamline the policies, procedures, provisions and clauses that better reflect the Department's administration of its trust responsibility with respect to Indian trust resources. Practices in the field will be clarified and codified in the revised parts of 25 CFR. The issuance of this rulemaking will set a uniform standard of administration of Indian trust resources by the BIA throughout Indian Country. It is important to note, however, that, with the exception of the newly promulgated part 15—Indian Probate, the established practices currently codified in the above-referenced parts have not been discarded but, rather, have been revised to reflect a clearer understanding of the Department's administration of such parts. The thrust of these revisions are reflected in the part-by-part analysis below. After consultation with the Department's constituency in Indian Country during the comment period, it is anticipated that a final rulemaking will be issued in December 2000.

II. Part-by-Part Analysis

A. 25 CFR Part 15—Probate of Indian Estates, Except for Members of the Five Civilized Tribes

The purpose of this regulation is to describe the authorities, policies and procedures the BIA uses to probate an Indian decedent's trust estate, except for members of the Five Civilized Tribes. This is a revision to the existing part and amends and replaces the part in its entirety.

The regulation proposes to implement administrative procedures by which the BIA would process and determine certain probate cases where a hearing is not required or requested. These procedures, embodying a reassumption by the BIA of responsibility to determine these probate cases, are the result of the Department's Indian Probate Reinvention Lab (IPRL). Formed in 1999, the IPRL examined the Department's Indian probate process from a multi-agency perspective, including the BIA, the Department's Office of Hearings and Appeals (OHA), which handles Indian probate cases requiring hearings, and the OST. Based on its analysis, which included reviewing reports from previous studies of Indian probate matters, site visits and interviews of customers and employees, the IPRL recommended, among other things, that the BIA establish attorney decision-makers at regional offices to handle certain probate cases under criteria to be established by regulation. This proposed revision of part 15 would implement in the BIA the procedural aspects of the IPRL's recommendations. At the appropriate time, the OHA will amend its regulations to accommodate the BIA's reassumption of responsibility for these probate cases, and to ensure that the same standards and criteria for determining heirs and paying claims are consistently applied between the BIA and the OHA. The reports of the IPRL are available on the BIA's home page www.doi.gov.

In addition to establishing the process by which the attorney-decision makers in the BIA will handle certain probate cases, the proposed regulations in part 15 also address the handling of summary distributions of estates by the BIA. Formerly handled only by agency superintendents, summary distributions also will be handled by the attorney-decision makers. See 65 FR 25449–25450 (May 2, 2000).

The various subparts of part 15 address the purpose and scope of the Indian probate procedures; the mechanics of initiating the probate process, including the appropriate notifications and assignments of interest; the preparation of the probate package itself, including the identification of necessary documents to facilitate a timely process; the disposition of claims against an estate and the ultimate distribution of the decedent's assets to the determined heirs; and an appeals process to follow should any disputes arise during any stage of the probate process. Cross references have been made to the hearings and appeals procedures of the OHA, including the determination of heirs, and to the use and disposition of funds held in trust for decedents (other than decedents of the Five Civilized Tribes) which may be included in an Indian decedent's estate.

B. 25 CFR Part 114—Special Deposits

The purpose of this part was to set forth the conditions governing the deposit, investment, and distribution of principal and interest on trust funds held by the Department in special deposit accounts. In addition, this part provided procedures required for determination of ownership and distribution of funds which are on deposit in account 14X6703 ''Indian Moneys Proceeds of Labor Escrow Account—Pending Determination of Ownership.'' This special deposit account (IMPL Escrow Account) has been obsolete since September 30, 1987, as any unobligated balances were then deposited into miscellaneous receipts of the U.S. Treasury. Since this part dealt largely with this IMPL Escrow Account, the text of this part has been deleted in its entirety. Those provisions concerning other ''special deposit accounts'' are now referenced and explained in the newly revised part 115 below. It was the decision of the Department to move those provisions to part 115 because that part deals specifically with tribal and individual Indian trust funds. It is proposed, therefore, that part 114 be ''reserved.''

The chart below provides a crosswalk reflecting, by section, the proposed reorganization of pertinent sections of part 114 that have been situated in subpart E of part 115, and descriptions of the revisions being proposed.

CROSS REFERENCE WITH EXPLANATION FROM CURRENT TO PROPOSED CITATIONS

Current citation	New citation	Title	Remarks
114.1	N/A	N/A	Purpose of ''special deposit accounts'' has been subsumed in the purpose section of the introductory language of part 115.

CROSS REFERENCE WITH EXPLANATION FROM CURRENT TO PROPOSED CITATIONS—Continued

Current citation	New citation	Title	Remarks
114.2	115.002	What are special deposits?	The definition of ''special deposits'' is the only term requiring explanation in this subpart of part 115.
114.3	115.404	May the BIA deposit into a special deposit account money that is paid prior to approval of a conveyance or contract instrument for land sales, right-of-ways, resource sales, grazing, or leasing, etc.?	The section under 114.3 referred to investments of special deposit funds. The new citation explains that monies paid to the BIA prior to approval of a contractual agreement do not earn interest until the monies are actually placed in a trust fund account upon such approval.
114.4	115.400	Who receives the interest earned on a special deposit account?	The section under 114.4 referred to the distribution of interest earned on a special deposit account. The new citation reflects the same understanding that interest follows principal.
114.5	N/A	N/A	The section under 114.5 referred to the IMPL Escrow Accounts. They have been obsolete since September 30, 1987, and the regulations referring to such accounts are likewise obsolete. This has been removed in its entirety from 25 CFR.

C. 25 CFR Part 115—Trust Funds for Tribes and Individual Indians

The purpose of this regulation is to describe how the Secretary, primarily through the Bureau of Indian Affairs (BIA) and the Office of Trust Funds Management (OTFM) within the OST, carries out the trust duties owed to tribes and individual Indians in managing and administering trust assets for the exclusive benefit of tribal and individual Indian beneficiaries. The regulation also implements provisions of the American Indian Trust Fund Management Reform Act. This is a revision to the existing part 114 and 115 and amends and replaces those parts in their entirety.

The proposed rule making includes in subpart B sections on ''frequently asked questions'' about the sources of monies that are deposited and disbursed from both tribal and individual Indian accounts. These questions include an explanation of which financial resources may be accepted for deposit into a tribal account or an individual Indian money (IIM) account; the process for depositing money into an account; and an explanation of how money deposited into trust earns interest. We are requesting comments on whether the Secretary should accept into trust tribal income from products directly derived from trust land within the tribe's jurisdiction. For example, under such a distinction, income from a logging mill that processes trees harvested from trust land within the tribe's jurisdiction may be considered income; however, income derived from other businesses merely located on trust land, but not directly using the land for production of income, such as gaming profits or smoke shop profits, will not be considered trust income. When commenting on tribal trust income, please include a list of tribal operations, other than logging mills, that might be included in this category; any suggestions for a definition of tribal income that is directly derived from trust land; and the documentation that would be sufficient to evidence that the income was directly derived from the tribe's trust land.

One of the most significant revisions to this part is the addition, in subpart C, of the procedures used in administering tribal trust funds. These procedures have been the standard method of operation in the field; however, they have never been codified in the Code of Federal Regulations. With this addition, questions concerning tribal trust account management are explained in detail with an emphasis placed on everyday operations for such accounts. These issues include opening a tribal account; depositing or withdrawing monies from tribal accounts; the investments and other cash management operations of tribal accounts; accounting information, record keeping, and standards of performance in administration of tribal accounts; and the disposition of certain judgment funds in tribal accounts. A new provision will encourage tribes, where submitting an annual budget to the Secretary is not required by law, to provide annual cash flow projections to assist the Secretary in making investment decisions to meet a tribes cash flow needs. The regulation will also inform tribes to what extent funds withdrawn from tribal trust accounts may be re-deposited into trust.

Subpart D contains much of the current information concerning IIM accounts, especially with respect to depositing and withdrawing money from such accounts. New provisions have been added to this subpart to explain how court orders may impact an IIM account; how the account holder can access his account information; the frequency of statements of performance for an IIM account; and the conditions under which the Department will provide account information to a third party. Information is also provided concerning administrative matters regarding these accounts, such as changes in address, time period for cashing IIM checks, process for reporting lost or stolen checks, the circumstances when check proceeds may be re-credited to an IIM account, and the reporting of IIM account information to outside agencies. Additional provisions address withdrawing limited funds from an estate account immediately following

the death of an account holder for burial-related costs and receiving income from life-estate accounts. We are eliminating the provision that allowed voluntary deposits to IIM accounts in limited circumstances. One procedural issue that continues to present practical problems is the treatment of accounts belonging to individuals whom we cannot contact because their whereabouts are unknown. We are requesting comments on how to locate IIM account holders whose whereabouts are unknown. In addition, we would like comments on how the funds in IIM accounts for account holders whose whereabouts are unknown should be treated. These accounts will be maintained as unrestricted accounts unless we have specific information requiring that they be maintained as restricted accounts.

Subpart D includes a detailed explanation of how the Secretary supervises restricted accounts for minors or adults who are *non compos mentis* or have been adjudicated to be in need of financial management assistance. We are proposing to eliminate the administrative process for determining when to supervise an IIM account for an adult who is in need of financial management assistance. Rather, we are proposing to supervise such accounts only when a court of competent jurisdiction has determined that an adult IIM account holder is in need of financial management assistance. Therefore, an account holder with a supervised IIM account must have a legal guardian or conservator appointed by a court of competent jurisdiction. Although we propose to no longer make this determination ourselves, we are retaining the category of adults in need of financial management assistance in recognition of the fact that there are individuals who require such assistance but are not incompetent. These proposals are intended to ensure that account holders have decision making authority regarding their accounts unless a court with authority to make such decisions determines that an account holder is unable to manage his or her funds. We request comments about the impact of these proposals on tribal courts as well as account holders.

In order to fully protect holders of supervised and restricted IIM accounts, we propose to require additional duties for legal guardians in regard to their responsibilities for IIM funds, including working with the BIA to develop annual distribution plans for IIM funds, making an annual accounting to the BIA for all IIM funds expended, reviewing any IIM statements of performance for errors, and filing any tax returns associated with IIM funds. Consistent with existing regulations, we will continue to accept proceeds from other federal government agencies for IIM account holders, but only when the account holder is under legal disability and does not have a legal guardian, unless the BIA is acting in the capacity of a guardian. We also propose to not recognize a power of attorney for purposes of distributing money from an IIM account to a party other than the account holder.

Subpart D also addresses in detail the procedures related to the supervision of a minor's account, consistent with our trust obligations. We propose to allow withdrawals from a minor's account only under a BIA approved distribution plan when those withdrawals are directly related to the minor's health, education, and welfare. We propose that a custodial parent or a guardian who withdraws funds from a minor's IIM account on behalf of the minor must account annually to the BIA for the use of those funds. We request comments on whether we should define ''minor'' in such a manner that would incorporate a tribal law that specifies an age of majority that is different than 18. If we were to define minor as such, then an account holder who is subject to the tribal law would not have unrestricted access to his or her IIM account funds until the account holder reached the age of majority as defined by the tribal law.

Subpart D clarifies existing practices and proposes new language to allow an IIM account holder to encumber his or her account and to permit the BIA to involuntarily restrict an IIM account in fulfillment of an obligation made by the account holder to a third party. An account holder may authorize the OTFM to place a hold on his or her IIM account so that income deposited into the account remains in the account as opposed to being automatically disbursed to the account holder when the account reaches a specific balance. An account holder would be able to voluntarily authorize the OTFM to make third-party payments from his or her IIM account so long as the account balance on the date of payment is sufficient to cover the authorized third party payments. These instructions could be changed upon request of the IIM account holder. An account holder would continue to be able to assign IIM income as security for a debt to a third party, which result in the creation of legal rights to IIM funds for satisfaction of a debt or an obligation to the third party, which cannot be voluntarily removed by the account holder. Under this proposal, the third party will have to perfect the security interest prior to presenting the assignment of IIM income to the BIA for payment. To perfect an assignment of IIM income as security, the third party generally will have to present the IIM assignment made by the account holder and the account holder's record of payment(s), including any unpaid balance, to a court of competent jurisdiction and obtain a judgment that determines the amount owed by the IIM account holder to the third party. Under this proposal, other than a debt secured under the Indian Finance Act, the only assignment of income that the BIA would recognize without a court order or judgment perfecting a third party's interest in an IIM account is an assignment of income for health care emergencies made by the account holder directly to the service provider. We recognize that these proposed limitations on the ability of third parties to obtain legal rights to funds in an IIM account may require many creditors, such as tribal credit programs, to revise their debt collection practices, and may have an impact on the amount of funding available for a loan other than one secured under the Indian Finance Act. These proposals are intended to ensure that the Secretary can properly exercise his or her trust responsibility to individual account holders such that the funds to be remitted to a third party are in fact owed by the account holder. We invite comments on the extent to which these proposals will impact credit programs and individual account holders.

Subpart E, which replaces part 114, limits the types of funds that may be deposited into special deposit accounts. This subpart includes an explanations of special deposit accounts and their administration by the BIA and the OTFM. Specifically, sections address whether and how special deposit accounts earn interest; and the inability to deposit cash bonds in a special deposit account.

Subpart F outlines the notice requirement and hearing process associated with an involuntary restriction on an IIM account. This subpart outlines the circumstances under which the BIA will place an involuntary restriction on an IIM account, including where an account holder has given a third party legal rights to the funds held in his or her IIM account, where an administrative error has been caused by the BIA or the OTFM in the depositing or disbursing of IIM funds, and under limited court order involving the need to supervise an account. We propose to place a restriction on an IIM account five days after the BIA mails the account holder notice by certified mail of its decision

to place a restriction on the IIM account. If we do not have an address for the account holder, we propose to give notice through publication and a restriction will be placed on the account five days after the date of the final publication of the public notice.

Many of the procedures in subpart F are found in the current regulation; however, the revised subpart goes into greater detail regarding the process that must be followed prior to restricting an IIM account.

Subpart G makes reference to general appeals. Subpart H refers to applicable record-keeping responsibilities.

Subpart I merely renumbers the sections of the current regulation regarding disposition of accounts held by the Osage Agency and those accounts administered on behalf of members of the Five Civilized Tribes.

The chart below provides a crosswalk reflecting, by section, the proposed reorganization of part 115, along with remarks explaining the revisions or the inclusion of new sections dealing with the clarification of existing practices.

CROSS REFERENCE WITH EXPLANATION FROM CURRENT TO PROPOSED NEW CITATIONS

Current citation	New citation	Title	Remarks
115.1	115.002	What definitions do I need to know?	More extensive definitions listing.
115.2	115.803	Osage Agency.	Redesignated. No change.
115.3	115.328	How do I withdraw money from my IIM account?	Plain language.
115.4(a)	115.364	When will the BIA authorize withdrawals from a minor's account?	Plain language, more explanation.
115.4(b)	115.366	Will I automatically receive all my IIM funds when I turn 18?	Clarification of judgment fund disbursements.
115.5	(1)	Prior: Adults Under Legal Disability.	More explanation on disbursement requirements for all types of restricted accounts referenced throughout the part.
115.6	115.325	May I deposit money into my IIM account?	Clearer guidance on what funds may be deposited into accounts.
	1115.326	May I redeposit IIM funds back into my trust account once I receive the money?	
115.7	115.102(c)	What specific sources of money may be deposited into a trust fund account?	Clearer guidance.
115.8	115.333	May I authorize the OTFM to make payments directly to a third party on my behalf?	Clearer guidance on vendors.
	115.334	Will BIA ever withdraw money from my account without my authorization?	Clearer guidance on special payment circumstances.
115.9; 115.10(a)	115.374	May I authorize the OTFM to make third party payments from my IIM account to pay my monthly bills on other obligations?	Clearer guidance on encumbrance.
	115.502	How will I be notified if a decision has been made to place my IIM account under supervision or encumbrance?	Guidance on notice requirements.
115.10(a)	115.505	What information will the BIA include in its notice?	Notice letter requirements.
115.10(b)	115.384	If I have an encumbrance on my account, may I make withdrawals?	Plain language.
115.10(c)(1)	115.507	When will the BIA conduct a hearing to allow me to challenge its decision to restrict my account?	Plain language.
115.10(c)(2)	115.508	Will I be allowed to present personal testimony?	Plain language.
115.10(c)(3)	115.511	May I be represented by an attorney at my hearing?	Plain language.
115.10(c)(4)	115.517	If the BIA decides to restrict my account after my hearing, do I have the right to appeal that decision?	Plain language.
115.10(c)(5)	115.512	Will the BIA record the hearing?	Plain language.
115.10(c)(6)	115.514	How long after the hearing will the BIA make its final decision?	Plain language.

CROSS REFERENCE WITH EXPLANATION FROM CURRENT TO PROPOSED NEW CITATIONS—Continued

Current citation	New citation	Title	Remarks
115.10(d)	115.518	If I decide to appeal the BIA's decision after my hearing, will BIA restrict my account during the appeal?	Plain language.
115.11	115.801	Funds of deceased Indians of the Five Civilized Tribes.	Redesignated. No change.
115.12	115.801	Funds of deceased Indians of the Five Civilized Tribes.	Redesignated. No change.
115.13	115.802	Assets of members of the Agua Caliente Band of Mission Indians.	Redesignated. No change.
115.14	115.600	Do I have a right to appeal any decision made under this part?	Plain language.
115.15	N/A	N/A	Section deleted. Information collection requirements have been identified for clearance.
New	115.001	What is the purpose of this part?	Explains the inclusion of tribal trust accounts with the regulations specific to IIM accounts.
New	115.103–110	Frequently asked questions.	Pertains to tribal and individual accounts. Meant as explanatory tool for service constituency. Concerns what monies may be deposited, process for depositing, and investments/interest monies.
New	115.200–221	Administration of tribal accounts.	Clarifies current practice.
New	115.300–302	Basic elements of IIM accounts.	Clarifies understandings and current practice.
New	115.303–312	Obtaining information on IIM accounts, use of accounts as collateral for a loan, and reports to the IRS.	Clarifies current practice.
New	115.317–324	Personal administrative concerns regarding IIM accounts, *e.g.,* changes, lost checks, decedents' estates deposits, etc.	Clarifies current practice.
New	115.328–332, 115.335–336	Withdrawing funds from IIM account.	Clarifies current practice.
New	115.340–404	Administration of special accounts: Supervised accounts, minors accounts, encumbered accounts, special deposit accounts.	Clarifies current practice.
New	115.500–504	Civil procedures necessary in restricting or otherwise encumbering an account.	Clarifies current practice.
New	115.700	Who owns the records associated with this part?	Provides guidance for record keeping.
	115.701	What are a tribe's obligations regarding trust fund records?	
	115.702	How long must a tribe keep its records?	

[1] None.

D. 25 CFR Part 162—Leases and Permits on Indian Lands

The purpose of this part is to describe the authorities, policies and procedures the BIA uses to grant, approve and administer surface leases and permits on certain lands held by the United States in trust for tribes and individual Indians and certain lands owned by the federal government. It revises, amends and entirely replaces the existing part 162, and implements the American Indian Agricultural Resource Management Act (AIARMA), 25 USC 3703, *et seq.* with regard to leases on Indian agricultural land. With respect to those regulations governing the administration of leases on specific reservation lands, the proposed rule will not effect any changes, but rather will merely renumber those sections.

The AIARMA, enacted in December, 1993, requires that the Secretary conduct all ''land management activities''—defined in section 4(12)(D) to include the ''administration and supervision of agricultural leasing and permitting activities, including a determination of proper land use * * * appraisal, advertisement, negotiation, contract preparation, collecting, recording and distributing lease rental receipts''—on Indian agricultural lands in accordance with agricultural resource management plans, integrated resource management plans, and all tribal laws and ordinances, except where such compliance would be contrary to the trust responsibility of the United States.

Under the mandate of section 301 of the AIARMA, the BIA met with tribal representatives to produce the first draft set of implementing regulations in March, 1994. This first draft, distributed for comment to nearly 3000 addresses on April 29, 1994, did not consolidate the leasing and grazing provisions of 25 CFR parts 162 and 166, respectively. After five formal hearings across the nation, a second draft regulation was distributed for comment on June 28, 1994. This draft contained leasing and grazing rules in a single part. A final draft that included language for the proposed subpart D was distributed on November 30, 1994, and published in the **Federal Register** as a proposed rule on June 17, 1996, 61 FR 30560–70. The proposed rule was withdrawn.

This proposed part balances the responsibilities the Secretary has as trustee of Indian land with the need for tribes and individual Indian landowners to exercise maximum control over their Indian agricultural lands and business affairs. The proposed regulation includes five new sections that clarify the Secretary's responsibilities regarding business leases (Subpart E), compensation to landowners (Subpart F), violation of lease terms (Subpart H), leases that include a non-trust interest (Subpart J), and the procedures for handling trespass on tribal or individual Indian trust lands (Subpart L). It does not include grazing permits, which are covered in the proposed part 166.

Several tribes, and the NCAI, have suggested that the Secretary has discretion under existing statutes to permit tribes to grant their own short-term leases with a routine BIA approval process, reserving a more extensive review and approval process for long-term leases that may adversely affect the preservation of tribal culture and society. We request comments on how such a lease approval process might work under existing law, in light of the Secretary's trust responsibility.

Subpart A, ''Purpose and Definitions,'' defines key terms used throughout the proposed regulation. These terms are consistent with those found in the AIARMA.

Subpart B, ''Lease Provisions and Requirements,'' contains general rules and principles that pertain to leases of Indian agricultural land. Section 162.4 would clarify the existing requirement that lessees comply with all applicable tribal laws and ordinances. Failure to comply with such requirements would be considered a violation of the lease. Also, in some instances, the lessee would be required to provide an environmental baseline survey of the property in order to protect the Indian landowner from potential liability resulting from the lessee's use of hazardous materials during the lease term. Lessees would be required to provide a bond for each lease acquired, unless the Indian landowner requests that the BIA waive the requirement.

Many tribes and individuals have expressed a desire that the current practice of allowing direct payments of lease income to Indian landowners be continued under this part. The BIA recognizes the utility of direct payments and does not propose to alter the practice at this time. Nevertheless, we continue to struggle to fashion a system that accommodates both the ability of the Indian landowner to receive lease payments directly from the lessee and the Secretary's legal obligation under the American Indian Trust Fund Management Reform Act to account for that income. The BIA believes that it may be sufficient to satisfy both interests by establishing direct pay arrangements for leases on tribal lands through contracts or compacts under the Indian Self Determination and Education Assistance Act (''Self Determination Act''). The BIA requests comments on: (1) The continued need for direct payments for tribal and individual Indian lands; (2) the advisability of contracts or compacts under the Self Determination Act as the sole method for direct payments to tribes; and (3) the compatibility of such payments with the Secretary's legal obligation as trustee to obtain the information regarding payment history that is needed to perform the necessary accounting.

Consistent with the AIARMA, the proposed Subpart B would make clear that, when specifically authorized by a tribal resolution that establishes a general policy for leasing of Indian agricultural lands, the Secretary, with regard to such leases, will: Provide a preference to Indians in the issuance of agricultural leases and permits; waive or modify the requirement that a lessee provide a bond, or require another type of surety; and approve leases of tribally owned agricultural land at rates set by the tribal governing body. When the tribal resolution defines ''highly fractionated individual heirship land,'' the Secretary may waive or modify notice requirements pertaining to such land.

Also consistent with the AIARMA, the proposed Subpart B would provide that individual Indian landowners of at least 50% of the beneficial interest in a tract of agricultural land could exempt their land from the Secretary's implementation of the tribal general policy discussed above by submitting a written request to the BIA.

The proposed Subpart B preserves the individual Indian landowner's flexibility to negotiate his or her own lease terms, subject to BIA approval, by allowing multiple tracts of trust land to be combined into one lease and by requiring no standard lease form. Leases under the new regulation would need to conform only to the substantive requirements outlined in the subpart; individual Indian landowners would be able to use any lease form they think best serves their business purposes.

The new Trust Asset Accounting and Management System (TAAMS), an automated accounting system currently being fielded by the BIA, will greatly enhance the Secretary's ability to collect and manage income from trust assets. For example, as outlined in the proposed Subpart B, the system will allow the BIA to notify Indian landowners that lessees have violated the lease by failing to make timely payment and that late payment penalties have been assessed.

Proposed § 162.44 in Subpart B would clarify the BIA practice of reviewing the lease every 5 years to determine whether an adjustment should be made to the lease payments. Several tribes have suggested that the BIA could use the Consumer Price Index (CPI) or the Producer Price Index (PPI) to determine lease payment adjustments. However, recognizing that there may be several appropriate standardized price indicators by which the adjustment could be based, the BIA requests comment on an appropriate method of adjusting lease payments under the new regulation.

The BIA recognizes that Indian landowners may in some situations receive maximum value from their trust lands by allowing the lessee to use his or her leasehold interest as collateral for a loan. § 162.23 in subpart B describes the proposed circumstances under which the BIA could approve a leasehold mortgage of trust property. Because economic conditions and local practices vary somewhat among regions, the BIA requests comment on the extent to which the proposed § 162.23 supports Indian landowners' business activities, reflects current business practices and allows the Secretary to fulfill trust responsibilities.

The proposed subpart B would allow a lessee to assign his interest in a lease that is subject to a leasehold mortgage to a party other than the mortgagee if the assignee agrees to be bound by the terms of the lease. In such cases, the lease may provide the Indian landowner with a

right of first refusal on the assignment of the leasehold interest.

The new subpart B also proposes to require that all leases with a lease term greater than one year be recorded in the BIA's Land Titles and Records Office (LTRO).

Subpart C, ''Process for Obtaining a Lease,'' highlights the policy of providing for maximum Indian landowner control consistent with the Secretary's trust responsibilities. Under the proposal, the Indian landowner is primarily responsible for leasing Indian land, with the assistance and approval of the Secretary. The regulation would change current practice, not addressed in the existing part 162 regulations, in that the BIA would no longer give conditional lease approvals. However, the proposed provision preserves flexibility in business affairs by providing that Indian landowners may contract to lease land at a future date, with the contract specifying essential lease terms and any conditions to be satisfied—such as National Environmental Policy Act (NEPA) compliance—before the Secretary would approve the lease. Subpart C would also relieve parents, guardians or others acting in a legal capacity in place of a parent from the requirement to obtain a lease to use Indian agricultural lands owned entirely by their minor children when certain conditions are met.

In order to provide maximum protection for all trust property beneficiaries, in situations where an Indian landowner does not own a 100% interest in trust land, the proposed § 162.67 in subpart C would require that the Indian owner of the fractionated interest obtain a lease from all co-owners of the land before using the land exclusively for his or her own purposes. The BIA recognizes the unique burdens placed on potential users of fractionated land, and requests comment on the proposed requirement.

Subpart D, ''Granting a Lease,'' restates the statutory mandate that tribes and individual Indians may grant a lease of their own trust lands with the Secretary's approval. It clarifies who may represent an individual Indian landowner in granting a lease when, for example, the landowner is a minor or unable to manage his or her own affairs due to illness or other incapacity. The subpart also allows the Secretary to protect trust assets by granting a short-term revocable permit for a third party to enter trust lands in certain situations, such as where it is not practical to provide notice to every Indian landowner.

Subpart E, ''Business Leases,'' covers both ground leases and leases of developed land for purposes other than farming, grazing, or use as an individual homesite. Under the proposed subpart, entities seeking to lease Indian land for business purposes would negotiate terms directly with an Indian landowner, but the lease would continue to be approved by the Secretary. The proposed rule provides that business leases generally must require that the lessee pay fair rental value; exceptions are clearly enumerated and would require the Secretary's approval.

Although in most instances assignments, sublets, or mortgages of business leases would require our approval, Subpart E would allow Indian landowners considerable flexibility to support commercial or residential development on Indian lands. However, several tribes have suggested that business subleases should be routinely approved by the BIA when income under the sublease is set below a certain amount. The BIA must balance the additional business flexibility this proposal might provide Indian landowners against its trust obligations and requirements of federal law. Therefore, the BIA seeks comment on the proposal that business subleases of less than $250,000 under subpart E be routinely approved by the BIA.

Subpart F, ''Compensation to Indian Landowners,'' details what the BIA would do with rent payments received from lessees of Indian land. Several tribes have suggested that the BIA should apportion lease revenues to beneficiaries based on the productivity of a tract in situations where the lease includes several discrete parcels of land. The proposed regulation would continue the current BIA practice of prorating lease revenue based on the number and size of the tracts in relation to the total leasehold, then distributing revenue to each owner according to his or her fractional share of each tract. Recognizing that the method used for distributing trust property income has significant impact on Indian landowners, the BIA requests comments on methods to divide lease income from multi-tract leases.

Subpart G, ''Administrative Fees,'' contains a table of administrative fees the BIA proposes to charge for approving leases and related documents. The subpart would allow the BIA to waive all or part of an administrative fee in certain circumstances, and would allow a tribe to establish and collect its own schedule of administrative fees.

Consistent with its responsibility as trustee, the BIA would assume affirmative responsibilities in the event the lessee violates the terms of the lease in Subpart H, ''Lease Violations.'' In this subpart, when reasonable grounds exist based on facts known to us, the Secretary would reserve the right to enter onto leased land with or without prior notice to the lessee to enforce compliance with the lease provisions and to protect trust assets. In the event of a lease violation, the BIA would give the lessee notice by certified mail of the violation and specific period of time to correct it. If the violation is not corrected, the BIA may take action up to and including canceling the lease and ordering the lessee to vacate. Subpart I, ''Appeals,'' outlines general appeal procedures by reference to 25 CFR Part 2, ''Appeals From Administrative Actions.''.

Proposed Subpart J, ''Non-Trust Interests,'' would assert that the Department has constructive authority to grant or approve only leases of trust interests in Indian land; under the proposed regulation, undivided non-trust interests in Indian land would be leased directly from owners of these interests. The proposed regulation would clarify that the Secretary has no obligation to lease or collect rental payments for the non-trust interests in Indian lands. Payments for the non-trust interests would be made according to the terms negotiated between the lessee and the owners of the non-trust interests.

We recognize that the fractionation of ownership of Indian lands has made the leasing of Indian lands for trust beneficiaries more complex. Additionally, the Secretary's trust obligation to lease Indian lands does not run to the owners of undivided non-trust interests. Not only does the BIA lack statutory authority to lease or collect rental payments on behalf of such interests, but we may not know who the current owners are because we do not maintain or update non-trust ownership records after the title passes from Indian ownership. Nevertheless, there may be a non-trust obligation to account to the owners of the non-trust interests for the income from leases on the undivided land received on behalf of Indian landowners. Were the BIA to undertake this accounting, the additional workload burden could not be met with existing resources, and our ability to lease fractionated Indian lands on behalf of the Indian owners would be severely curtailed. This would be detrimental to the Secretary's ability to meet the trust responsibility to Indian landowners. We request comments on how to resolve the conflict between the interests of the owners of non-trust interests in the activity on the

undivided lands, and the Secretary's trust responsibility to Indian landowners.

As trustee, the BIA must determine the fair annual rental value of Indian land in order to assist Indian landowners in negotiating a lease with potential lessees and to allow the Secretary to determine if a lease is in the best interest of the landowner. Subpart K, ''Valuation,'' would allow the BIA to determine fair annual rental value for a lease of Indian land by appraisal, advertisement, competitive bidding or any other appropriate method that is consistent with the Uniform Standards of Professional Appraisal Practices (USPAP). The BIA does not intend to specify in part 162 the method for appraising Indian land; flexibility in choosing an appraisal method would allow the Secretary to most effectively discharge his responsibility as trustee.

Leases of Indian agricultural lands generally must bring the landowner fair annual rental value. The proposed subpart K would clarify the statutory authority allowing the Secretary to approve a lease of individually owned Indian land at less than fair annual rental value when, for example, the lease is for religious, educational, recreational or another public purpose, or when the lease is for a homesite for a person related to the individual Indian landowner. The Secretary also would approve a lease of tribal land at less than fair annual rental if certain conditions are met. In each instance, the Secretary would be required to determine that approving the lease at less than fair annual rental value is in the best interest of the tribe or individual Indian landowner.

Under the proposed subpart L, ''Trespass,'' the BIA would investigate accidental, willful or incidental trespass by third parties onto Indian agricultural land and would have the authority to assess penalties or seek damages against the trespasser or seize or impound the trespasser's property. The proposed rule would establish a civil penalty for trespass that is consistent with the AIARMA. Tribes that adopt the provisions of subpart L would have concurrent jurisdiction with the Secretary to enforce the new trespass provisions. Tribes may also request that the BIA allow a tribal court to prosecute trespass on Indian agricultural land.

Subpart M of the proposed regulation would simply renumber existing regulations governing administration of leases on specific reservation lands; it does not propose to effect any changes to those existing provisions.

CROSS REFERENCE WITH EXPLANATION FROM CURRENT TO PROPOSED NEW CITATIONS

Current citation	New citation	Title	Remarks
162.1	162.2	What key terms do I need to know?	More extensive definitions listing.
162.2	162.70	Who may grant a lease?	Cross references differing authorities for granting leases.
	162.71	Who may represent an individual Indian landowner in grant a lease?	
	162.72	May an emancipated minor grant a lease on his or her own Indian land?	
	162.73	When may the Secretary grant permits on behalf of individual landowners?	
162.3	162.70	Who can grant a lease?	Includes general provisions for tribes, Indian landowners, and the BIA.
162.4	162.68	Do the parents or guardian of minors who own Indian land have to obtain a lease before using the land?	Qualifies use as one that directly benefits the children.
162.5(a)	162.18	Is there a standard lease form?	Plain language.
162.5(b)	162.83	How much rent must a lessee pay?	Includes exceptions to fair annual rental rate.
162.5(b)(1)	162.80	What types of leases are covered by this subpart?	Included under business leases as separate and apart from usual agricultural leaseholds.
162.5(b)(2)&(3)	162.83	How much rent must a lessee pay?	Includes lease payments for less than fair annual rental rate.
	162.152	Will BIA ever grant or approve a lease at less than fair annual rental?	
162.5(c)	162.45	Must a bond be submitted for a lease?	Plain language.
162.5(c)(1)(2)(3)	162.46	How do we determine the amount of the bond?	Plain language.
162.5(d)	162.51	Is insurance required for a lease?	Describes types of insurance.
162.5(e)	162.27	How long is a lease term?	Plain language.
162.5(f)	162.41	To whom are lease payments paid?	
	162.42	May a lessee send a lease payment directly to the Indian landowner?	Describes current practice. Comments are requested.
162.5(g)(1)(2)(3)	162.26	Are there specific provisions that must be included in a lease?	Same obligations, plain language.

CROSS REFERENCE WITH EXPLANATION FROM CURRENT TO PROPOSED NEW CITATIONS—Continued

Current citation	New citation	Title	Remarks
162.5(h)(1)(2)	162.42	May a lessee send a lease payment directly to the Indian landowner?	Describes current practice. Comments are requested.
162.6	162.10	How is a lease on Indian land obtained?	Includes negotiated & bid leases.
162.7	162.10	How is a lease on Indian land acquired?	Includes negotiated & bid leases.
162.8	162.27	How long is a lease term?	Includes all term variables.
162.9	162.30	What happens to improvements constructed on Indian lands when the lease has been terminated?	Plain language. Disposition of improvements in all events.
	162.31	What happens if the improvements are not removed within the specified time period?	
162.10	162.17	Can more than one tract of land be combined into one lease?	Plain language.
162.11	162.26	Are there specific provisions that must be included in a lease?	Conservation concerns inclusive in listing of lease provisions.
162.12(a)(b)	162.21	Can a lease be amended, modified, assigned, transferred, or sublet?	Plain language.
162.12(c)	162.22	Can a lease be used as collateral for a leasehold mortgage?	Plain language.
162.12(d)	162.25	Can the encumbrancer assign the leasehold interest after a sale or foreclosure of an approved encumbrance?	Fuller explanation.
162.13(a)	162.114	Are there any other administrative or tribal fees, taxes or assessments that must be paid?	Fuller explanation.
162.13(b)	162.110	Are there administrative fees for a lease?	Plain language.
162.13(b)(1)(2)	162.111	How are administrative fees determined?	Use of explanatory table.
162.14	162.122	What happens if a violation of a lease occurs?	Break-down of explanation.
	162.123	What will a written notice of violation contain?	
162.15	162.190	Crow Reservation	Redesignated. No change.
162.16	162.191	Fort Belknap Reservation	Redesignated. No change.
162.17	162.192	Cabazon, Augustine, et al.	Redesignated. No change.
162.18	162.193	Colorado River Reservation	Redesignated. No change.
162.20	162.194	Salt River and San Xavier Reservations	Redesignated. No change.
New	162.4–162.9	Applicability of tribal laws	Clarifies current practice.
New	162.14–162.16	Procedures for recording lease	Clarifies current practice.
New	162.36–162.43	Time and form of rental payments	Clarifies current practice
New	162.50–162.52	Types/disposition of bonds accepted	Clarifies current practice.
New	162.80–162.91	General provisions of business leases	Clarifies current practice.
New	162.100–162.102	Receipt and distribution of rental payments	Clarifies current practice.
New	162.124–162.127	Process for curing lease violations	Clarifies current practice.
New	162.128–162.128	Emergency actions by the Secretary	Clarifies property protection responsibility of the Secretary.
New	162.140–162.147	Non-trust property interests	Clarifies current practice.
New	162.150–162.152	Determination of fair annual rental rate	Clarifies current practice.
New	162.160–162.179	Trespass Provisions	Responds to AIARMA direction.
New	162.180	Who owns records associated w/ this part?	Responds to field question.

E. 25 CFR Part 166—Grazing Permits on Indian Lands

The purpose of this part is to describe the authorities, policies and procedures the Secretary uses to grant, approve and administer grazing permits on agricultural lands that are restricted against alienation or are held by the United States in trust for federally recognized Indian tribes and individual Indians, and certain lands owned by the federal government. It revises and entirely replaces the existing part 166, and implements the AIARMA, 25 U.S.C. 3703, *et seq.,* with regard to grazing

permits on Indian agricultural land and education in agriculture management.

Under the mandate of section 301 of the AIARMA, in consultation with tribal representatives, the BIA developed a first draft of regulations to address grazing permits on Indian agricultural land in 1994. The history of this process is described above under the proposed 25 CFR Part 162—Leases and Permits on Indian Land.

This proposed part balances the Secretary's responsibilities as trustee of Indian land and resources with the need for Indian tribes and individual Indian landowners to exercise control over their agricultural trust lands and business affairs. The proposed regulation is organized to include twelve subparts for the convenience of the reader. The expanded proposed sections would clarify existing policy and procedures governing the administration of grazing permits on Indian agricultural lands and is intended to bring consistency to the administration of grazing permits across the BIA. This part does not include surface leases and permits for purposes other than grazing, which are covered in the proposed part 162.

Subpart A, ''Purpose and Definitions,'' defines key terms used throughout the proposed regulation. These terms are consistent with those found in the AIARMA.

Subpart B, ''Grazing Permit Requirements,'' describes general requirements and principles for obtaining a permit, obtaining a permit (leasehold) mortgage, modifying and assigning a permit, and subpermitting. These general grazing permit provisions would be consistent with their corresponding leasing provisions proposed under 25 CFR Part 162—Leases and Permits on Indian Land.

The duration of permits is addressed in proposed § 166.107. This section would recognize the authority of tribes to determine the duration of permits on tribal lands. Under the AIARMA, grazing permits would be generally granted for a period of ten years, unless a longer term of up to 25 years is appropriate.

This proposed subpart would assert that the Department has constructive authority to grant or approve only permits of trust interests in Indian lands. Non-trust interests in Indian lands would be treated in the same manner as provided in the proposed 25 CFR Part 162—Leases and Permits on Indian Land. Like the proposed provisions for part 162, the Secretary may have a non-trust obligation to the owners of the non-trust interests to account for the trust income received on behalf of Indian landowners from permits on the undivided lands. We request comments on how to resolve the conflict between the owners of non-trust interests on undivided lands, and the Secretary's trust responsibility to Indian landowners.

To ensure the preservation and proper use of trust lands, the proposed subpart B would make clear that, under the AIARMA, the Secretary would require permittees to conduct grazing operations in accordance with tribal goals and priorities for multiple use, sustained yield, agricultural resource management planning and sound conservation practices. Subpart B would also require permittees to fulfill all financial obligations to the Indian landowners and to conduct only those activities authorized by the grazing permit. Failure by a permittee to meet these expectations may result in an imposition of fines or penalties under subpart H, ''Permit Violations'' or subpart I, ''Trespass'' of the proposed regulation to protect the interests of the Indian landowners.

Subpart C, ''Land Operations and Management,'' describes how the BIA proposes to clarify how range units and grazing capacity are established in consultation with Indian landowners. Section 166.205 of the subpart changes current practice in that the BIA would no longer include non-permitted land in the calculation of grazing capacity, but rather would limit the determination of grazing capacity to the Indian land that is included in the permit.

All grazing permits issued under this proposed part would have to be consistent with an agricultural resource management plan prepared, in accordance with the AIARMA, by a tribe or by the BIA in consultation with a tribe. To ensure that a permittee's intended objectives regarding animal husbandry and other grazing issues represent sound practice, the regulation proposes that a conservation management plan be developed for each permit. The conservation management plan would be consistent with the tribe's approved agricultural resource management plan.

Subpart D, ''Tribal Policies and Laws Pertaining to Permits,'' consistent with the AIARMA, would make clear that when authorized by an appropriate tribal resolution, the Secretary will comply with certain general policies pertaining to permitting on Indian agricultural lands as described above with respect to the proposed regulations for 25 CFR Part 162–Leases and Permits on Indian Land. Also consistent with the AIARMA and the proposed regulations for part 162, the proposed subpart D would provide that the Indian landowners of at least 50% of the beneficial interest in a tract of agricultural land could exempt their land from the Secretary's implementation of a tribe's general policy by submitting a written request to the BIA.

Under proposed subpart D, tribal law and ordinances, including laws regulating the environment, cultural or historic preservation, land use and other activities under tribal jurisdiction, will apply to grazing permits on Indian agricultural lands unless such tribal laws and ordinances are prohibited by federal law. Tribes are responsible for enforcing tribal laws and ordinances pertaining to Indian agricultural lands with the assistance of the Secretary.

Subpart E, ''Grazing Rental Rates,'' would preserve the ability of tribes to establish grazing rental rates on tribal lands. The BIA would continue to set the grazing rental rates for individually owned Indian land. The subpart clarifies the procedures by which tribes may set grazing rental rates higher or lower than BIA's established fair annual rental rate.

As trustee, the Secretary must determine the fair annual rental value of Indian trust lands in order to assist Indian landowners in negotiating permits with potential permittees and to determine if a permit is in the best interest of the landowner. The proposed subpart E clarifies that the BIA would determine fair annual rental value for grazing permits on trust lands by appraisal, advertisement, competitive bidding or any other appropriate method that complies with the Uniform Standards of Professional Appraisal Practices (USPAP). The BIA does not intend to specify in part 166 the particular method for appraising trust land; rather, ensuring flexibility in choosing an appraisal method would allow the Secretary to most effectively discharge his responsibility as trustee.

As they have with regard to the proposed 25 CFR Part 162—Leases and Permits on Indian Land, many tribes have expressed a desire that grazing rental payments be made directly to Indian landowners under this proposed part. As stated with regard to the proposed 25 CFR part 162, we recognize the utility of direct payments and do not propose to alter the practice at this time. Nevertheless, we continue to struggle to fashion a system that accommodates both the ability of the Indian landowner to receive lease payments directly from the lessee and the Secretary's legal obligation under the American Indian Trust Fund Management Reform Act to account for that income. The BIA

believes that it may be sufficient to satisfy both interests by establishing direct payment arrangements for leases on tribal lands through contracts or compacts under the Self Determination Act. The BIA requests comments on: (1) The continued need for direct payments on tribal and individual Indian lands; (2) the advisability of contracts or compacts under the Self Determination Act as the sole method for direct payments to tribes; and (3) the compatibility of such payments with the Secretary's legal obligation as trustee to obtain the information regarding payment history that is needed to perform the necessary accounting.

In subpart E, § 166.425 also proposes that the BIA would prorate grazing rental payments made to each owner according to his or her fractional share of each permitted tract of Indian agricultural land. Several tribes have suggested that the BIA should apportion grazing permit revenues to beneficiaries based on the productivity of a tract in situations where the grazing permit includes several discreet parcels of land. Recognizing that the method used for distributing trust income has significant impact on Indian landowners, the BIA requests comments on methods to prorate grazing rental payments in this manner.

Subpart F, ''Administrative and Tribal Fees,'' would provide a schedule of administrative fees, which varies based on the dollar value of the permit. The subpart provides a minimum and maximum administrative fee amount. The BIA would continue to be able to waive such administrative fees. This subpart also would acknowledge that tribes may establish and collect their own administrative fees.

Subpart G, ''Bonding and Insurance Requirements'', would clarify current BIA practices by requiring that a bond be provided for each permit acquired to ensure performance and compliance with permit terms. Upon request of an Indian landowner, the BIA may waive the bond requirement. For permits on tribal lands, the proposed subpart recognizes the tribe's ability to negotiate the form of the bond.

Subpart H, ''Violations,'' would provide for action to be taken by the Secretary should we learn that a violation of the terms of a grazing permit has occurred. This subpart is the same as the requirements stated above in the proposed 25 CFR Part 162–Leases and Permits on Indian Land.

Subpart I, ''Trespass,'' defines trespass under a grazing permit to include any unauthorized occupancy, use of or action on Indian agricultural or government lands assigned to the control of a tribe. Like the proposed 25 CFR part 162–Leases and Permits on Indian Land, above, this subpart would describe the process for trespass notification, enforcement, actions and penalties, damages and costs.

Subpart J, ''Appeals,'' notifies readers that BIA decisions may be appealed under 25 CFR part 2.

Subpart K, ''Records'' clarifies that records generated for the fulfillment of this part are the property of the United States and must be maintained according to approved records retention procedures.

Subpart L, Agriculture Education, Education Assistance, Recruitment, and Training would outline the provisions for implementing subchapter II of the AIARMA, Education in Agriculture Management.

CROSS REFERENCE WITH EXPLANATION FROM CURRENT TO PROPOSED CITATIONS

Current citation	New citation	Title	Remarks
166.1	166.002	What terms do I need to know?	More extensive definition listing.
166.2	(1)	Authority	Listing of citations only. No narrative provided.
166.3	166.001	What is the purpose of this part?	Encompasses objectives and goals of rulemaking.
166.4	166.106	What provisions must be contained in a permit?	Permit forms include all necessary information on applicable regulations, exemptions, and scope of activity permitted through the form.
	166.300	What tribal policies will we apply to permitting on Indian agricultural lands?.	Qualifies tribal jurisdiction over permitting process.
166.5	166.202	How is a range unit created?	Plain language.
166.6	166.204	When is grazing capacity determined?.	Plain language.
166.7	166.102	Who can grant a permit?	Incorporates authority of the BIA to grant permits on certain lands.
166.8	166.100	Must Indian owners of Indian land obtain a permit before using land for grazing purposes?.	Explains those lands exempt from BIA permit requirements.
166.9	166.102(b)	Who can grant a permit?	Explains BIA authority to grant permits to various individuals upon permission from tribe or court(s) of competent jurisdiction.
166.10	166.118	How do I acquire a permit through tribal allocation?	More detailed explanation of eligibility requirements for tribal allocations.
166.11(a)	166.117	How do I acquire a permit on Indian land?	Plain language.
166.11(b)	166.118	How do I acquire a permit through tribal allocation?	Plain language.
	116.119	How do I acquire a permit through negotiation?	Plain language.

CROSS REFERENCE WITH EXPLANATION FROM CURRENT TO PROPOSED CITATIONS—Continued

Current citation	New citation	Title	Remarks
166.12	166.206	What livestock can I graze on permitted Indian land?	Plain language.
166.13	166.401	How does the Secretary establish grazing rental rates?	More detailed explanation given.
	166.404	Whose grazing rental rate will be applicable for a permit on tribal land?	
	166.405	Whose grazing rental rate will be applicable for a permit on individually owned Indian land?	
	166.406	Whose grazing rental rate will be applicable for a permit on government land?	
166.14	166.107	How long is a permit term?	Plain language.
166.15(a)	166.136	How can Indian land be removed from an existing permit?	More detailed explanation of removal, notices, forms, and timelines for processing.
	166.138	Other than to remove land, how can a permit be amended, modified, assigned, transferred, or subpermitted?	Plain language.
166.15(b)	166.702	What happens if a violation of a permit occurs?	Plain language.
166.16	166.112	Must I comply with any standards of conduct if I am granted a permit?	Incorporates conservation and other resource protections.
166.17	166.208	Can improvements be constructed on permitted Indian land?	More detailed explanation of issue.
	166.209	What happens to improvements constructed on Indian lands when the permit has been terminated?	
166.18	166.504	Are there any other administrative or tribal fees, taxes, or assessments that must be paid?	More detailed fee structure with extensive explanations.
	166.502	Are administrative fees refundable?	
166.19	166.112	Must I comply with any standards of conduct if I am granted a permit?	Incorporates legal parameters for holding a lease.
166.20(a)	166.600	Must a permittee provide a bond for a permit?	Plain language
166.20(b)	166.607	What types of insurance may be required?	Plain language.
166.21	166.421	May a permittee make a grazing rental payment in advance of the due date?	Qualifies when advance payment may be made—not before 30 days before lease goes into effect.
166.22	166.504	Are there any other administrative and or tribal fees, taxes, or assessments that must be paid?	Plain language.
166.23	166.205	Will grazing capacity be increased if I graze adjacent trust or non-trust range-lands not covered by the permit?	Plain language.
166.24	166.800–819	Subpart I—Trespass	Amended and replaced in its entirety. New subpart has sections to address policy, notification, actions upon a finding of trespass, penalties and costs.
166.25	166.207	What must a permittee do to protect livestock from exposure to disease?	Plain language.
New	166.124	Can I use a permit as collateral for a loan?	Clarifies existing practice.
New	166.128–135	Non-trust interests	Provides uniform guidance on dealing w/lands which have non-trust status for permitting.
New	166.300–304	Tribal policies and laws pertaining to permits.	Recognizes and clarifies existing practice.
New	166.410–422	Rental payments	Clarifies existing practice.
New	166.601–605	Bonding requirements.	Explains forms of surety bonds.

CROSS REFERENCE WITH EXPLANATION FROM CURRENT TO PROPOSED CITATIONS—Continued

Current citation	New citation	Title	Remarks
New	166.701–703	Notice of violation provisions	Clarifies existing practice.
New	166.1100–1110	Education provisions.	Responds to AIARMA direction.

[1]Authority.

III. Public Comments

The amendments proposed in this rulemaking constitute primarily technical and conforming changes resulting from the reorganization of parts 15, 115, 162, and 166 and implementation of statutory requirements. Many of these revisions are simply plain language changes; however, greater detail and explanation has been included in all the revised parts. Additionally, new sections within these parts address current practice in the field and they are included here to ensure a uniform implementation of Departmental policy and procedure for certain issues. The public is invited to make substantive comment on any of these changes, whether they be with respect to organization or substance.

Two copies of written comments should be submitted to the address indicated in the **ADDRESSES** section of this notice. All comments received will be available for public inspection at the Department of the Interior, Office of the Secretary, MS 7214 MIB, Washington, DC 20240. Comments may also be telefaxed to the following number: 406/329–3021. Email comments will be accepted at: mailroom_wo_caet@fs.fed.us All written comments received by the date indicated in the **DATES** section of this notice and all other relevant information in the record will be carefully assessed and fully considered prior to publication of the final rule. Any information considered to be confidential must be so identified and submitted in writing, one copy only. The Department of the Interior reserves the right to determine the confidential status of the information and to treat it according to our determination (See 10 CFR 1004.11).

The Department has concluded that this proposed rule does not involve a substantial issue of fact or law and that the proposed rule should not have substantial impact on the nation's economy or a large number of individuals or businesses. Nevertheless, the Department does plan to hold consultation meetings with impacted tribes, Indian individuals, and tribal entities at given locations as will be noticed by the various regional offices of the BIA. All tribal and non-tribal persons having interest in this rulemaking are encouraged to participate in these consultations.

IV. Procedural Requirements

A. Review Under Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the BIA must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The rule describes how the federal government will administer its trust responsibility in managing the trust fund accounts. Thus, the impact of the rule is confined to the federal government and the Indian trust beneficiaries and does not impose a compliance burden on the economy generally. Accordingly, it has been determined that this rule is not a ''significant regulatory action'' from an economic standpoint, or otherwise creates any inconsistencies or budgetary impacts to any other agency or federal program. However, the Department has submitted the revised part 115, Trust Funds for Tribes and Individual Indians, for review by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) as a significant policy matter impacting all federally-recognized Indian tribes and individual Indians. This decision was made because of the magnitude of the monies involved in Indian trust matters and the notion that any revisions to existing regulations that impact trust account management could have significant impacts on tribal governments, communities and individual Indians. The Department conducted an economic analysis of the revisions to part 115 and found that there were significant benefits in management, security and reporting of trust accounts and only small increases on tribal governments or individual Indians. The increased benefits are better identification of funds, ability to gain performance reports on tribal or individual accounts, clarifications in what funds could be deposited into such accounts, better distribution procedures, and clarifications on when and how such accounts could be restricted or otherwise encumbered. The revisions were found to have potential for administrative savings. The Department is especially interested in receiving comments on the revisions to part 115 and whether the administrative and technical clarifications address tribal concerns for better management of funds held in trust.

B. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section (b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines

issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. The Department of the Interior has determined that, to the extent permitted by law, the proposed regulation meets the relevant standards of Executive Order 12988.

C. Review Under the Regulatory Flexibility Act

This proposed rule was reviewed under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. This proposed rule streamlines the Department's policies, procedures, provisions and clauses that apply to certain Indian trust resources. Indian tribes are not small entities under the Regulatory Flexibility Act. Any impacts on identified small entities affected by this proposed rulemaking are minimal as they would concern a small number of farmers, ranchers, and individuals doing business on Indian lands (*e.g.,* convenience stores, gasoline stations, sundry shops). Accordingly, the Department of the Interior has determined that this proposed regulation will not have a significant economic impact on a substantial number of small entities, and, therefore, no regulatory flexibility analysis has been prepared.

D. Review Under the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

This proposed rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This proposed rule will not result in an annual effect on the economy of $100,000,000 or more. The Department is treating each revised part as a unit of the proposed rulemaking and no one unit has an economic impact of $100,000,000 or more. The revised parts represent programs that are ongoing within the BIA and no new monies are being introduced into the stream of commerce. This proposed rule will not result in a major increase in costs or prices. The effect of this proposed rulemaking will be to streamline ongoing policies, procedures and management operations of the BIA in their handling of tribal and individual Indian trust resources. No increases in costs for administration will, therefore, be realized and no prices would be impacted through these administrative and technical clarifications of existing field practice. This proposed rulemaking will not result in any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets. The impact of the proposed rulemaking will be realized by tribal governments and individual Indians having a protected trust resource. These administrative and technical clarifications of Departmental policy and procedure will not otherwise have a significant impact any other small business businesses or enterprises.

E. Review Under the Paperwork Reduction Act

This proposed regulation requires an information collection from 10 or more parties and a submission under the Paperwork Reduction Act of 1995, Public Law 104–13, is required. An OMB form 83–I has been reviewed by the Department and sent to OMB for approval. As part of the Department's continuing effort to reduce paperwork burdens, the Department invites the general public to take this opportunity to comment to the Office of Management and Budget (OMB) on the information collections contained in this proposed rulemaking, as required by the Paperwork Reduction Act. Such comments should be sent to the following address: Attention—Desk Officer for the Interior Department, Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW, Washington, DC 20503. Please also send a copy of your comments to the Department at the location noted under the heading **ADDRESSES.** OMB has up to 60 days to approve or disapprove the information collections but may respond after 30 days; therefore, public comments to OMB should be submitted within 30 days in order to assure their maximum consideration. Comments should address: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the BIA, including whether the information shall have practical utility; (2) the accuracy of the BIA's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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. The information collection will be used to enable the BIA to better administer the programs subject to this rulemaking (Indian probate, funds held in trust for tribal governments and individual Indians, leasing/permitting, and grazing permits). In all instances, the Department has strived to lessen the burden on the constituent public and ask for only that information that is absolutely essential to the appropriate administration of the programs affected and in keeping with the Department's fiduciary responsibility to federally-recognized tribes.

A synopsis of the information collection burdens for all four parts proposed for regulatory revision are provided below. Take note of the variables used in each information collection estimate—in some instances the standard used for measurement will be a fixed number of occurrences gathered from our various annual reports (*e.g.,* number of probates, number of leases, number of permits, number of account holders, number of appeals in a given year). The explanatory summary of each information collection section identified will indicate what measurable standard has been used as a baseline for further calculations of burden hours (both public and government) and operations and maintenance costs to the government. Burden is defined as the total time, effort, or financial resources expended (including filing fees) by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency.

ESTIMATED BURDEN HOURS

CFR section	Number of respondents	Responses per respondent	Burden per response	Total annual burden (hours)
15.4 Notice of Recordkeeping[1]	1	3,164	1 minute	53
15.101 Reporting req.—death certificate	3,164	1	4 hours	12,656

ESTIMATED BURDEN HOURS—Continued

CFR section		Number of respondents	Responses per respondent	Burden per response	Total annual burden (hours)
15.104	Reporting funeral expenses(¾)	2,373	1	2 hours	4,746
15.105	Provide probate documents	3,164	1	40 hours	126,560
15.109	Provide disclaimer information (¼)	791	1	1 hour	791
15.202	Required elements in probate form[1]	1	3,164	40 hours	126,560
15.203	Provide response to transmittal	3,164	1	5 minutes	264
15.303	Provide info. on creditor claim (6 per probate)	18,984	1	30 minutes	9,492
15.305	Provide info. for priority claims[1] (4 per probate)	1	12,656	30 minutes	6,328
15.402	Provide info. for filing appeal (¼)	791	1	2 hours	1,582
15.405	Provide info. for extraordinary appeal process	158	1	2 hours	316

[1] Indicates Government responsibility in whole or part.

Note: For purposes of this part only, we have used the number 3,164 as the number of decedents' estates that are probated on the average each year. The cost of reporting and recordkeeping by the public is estimated to be approximately $10/hour. We have used this figure as a medium figure that would indicate the cost of having a form typed, the cost of taking an hour's time off work, the cost of using one's vehicle, plus time spent on the activity, and other miscellaneous costs that may be associated with obtaining the information needed to fulfill this part's information collection requirements. Costs of operation and maintenance for the government were based, for purposes of an average, upon a GS 9/5 salaried person @$40,017/year or a cost of $19.24/hour.

Summary

Section 15.4 Will the Department probate all the property in Indian estates?

This section notifies the general public and Indian individuals that the Bureau will only probate trust or restricted property of an Indian decedent. We will not probate: (1) Real or personal property in an estate of an Indian decedent that is not trust or restricted property; (2) restricted property derived from allotments in the estates of members of the Five Civilized Tribes; and (3) trust or restricted interests derived from allotments made to Osage Indians in Oklahoma and Osage Headright interests. (It would take approximately one minute to inform an individual of the above.)

Burden hours = number of probates per year (3,164) divided by 60 minutes = # burden hours per year (53). Burden dollars based on a GS–9/5 @$40,017 per year. $40,017 divided by # of pay periods per year (26) = $1,539.24 divided by # hours per pay period (80) = cost per hour ($19.24). Total annual burden dollars to the government (operations and management) = 53 hours @$19.24 = $1,019.72.

Section 15.101 How do I begin the BIA probate process?

This section tells an individual to report the death of an Indian by bringing in a death certificate to the nearest BIA agency or regional office as soon as possible. If a death certificate does not exist, they are to provide (1) a copy of the obituary notice from a local newspaper; (2) an affidavit of death prepared by someone who knows about the decedent; or (3) any other document that the BIA accepts that verifies the death, such as a church record or a court record. (Death certificates may be obtained from funeral homes, hospitals, coroner, or State Department of Vital Statitistics.) Cost may vary from $.25 for a photocopy to $25.00 for a certified copy. The time involved to obtain a death certificate may range from a five minute telephone call to an all day trip to the State Capital. To compute burden hours and burden costs, we will use the mid-range cost of $10.00 and four hours.

Burden hours = 4 hours multiplied by the number of probates per year (3,164) = 12,656. Note: Approximately 90 percent (%) of the death certificates are supplied by the general public. Ninety percent of 12,656 = 11,390.40 burden hours. The BIA obtains approximately 10 percent (%) of 12,656 = 1,265 burden hours.

Burden costs based on a $10 death certificate multiplied by the total number of probates per year (3,164) = $31,640. Approximately 90 percent (%) of this cost is to the general public for a total of $28,476 and 10% to the BIA for a total of $3,614 to the government.

Section 15.104 Can I get assistance immediately for funeral expenses?

This section states that if an individual is responsible for making funeral arrangements of a decedent who had an IIM account, the BIA may release up to $1,000 for funeral expenses if certain conditions are met. To apply for this benefit, the individual must submit (1) an original itemized receipt, contract or statement for each service; and (2) an affidavit signed by the vendor stating that the service provided is a necessary funeral expense. (We estimate that approximately ¾ of the respondents will request this service.) Itemized statements may take from 5 minutes for computer generated originals to 2 hours for a hand written statement. We use 2 hours here.

Burden hours = ¾ of 3,164 = 2,373 respondents × 2 hours = 4,746 burden hours and a cost of $47,460 to the public.

Section 15.105 Do I need to give the BIA any other documents?

This section requires that respondents supply the BIA with approximately 12 documents, if available. We estimate that it would take respondents approximately 40 hours to acquire all the documents.

Burden hours = 3,164 respondents × 40 hours = 126,560 and a maximum cost to the public of $1,265,600.

Section 15.109 Can I give up my interest if I am an heir?

This section states that if an individual wishes to give up their interest in an estate, they must file a notarized statement to the probate specialist. This should take approximately 1 hour to complete and submit to the BIA. Approximately ¼ of the heirs will sign this type of statement.

Burden hours = ¼ × 3,164 = 791 × 1 hour = 791 and a cost of $7,910 to the public.

Section 15.202 What must the probate package contain?

This section lists all the documents that must be included in a probate package. It takes the BIA approximately 40 hours to assemble all documents, review for accuracy, arrange in order, make additional copies, *etc.*

Burden hours = 3,164 probates × 40 hours = 126,560. This represents a total operations and maintenance cost to the government of $2,437,014.

Section 15.203 What happens after BIA prepares the probate package?

Within 120 days the probate specialist will review the probate package and determine whether to send it to the Attorney-Decision maker or the Administrative Law Judge. If we send the probate package to the Attorney-Decision maker, we will notify all potential heirs that they have 20 days in which to tell us that they want a hearing. We estimate that it would take approximately 5 minutes to check the appropriate square on the notice form and prepare an envelope for mailing.

Burden hours = 3,164 × 5 minutes = 264 and a cost of $2,640 to the public.

Section 15.303 If the decedent owed me money, how do I file a claim?

In this section we explain how to submit a claim if the decedent owed you money. We estimate that there would be approximately 6 claims per probate and that it would take approximately ½ hour to fill out an itemized statement and make 2 copies.

Burden hours = 6 × 3,164 = 18,984 respondents divided by ½ hour = 9,492 and a cost of $94,920 to the public.

Section 15.305 Which claims will be paid first?

We will pay 4 priority claims first: (1) Funeral expenses; (2) medical expenses for last illness; (3) nursing home or other care facility; and (4) claims of the U.S. Government.

Burden hours = 4 respondents per probate = 12,656 divided by ½ hour = 6,328 hours. This represents a total operations and maintenance cost to the government of approximately $121,749.

Section 15.402 How do I file an appeal?

This section explains how to file an appeal. We estimate that approximately ¼ of the probate cases will be appealed. It should not take over 2 hours to write out a statement of reasons for appeal.

Burden hours = ¼ of 3,164 = 791 respondents × 2 hours = 1,582 and a cost of $15,820 to the public.

Section 15.405 If I miss the 60-day appeal period, do I have any other rights?

We estimate that approximately 5% of 3,164 probates will be appealed under the extraordinary appeal process.

Burden hours = 5% of 3,164 = 158 × 2 hours = 316 and a cost of $3,160 to the public.

ESTIMATED BURDEN HOURS [1]

CFR section		Number of respondents	Responses per respondent	Burden per response (hours)	Total annual burden (hours)
115.108	Provide court order to deposit monies in trust account	285,000	1	½	142,500
115.205	Submit an annual plan prior to distribution of trust funds	500	1	16½	8,250
115.210	BIA certifies distribution [1]	1	1,400	½	700
115.214	Provide info. on unclaimed per capita money	75	1	½	37½
115.219	Provide form for withdrawal	500	1	1¼	625
115.320	Provide claim form to stop payment of check	285,000	1	½	142,500
115.328	Provide form for withdrawal of IIM funds	285,000	1	½	142,500
115.338	Provide info. on funeral expenses	285,000	1	½	142,500
115.343	Guardian form contents	1	1,425	N/A	N/A
115.353	Form for Social Service Assessment [1]	1	5,700	10	57,000
115.355	Provide info. on appeal request	285,000	1	1	285,000
115.360	Record keeping req. Review receipts [1]	1	5,700	3	17,100
115.363	Provide info. prior to withdrawal of minor's account	1,425	1	½	712
115.372	Provide info. to restrict your account	285,000	1	1	285,000
115.506	Provide form for hearing	285,000	1	1½	427,500

[1] Indicates Government responsibility in whole or part.

Note: For purposes of this part only, we have used the number 500 where referring to the estimated tribal respondents. Not all federally-recognized tribes will be making distribution requests; however, the majority will have to provide some information to the BIA to receive a benefit from their accounts. The number of individual respondents is noted, in most instances, as 285,000 which is the number of individual Indian accounts on file. While not all individual Indians will make requests from the BIA for some action on their accounts, we have included the total number here to indicate that they might make such requests. Where the section could apply to both individual Indian accounts and tribal accounts (there are 1,400 tribal accounts), the respondent number is identified as 287,000. The cost of reporting and recordkeeping by the public is estimated to be approximately $10/hour. We have used this figure as a medium figure that would indicate the cost of having a form typed, the cost of taking an hour's time off work, the cost of using one's vehicle, plus time spent on the activity, and other miscellaneous costs that may be associated with obtaining the information needed to fulfill this part's information collection requirements. The large cost to the public would be realized ONLY if all account holders were providing information to receive a particular benefit. While we do not anticipate this occurrence, we have estimated for the maximum cost to the public for purposes of this review. Costs of operation and maintenance for the government were based, for purposes of an average, upon a GS 9/5 salaried person @$40,017/year or a cost of $19.24/hour.

Summary

Section 115.108 When funds are awarded or assessed by a court of competent jurisdiction involving trust lands or resources, what documentation is required to deposit the funds into a trust account?

This section requires that the respondent forward to OTFM a court order to have certain monies deposited into individual Indian or tribal accounts. The tribe is allowed to deposit these monies into their trust accounts only if it is operating a program under the Indian Self-Determination and Education Assistance Act.

Burden hours = 287,000 individual Indian and tribal respondents × ½ hour = 142,500 hours and a cost of $1,425,000.

Section 115.205 Does a tribe have to submit an annual budget for use of its trust funds?

Approximately 500 tribes would submit an annual plan, even though not specifically required to do so, showing projected cash flow needs. This enables OTFM to plan investments accordingly. This task would involve a tribal account to spend approximately 16½ hours (2 working days) to make such assessments. Approval by the tribal council or other appropriate tribal

governing body is not included in this burden estimate.

Burden hours = 500 tribal entities × 16½ hours = 8,250 hours and a cost of $82,500.

Section 115.210 How will the BIA assist in the administration of tribal judgment fund accounts?

The BIA will certify a tribal request for distribution of judgment funds. The review of a tribal request is typically made pursuant to a tribal distribution plan. The plan has been reviewed beforehand, as a rule, and the certification here would not involve a time burden greater than ½ hour per request for the government at a cost of approximately $13,468.00 (½ hour × 700 hours × $19.24/hour).

Section 115.214 May the OTFM return money in a tribal per capita account to a tribal account?

In the rare instance where tribes have not already filed for a return of unclaimed judgment fund accounts, the procedure pursuant to Pub. L. 87–283 would only require ½ hour to complete—once accounts have been identified. We estimate approximately 75 tribes would have such unclaimed judgment fund accounts necessitating information collection authorization, the completion of a form particular to Pub. L. 87–283.

Burden hours = 75 tribal entities × ½ hour = 37½ hours and a cost of $375.

Section 115.219 How does a tribe request money from its trust account?

This provision describes the process involved with tribal requests for funds distribution. Preparing the request and having it signed will take approximately ½ hour. Drafting a tribal resolution and then having it voted through by a tribal executive action would entail approximately 1 additional hour. The alternative authorization noted in 25 CFR 1200 (B) would entail ½ hour preparation by a tribal employee. We estimate a 50/50 split on time with respect to passing a tribal resolution or completing an application pursuant to 25 CFR 1200(B).

Burden hours = 500 tribes × 1¼ hours (the difference between a tribal resolution and 25 CFR 1200(B)) = 625 hours and a cost of $6,250.

Section 115.320 What happens if I lose my check or I do not receive my check because it was stolen?

All 285,000 individual IIM account holders may claim a lost or stolen check, request a copy of a canceled check, or ask for a stop payment on a check. In any instance, this would not have an hour burden greater than ½ hour to file the proper notice/request for such service.

Burden hours = 285,000 accounts × ½ hour = 142,500 hours and a cost of $1,425,000 to the public.

Section 115.328 How do I withdraw money from my IIM account?

These provisions allow individual Indian money account holders to withdraw monies from their account upon a written request. All 285,000 individual Indian money account holders could ask for certain withdrawals from their unrestricted accounts. This direction to the Secretary would take approximately ½ hour.

Burden hours = 285,000 account holders × ½ hour = 142,500 hours and a cost of $1,425,000 to the public.

Section 115.338 May money in an IIM account be withdrawn after the death of an account holder but prior to the end of the probate proceedings?

Upon proper authorization, designated persons may apply for emergency funeral expenses (up to $1,000) from an Indian decedent's IIM account. These expenses will only be paid to the vendor and not to the individual requesting the monies. All 285,000 account holders (or those making their funeral arrangements) may avail themselves of this special distribution of an IIM account under probate. The person making such a request must submit information on the nature of the expense and the person to whom payment is to be directly made.

Burden hours = 285,000 account holders × ½ hour = 142,500 hours and a cost of $1,425,000 to the public.

Section 115.343 What are the qualifications for guardians who manage IIM accounts for individual account holders?

This section details the requirements for becoming a guardian of an IIM account. We note this here because it is the form (its necessary contents) that is required by BIA. The BIA estimates 1,425 IIM accounts have guardians assigned to them.

Section 115.353 What information must be included in a social services assessment?

The BIA is responsible for making social service assessments, as necessary. The information included in this assessment would entail at least 2 hours of review once the information had been collected. Since the collection would be the primary task of the BIA, it is estimated that 8 hours would be required to compile, review and organize the file for a social service assessment. A total government hour burden is estimated, therefore, at 10 hours per assessment. There are an average of 5,700 social service assessments completed in any given year.

Burden hours = 5,700 assessments × 10 hours = 57,000 hours. This represents a government operations and maintenance expense of $1,096,680.

Section 115.355 How may I challenge a decision to place my account in supervised status?

All 285,000 individual Indian account holders could have a supervised status account upon which they could file an appeal for review. The time to make this appeal would be approximately 1 hour, unless extenuating circumstances were involved. This section is really making notice of an appeal—not arguing the appeal itself.

Burden hours = 285,000 × 1 hour = 285,000 hours and a cost of $2,850,000.

Section 115.360 What is the review process for a supervised account?

The BIA must thoroughly review an account that is being supervised to ensure that the monies distributed were pursuant to an approved plan and that supervision is or is not further recommended. This review would entail approximately 2 hours to compile and review information regarding the account and approximately 1 hour to formulate a recommendation—totaling a government burden of 3 hours per review. We have used 5,700 as the number of responses here because there are 5,700 social service assessments completed (in furtherance of a supervised account) done per year.

Burden hours = 5,700 reviews × 3 hours = 17,100 hours × $19.24/hour = $329,004 operations and maintenance expense to the government.

Section 115.363 When will the BIA authorize withdrawals from a minor's account?

The guardian of a minor's judgment account must make application under Pub. L. 97–458 for withdrawals from such accounts. For other minor's IIM accounts, the guardian must act pursuant to a distribution plan. We have used 1,425 as the number of respondents providing information for authorization for withdrawals since it is estimated that BIA administers 1,425 IIM accounts with a designated guardian. It would take approximately ½ hour to make such application for withdrawal pursuant to Pub. L. 97–458 or pursuant to a simple request in accordance with an approved distribution plan.

Burden hours = 1,425 guardian accounts × ½ hour = 712 hours and a cost of $7,120.

Section 115.372 What type of encumbrances may I place on my IIM account?

All 285,000 individual Indian money account holders may request a voluntary encumbrance upon their account. The BIA will so encumber the account only upon receiving the appropriate information (physician prescription or recommendation) from the account holder. It is estimated that it would take 1 hour to secure such information and mail or deliver to the appropriate BIA office.

Burden hours = 285,000 account holders × 1 hour = 285,000 hours and a cost of $2,850,000.

Section 115.506 How do I request a hearing to challenge the BIA's decision to restrict my IIM account?

All 285,000 individual Indian money account holders could request a hearing if their account was being placed under supervision. The BIA will only provide such a hearing, however, if the account holder provides the necessary information in the form of a letter to set up a hearing. This letter of appeal would take approximately 1½ hours to complete and mail.

Burden hours = 285,000 account holders × 1½ hours = 427,500 hours and a cost of $4,275,000.

ESTIMATED BURDEN HOURS

CFR section	Number of respondents	Responses per respondent	Burden per response	Total annual burden (hours)
162.7 Landowner provides information [1] to make objection to tribal policy	1	500	30 min	250
	500	1	30 min	250
162.8 Provides notification of new laws [1]	1	14,500	30 min	7,250
	14,500	1	30 min	7,250
162.12 BIA review of all leases [1]	1	14,500	2 hrs	29,000 hrs
162.14 BIA recordation of all leases [1]	1	14,500	30 min	7,250 hrs
162.18 BIA approval of lease form [1]	14,500	1 hr	1	14,500
14,500			1 hr	14,500
162.20 Maintenance of certified plat [1]	1	14,500	¼ hr	3,625 hrs
162.22 Review/Approve loans [1]	1	14,500	1 hr	14,500 hrs
	14,500	1	1 hr	14,500
162.30 Report disposition of construction improvements [1]	1	14,500	1 hr	14,500
162.32 Report on rental due dates [1]	1	14,500	15 min	3,625
162.37 Report on late rental payments [1]	1	3,625	15 min	906.25
162.48 Bond forms [1]	1	14,500	30 min	7,250
	14,500	1	1 hr	14,500
162.52 Insurance requirements [1]	1	14,500	15 min	3,625 hrs.
	14,500	1	1 hr	14,500
162.61 Negotiated & bidder lease approvals [1]	1	14,500	3 hrs	43,500
162.68 Report on minor's benefit	1	145	30 min	72
162.82(a) Provide business records	587	1	30 min	293.5
162.82(b) Provide appraisals/financial info.	587	1	1 hr	587
162.82(c) Provide financial statements and Credit reports	587	1	1 hr	587
162.82(d) New construction requirements	587	1	1 hr	587
162.83 Deviation of fair annual rental rate	725	1	1 hr	725
162.113 Provide information to waive fees [1]	1	145	30 min	72.5
	145	1	1 hr	145
162.126 Decision letter—form [1]	1	145	30 mins	72.5
162.164 Provide info. on disputed trespass	3,625	1	30 mins	1,812.5

[1] Indicates Government responsibility in whole or part.

Note: There are approximately 51,213 tribal and 50,505 individual Indian surface leases and permits. For purposes of this information collection request, however, we have used the number of 14,500 as the average number of new cases (or lease actions) that occur in a given year. We have used this average number because for the information collection requirements to be triggered a lease action would have to be initiated. Therefore, the use of the larger number (101,718 tribal/individual leases and permits) would not accurately reflect the activity realized by the public or the bureau in the administration of leases and permits on tribal and Indian lands. Other baseline figures are explained in the section summary below. The cost of reporting and recordkeeping by the public is estimated to be approximately $10/hour. We have used this figure as a medium figure that would indicate the cost of having a form typed, the cost of taking an hour's time off work, the cost of using one's vehicle, plus time spent on the activity, and other miscellaneous costs that may be associated with obtaining the information needed to fulfill this part's information collection requirements. Costs of operation and maintenance for the government were based, for purposes of an average, upon a GS 9/5 salaried person @$40,071/year or a cost of $19.24/hour.

Summary

Section 162.7 May individual Indian landowners exempt their land from tribal policies for leasing on Indian agricultural lands?

Indian landowner(s) of a tract or an individual interest having at least 50% interest in such tract may exempt their Indian land from tribal policies by submitting a written objection to the BIA. This burden goes to the individual submitting the letter of objection to the BIA and to the BIA for receiving the letter and acting upon the objection and subsequently notifying the respective tribe of the objection and exemption.

Burden hours = 500 (average number of objections received by the BIA) written letters of objection × ½ hour to complete letter and deliver to the BIA = 250 burden hours and a cost of $2,500 to the public. Burden hours realized by the BIA to receive the letters of objection and subsequently notify the respective tribe of the objection and exemption of certain Indian lands from tribal = 500 × ½ hour = 250 burden hours and an estimated governmental

operations and maintenance cost of $4,810.

Section 162.8 What notifications are required that tribal law applies to a lease on Indian agricultural land?

Tribal laws apply to tribal lands. Therefore, tribes must notify affected landowners of applicable tribal laws. The tribes will have to provide information to the BIA of the content, record of public notice and hearings, and effective dates of new tribal laws. The BIA will, in turn, notify any persons or entities undertaking activities on Indian lands of applicable tribal laws. This information burden goes to the tribe in informing the BIA of the applicable laws and, also, goes to the BIA in properly informing the affected public.

Burden hours = 14,500 leases which may be affected by tribal laws × ½ hour to prepare submission of information to the BIA = 7,250 burden hours and a cost to the public of $72,500. Burden hours realized by the BIA = 14,500 potential tribal submissions × ½ hour of time for recordkeeping and notification to affected persons = 7,250 burden hours and an estimated governmental operations and maintenance expense of $19.24/hour × 7,250 hours = $139,490.

Section 162.12 How will the Secretary decide whether to grant and/or approve a lease?

This section describes the various elements that go into the BIA review and approval of leases on Indian lands. This includes the preparation of appropriate environmental documents and review of community impacts. This is a governmental burden estimated to take an average of 2 hours per review (some reviews will take less time, but some will consume twice this estimate, so an average of 2 hours is used here) × 14,500 new cases per year = 29,000 burden hours to the government. The estimated governmental operations and maintenance expense is estimated at $19.24/hour × 29,000 burden hours = $557,960.

Section 162.14 Must a lease be recorded?

All leases in excess of 1 year must be recorded. All new cases initiated were in excess of 1 year (in many cases for periods of 5 years or more) and, therefore, we have used the average number of new cases (14,500) as the baseline for computation of the burden hour. Recording each lease would take an average of ½ hour to process.

Burden hours = 14,500 new cases × ½ hour for processing = 7,250 hours. The governmental operations and maintenance expense is estimated to be $19.24/hour × 7,250 burden hours = $139,490.

Section 162.18 Is there a standard lease form?

There is no standard lease form. However, all leases made pursuant to these regulations must be in a form approved by the BIA. It is estimated that it would take both the tribal entity (tribal government/Indian landowner) and a realty specialist and/or clerk an average of 1 hour to complete and review all the components of a proposed lease to ascertain whether or not it contained all the necessary elements for BIA review and approval of the lease.

Burden hours = 14,500 new cases × 1 hour = 14,500 and a cost to the public of $145,000 and a governmental operations and maintenance expense of $19.24/hour × 14,500 = $278,980.

Section 162.20 How is leased land described?

The land described in a lease must be described by aliquot parts or by a certified plat by a registered surveyor. It is the responsibility of the BIA to provide this accurate description of the land being leased. It is estimated that it would take approximately ¼ hour to review the proposed lease for description by aliquot parts or order a certified plat, receive the plat, and commit its description to the lease document.

Burden hours = 14,500 new cases × ¼ hour = 3,625 hours and a governmental operations and maintenance expense of $19.24/hour × ¼ hour or $69,745.

Section 162.22 May a lease be used as collateral for a leasehold?

The BIA may approve a lease authorizing the lessee to encumber his leasehold interest for the development and improvement of the leased premises. The BIA must approve the leasehold mortgage. This will require that the BIA review the loan documents, the lease, and approve the subsequent loan for development and/or other improvements to the premises. This will involve a burden to the public in providing the appropriate documents for BIA review and the time spend by the BIA for subsequent approval.

Burden hours = 14,500 new cases × 1 hour = 14,500 burden hours or a cost to the public of $145,000. Burden hours for the government = $14,500 new cases × 1 hour = 14,500 burden hours for a governmental operations and maintenance expense of $278,980.

Section 162.30 What happens to improvements constructed on Indian lands when the lease has been terminated?

If improvements are to be constructed on the land, the lease must have a provision that allows that such improvements remain on the lands upon termination of the lease or are removed within a time period specified in the lease. It is the responsibility of the BIA to ensure that such lease provision is included if improvements are to be constructed on Indian land. This is a form requirement—the inclusion of a provision to the lease. To make the appropriate inquiry of the lessor and lessee regarding construction improvements and include a provision to the lease to stipulate the understanding between lessor and lessee would take approximately 1 hour by the appropriate BIA realty specialist.

Burden hours = 14,500 new cases × 1 hour = 14,500 hours for a governmental operations and maintenance expense of $19.24/hour × 14,500 hours = $278,980.

Section 162.32 When must a lease payment be made?

Rents are due and payable by the payment date specified in the lease. In order to determine whether lease payments are in arrears, the BIA realty specialist or clerk will have to review every rental payment against every lease. It would take an average of ¼ hour to match check to lease × 14,500 new cases.

Burden hours = 14,500 new cases × ¼ hour = 3,625 hours and a governmental operations and maintenance expense of $19.24/hour × 3,625 = $69,745.

Section 162.37 Is there a penalty for late payment on a lease?

A lease will contain a provision that specifies the late payment penalty that will be assessed and collected for late payment. On the average 25% of the leases are delinquent each year. Therefore, we have used 25% of the number of new cases (14,500) or 3,625 as the baseline for determining burden hours to the government. It would take approximately ¼ hour to assess the delinquency and inform the lessee of the deficiency.

Burden hours = 3,625 delinquent cases × ¼ hour = 906.25 hours and a governmental operations and maintenance expense of $19.24/hour × 906.25 = $17,432.

Section 162.48 What forms of bonds will the BIA accept?

This section describes the various forms of bonds that the BIA will accept as surety of a lease. Each form has its

own special requirements for acceptance. The lessee must provide the BIA with the appropriate bond form and then the BIA, in turn, must process the form and ensure that it is adequate for surety. This imposes a burden on the public of 1 hour to obtain the appropriate bond form and a burden on the government of ½ hour for processing.

Burden hours = 14,500 new cases × 1 hour = 14,500 burden hours and a cost to the public of $145,000. Burden hours for the government will 14,500 cases × ½ hour = 7,250 burden hours and a governmental operational and maintenance expense of $19.24/hour × 7,250 burden hours = $139,490.

Section 162.52 What types of insurance may be required?

The BIA may require any or all of the following types of insurance depending upon the activity conducted under the lease: property and liability; casualty: fire, flood, hazardous materials. This will involve a burden upon the public of providing the appropriate insurance documents to the BIA for their review and the BIA subsequently certifying that appropriate insurance has been taken for the particular type of leasehold proposed. The burden hours are estimated to be 1 hour for the lessee and ¼ hour for the BIA to certify once documents have been provided.

Burden hours = 14,500 new cases × 1 hour = 14,500 burden hours and a cost of $145,000 to the public. Burden hours for the government = 14,500 new cases × ¼ hour = 3,625 burden hours × $19.24/hour = $69,745.

Section 162.61 How do I acquire a lease on Indian land?

This section describes that there are two ways to acquire a lease on Indian land—by negotiated or advertised bid. Both vehicles involve the collection and maintenance of certain documents by the BIA and its subsequent approval of the lease, in whatever form. This section deals with the mechanisms required by the BIA to secure necessary information and its steps for completing the leasing process. It is estimated that the BIA will spend up to 3 hours to ensure that all elements of a negotiated or advertised bid lease have been met and are properly recorded and maintained for the Indian landowner.

Burden hours = 14,500 new cases × 3 hours = 43,500 hours and a governmental operations and maintenance expense of $19.24/hour × 43,500 = $836,940.

Section 162.68 Must the parents or guardians of minors who own Indian land obtain a lease before using the land?

A parent, guardian, or other person standing *in loco parentis* does not need to obtain a lease for lands owned by their minor children if those minor children own 100% of the land and the minor children directly benefit from the use. Only 1% of the new leases that are entered into every year (of 14,500 new cases on the average) involve minors who own Indian land. Therefore, we have used 145 minor cases as the baseline to ascertain burden hours to the government. It is the responsibility of the BIA to ascertain whether or not the minor Indian landowners obtain a benefit from a proposed lease; therefore, this section deals only with the estimated ½ hour burden to the government in its administration of each of those 145 minor cases.

Burden hours = 145 minor cases × ½ hour = 72 burden hours for a governmental operations and maintenance expense of $19.24 × 72 burden hours = $1,385.

Section 162.82 What supporting documents must I provide?

This section details the required supporting documents that must be submitted for certain business leases on Indian lands. This section applies to corporations, limited liability companies, partnerships, joint ventures, or other legal entities doing business on Indian lands. There are approximately 587 new business lease cases per year as reported by the BIA. Therefore, we have 587 business cases as the baseline for determining the burden hours for this section. It is estimated that it would take 30 minutes to provide business records 162.73(a), and 1 hour to provide appraisals, financial information, financial statements, credit reports, and new construction requirement as listed in 162.73 (b)–(d). We have used the total 3 ½ hours as the burden hour × 587 new business leases to determine total burden hours.

Burden hours = 587 new business leases × 3 ½ hours = 2,054.5 total burden hours and a cost to the public of $20,545.

Section 162.83 How much rent must a lessee pay?

This section is noteworthy in that it allows approval of a negotiated lease of tribal land or individually-owned land for less than a fair annual rental if it is in the best interest of the tribe (a determination for the tribe and the BIA) or if the lease is for religious, educational, recreational or other public purposes or is a lease within the lessor's family. Only 5% of the new cases administered by the BIA fall under this extraordinary less-than-fair-annual-rental provision. Therefore, we have used the number of 725 extraordinary leases as the baseline for determining burden hours to the public. It is estimated that it would take approximately 1 hour for each instance of an extraordinary lease to be explained and otherwise justified to the appropriate BIA realty specialist for subsequent approval.

Burden hours = 725 extraordinary lease cases × 1 hour = 725 total burden hours and a cost to the public of $7,250.

Section 162.113 May the Secretary waive administrative fees?

The administrative fee, based on annual rental, can be waived for a justifiable reason. Only 1% of the new cases administered per year (average 14,500 new cases per year) ask for a waiver of administrative fees. Therefore, we have used the number 145 as the number of waiver cases per year to determine burden hours. It is estimated that it would take ½ hour for a waiver claim to be made by a lessee either in writing or in person to the appropriate BIA realty officer. It is estimated that the government would spend approximately ½ hour to process and approve a waiver request.

Burden hours = 145 waiver cases × 1 hour = 145 hours and a cost to the public of $1,450. The burden hours for the government = 145 waiver cases × ½ hour for process = 72.5 hours and a governmental operations and maintenance expense of $1,387.

Section 162.126 What happens if you do not cure a lease violation?

This section explains what happens if a lease violation is not cured and gives specific contents required in a letter to the lessee for an alleged lease violation. This a form requirement for the government. Since this instance of non-cured violations occurs only 1% of the time, we have used 1% of the total 14,500 new cases to arrive at the number 145 as the baseline for determining burden hours. It is estimated that it would take the appropriate BIA realty officer ½ hour to prepare and mail a letter with all the attending requirements of this section.

Burden hours = 145 violation cases × ½ hour = 72.25 hours and a governmental operations and maintenance expense of $19.24/hour × 72.25 hours = $1,387.

Section 162.164 What can I do if I receive a trespass notice?

This section details what a person found in a trespass violation must do within a specific time frame for his case to be finally disposed. The lessee will have to comply with the notice of trespass or submit an explanation to the BIA as to why a trespass violation should not be rendered. Approximately 25% of the new lease cases have a resulting trespass violation alleged. Therefore, we have used 25% of the 14,500 new cases (3,625) to use as a baseline for determining burden hours. It is estimated that the submission of an explanation to the appropriate BIA realty officer would entail ½ hour to compose and deliver.

Burden hours = 3,625 trespass violation cases × ½ hour = 1,812.5 total burden hours and a cost of $18,125 to the public.

ESTIMATED BURDEN HOURS

CFR section	Number of respondents	Reponses per respondent	Burden per response	Total annual burden (hours)
166.106 Form/Requirements [1]	1	1,000	1	1,000
166.108 Permit Recording [1]	1	1,000	¼	250
166.124 Provide info. for loan [1]	100	1	½	50
	1	100	½	50
166.122 Form for advertisements [1]	1	1,000	2	2,000
166.123 Forms for permits [1]	1	1,000	1	1,000
	1,000	1	1	1,000
166.138 Forms for amendments, assignments, modifications, subpermits, *etc.* 1	1	1,000	¼	250
	1,000	1	½	500
166.206 Provide info. on livestock class	200	1	½	100
166.207 Provide info. on livestock care [1]	1,000	1	¼	250
166.209 Removal of improvements [1]	1	100	½	50
166.210 Provide tribal integrated resource mgmt. plan	250	1	2	500
166.211 Develop conservation plan[1]	250	1	2	500
166.303 Provide info. on public notices/hearings	250	1	½	125
166.601 Provide info on bond requirements [1]	1	1,000	½	500
166.602 Forms of bonds[1]	1	1,000	½	500
166.607 Provide insurance information [1]	1	1,000	¼	250
166.703 Form for letter of violation [1]	1	100	½	50
166.803 Form for trespass notice [1]	1	100	½	50
166.804 Provide info on trespass violation	100	1	½	50
166.809 Provide info on ownership	50	1	¼	12.5

[1] Indicates Government responsibility in whole or part.

Note: There are approximately 1,000 new grazing permit cases each year that are administered through the BIA. Because information collection requirements would not be triggered unless and until a new case is initiated, we have used 1,000 as our baseline for tribal and individual Indian respondents. Other numbers in reference to tribal or individual Indian respondents are explained below. The cost of reporting and recordkeeping by the public is estimated to be approximately $10/hour. We have used this figure as a medium figure that would indicate the cost of having a form typed, the cost of taking an hour's time off work, the cost of using one's vehicle, plus time spent on the activity, and other miscellaneous costs that may be associated with obtaining the information needed to fulfill this part's information collection requirements. For purposes of governmental operations and maintenance expense, we have used the salary of a GS–9/5 as the average salary base. This would be approximately $19.24/hour and is reflected as such in total governmental expenses.

Summary

Section 166.106 What provisions must be contained in a permit?

This section describes the minimal elements that must be included in a permit. BIA will not approve a grazing permit unless these elements are present, in some form, to satisfy minimum contractual needs. This is the responsibility of the BIA to review the content and form of the permit. It is estimated that it would take the BIA one hour to review and approve the contents of this form.

Burden hours = 1,000 new permit cases × 1 hour = 1,000 hours for a governmental operations and maintenance cost of $19.24/hour = $19,240.

Section 166.108 Are permits recorded?

This is a recordkeeping requirement of the BIA. All permits must be recorded with the Land Titles and Records Offices in the region that covers the permitted area. It is estimated that it would take ¼ hour to receive and properly record these permits pursuant to 25 CFR 150 *et seq.*

Burden hours = 1,000 new permit cases × ¼ hour = 250 hours for a governmental operations and maintenance cost of $19.24/hour = $4,810.

Section 166.124 Can I use a permit as collateral for a loan?

We have estimated that approximately 100 permit holders submit information to the BIA for their approval to encumber the permit interest for the development and improvement of the permitted Indian land. It would take approximately ½ hour for the permit holder to submit this information to the BIA and another ½ hour for the BIA to review that information to approve the further encumbrance.

Burden hours = 100 loan applicants × ½ hour = 50 burden hours to the public and a cost of $500 to the public. Burden for the government = 100 loan applicants × ½ hour = 50 burden hours for a governmental operations and maintenance cost of $19.24/hour × 50 hours = $962.00.

Section 166.122 How do I acquire an advertised permit through competitive bidding?

This section describes the 3 ways permits may be acquired. The tribe may grant permits on range units containing trust or restricted land which is entirely tribally owned or which contains only

tribal and government land under the control of the tribe. The BIA will grant permits for range units containing, in whole or part, individually owned Indian land and range units that consist of, in whole or part, tribal or government land. A permit may be acquired, also, be negotiation between the parties. In all instances such permits must be properly advertised, negotiated, or terms otherwise determined by an equitable standard. While this will entail the tribe or Indian individual to do certain things, it is the responsibility of the BIA to ensure that the permitting process has been conducted in accordance with such equitable standards. It is estimated that, whichever method of permit process is used, it will take the BIA approximately 2 hours to review the form and subsequently approve the permit. Agency form 5–5514 would be utilized for portions of this information.

Burden hours = 1,000 new permit cases × 2 hours = 2,000 burden hours for a governmental operations and maintenance expense of $19.24/hour × 2,000 hours = $38,480.

Section 166.123 Are there standard permit forms?

There are standard permit forms, including bid forms, permit forms, and permit modification forms. These forms are available at the various BIA agency offices. We have estimated the hourly burden to be approximately 1 hour for the public in submitting any type of form and approximately 1 hour for the BIA to receive, record and maintain. Agency forms 5–5515, 5–5516, 5–5517, 5–5524, 5–5525, and 5–5528 would be utilized for portions of this information collection.

Burden hours = 1,000 new permit cases × 1 hour = 1,000 total burden hours and a cost of $10,000 to the public. Burden hours for the government are estimated at 1,000 new permit cases 1 hour = 1,000 burden hours for a governmental operations and maintenance expense of $19.24/hours × 1,000 hours = $19,240.00.

Section 166.138 Other than to remove land, how can a permit be amended, modified, assigned, transferred, or subpermitted?

This section describes the elements that must be included in any permit amendments, modifications, etc. Each instance requires approval by the BIA. It is estimated that it would take approximately ½ hour for a tribal entity or individual Indian to fill out the requisite form/format for a change in the permit and ¼ hour for the BIA to record and maintain this change. Agency forms 5–5522 and 5–5523 would be utilized for portions of this information collection.

Burden hours = 1,000 new permit cases × ½ hour = 500 total burden hours and a cost of $5,000 to the public. Government burden is calculated at 1,000 new permit cases × ¼ hour = 250 hours at a governmental operations and maintenance expense of $19.24/hour × 250 hours = $4,810.00.

Section 166.206 What livestock can I graze on permitted Indian land?

This section allows the tribe to determine the class of livestock that may be grazed on range units composed entirely of tribal land or in combination with government land, subject to grazing capacity. Also, this section notes that the BIA will adopt the tribal determination of this class of livestock if it is consistent with a determination of grazing capacity. In both instances, information must be provided with respect to the range in question, class of livestock, and an approved grazing determination. The tribal entity or individual Indian would have to provide this information which we have determined would take approximately ½ hour to compile. This sort of classification on tribal lands would happen on an average of 200 instances per year. Agency forms 5–5526 and 5–5527 could be utilized for portions of this information collection.

Burden hours = 200 new cases × ½ hour = 100 total burden hours and a cost of $1,000 to the public.

Section 166.207 What must a permittee do to protect livestock from exposure to disease?

Permittees must vaccinate, treat exposed animals, and restrict movement of exposed or infected livestock. We have used a baseline of 1,000 new permit cases here because all new grazing permits would require that livestock, of whatever nature and in whatever identified range unit, comply with this standard of care. It is estimated that it would take ½ hour for the tribal entity or individual Indian to provide this information the appropriate BIA office and ½ hour for that office to record and process this information for compliance with this health standard.

Burden hours = 1,000 new permit cases × ¼ hour = 250 total burden hours and a cost of $2,500 to the public. Burden for the government is estimated at 1,000 new permit cases × ¼ hour = 250 hours for a governmental operations and maintenance expense of $19.24/hour × 250 hours = $4,810.00.

Section 166.209 What happens to improvements constructed on Indian lands when the permit has been terminated?

This section allows improvements to be removed on permitted Indian land if proper provision has been made in the permit. An extension of time may, also, be provided for in the permit's provisions. This is the responsibility of the BIA to review these ''removal of improvements'' provisions, record them, and allow for removals as prescribed in the permit. Improvements to the land are accounted for in approximately 10% of the new cases in any given year, or approximately 100 cases. It is estimated that it would take ½ hour to facilitate this recordkeeping.

Burden hours = 100 new cases involving improvements on Indian land × ½ hour = 50 hours for a governmental operations and maintenance expense of 50 hours × $19.24/hour = $962.00.

Section 166.210 Is an agricultural resource management plan required?

Section 166.211 Is a conservation plan required?

An agricultural resource management plan must be developed either by the tribe or by the BIA in consultation with the affected tribe(s). This plan should be consistent with the tribe's integrated resource management plan. We estimate that tribal conservation officers and/or environmental compliance officers for the tribe, in consultation or not in consultation with the BIA, would require a minimum of 2 hours to work up an agricultural resource management plan consistent with their integrated resource management plan. We have used a baseline of 250 tribes as being the number of tribes in any given year that would be allowing grazing on their lands subject to these plans. This number could be much reduced, depending upon the frequency of newly permitted grazing activities and renewals of existing plans.

Burden hours = 250 tribal entities requiring an agricultural resource management plan × 2 hours = 500 burden hours and a cost of $5,000 to the public for such production of plans.

Section 166.303 What notifications are required that tribal laws apply to permits on Indian agricultural lands?

Tribal grazing laws apply to permits on tribal and individually owned Indian land under tribal jurisdiction. However, tribes must notify the BIA of the record of public notices and hearings, and the content and effective dates of new tribal grazing laws. We have used a baseline of 250 tribes as providing the BIA

information on such new tribal grazing laws as a high-end average. This number could be greatly reduced in proportion to the number of new grazing laws enacted every year. This notification to the BIA would take approximately ½ hour for each new instance.

Burden hours = 250 instances of newly enacted tribal grazing laws × ½ hour = 125 total burden hours and a cost of $1,250 to the public.

Section 166.601 How is the amount of the bond determined?

The BIA will determine the amount of the bond based upon the value of one year's grazing rental payment, the value of improvements constructed, the cost of performance of any additional obligations, and the cost of restoration and reclamation. In addition, the BIA can adjust the security or bond requirements at any time, depending upon the circumstances. The BIA will collect this information from available sources on file and make such determination of bond amount. It is estimated that it would take approximately ½ hour to evaluate these variables and determine the appropriate bond.

Burden hours = 1,000 new permit cases × ½ hour = 500 hours for a governmental operations and maintenance expense of $9,620.00

Section 166.602 What form of bonds will the BIA accept?

The BIA will only accept bonds in cash, negotiable Treasury securities, certificates of deposit, or irrevocable letters of credit. This is a recordkeeping responsibility of the BIA and is estimated to take approximately ½ hour to review and accept for appropriate security. Agency forms 5–5519 and 5–5423 can be used for portions of this information collection.

Burden hours = 1,000 new permit cases × ½ hour = 500 hours for a governmental operations and maintenance expense of $9,620.00

Section 166.607 What types of insurance may be required?

The BIA may require a permittee to provide insurance in an amount sufficient to protect any improvements on the permit premises, cover losses such as personal injury or death, and protect the landowner's interests. This is a responsibility of the BIA and the agency will review each permit case to determine what sort of insurance coverage is necessary for the proposed permitted use. This review would take approximately ¼ hour to complete.

Burden hours = 1,000 new permit cases × ¼ hour = 250 burden hours for a governmental operations and maintenance expense of $4,810.00.

Section 166.703 What will a written notice of a violation contain?

This section details the form the BIA will use to inform a permittee that his permit is in violation. This is a recordkeeping responsibility for the agency and will take approximately ½ hour to compose and send to the permittee.

Burden hours = 100 permit violations × ½ hour = 50 hours for a governmental operations and maintenance expense of $19.24/hour × 50 hours = $962.00

Section 166.803 How are trespassers notified of a trespass determination?

This section details what must be included in a written notice of trespass. This is a responsibility of the BIA and would be realized upon approximately 100 alleged trespassers in any given year. To send such a written notice would take approximately ½ hour in order to compile the particulars of the trespass and properly inform the alleged trespasser of his rights.

Burden hours = 100 trespass violations × ½ hour = 50 hours for a governmental operations and maintenance expense of $19.24/hour × 50 hours = $962.00.

Section 166.804 What can I do if I receive a trespass notice?

If an alleged trespasser wishes to contest a trespass notice, he must contact the agency in writing to explain why the trespass is in error. We have used 100 trespass violations as the baseline for the computation of burden hours and an estimated ½ hour to complete a letter of explanation to the agency.

Burden hours = 100 notices of trespass × ½ hour to respond = 500 total burden hours and a cost of $5,000 to the public.

Section 166.809 What happens after my unauthorized livestock or other property are impounded?

In those cases where livestock or other property have been impounded due to a trespass violation, the trespasser may redeem his property by providing proof of ownership. We estimate only 50 cases of impoundment per year and the requirement of showing proof of ownership to not exceed ¼ hour.

Burden hours = 50 impoundment cases × ¼ hour = 12.5 total burden hours and a cost of $125 to the public.

F. Review Under Executive Order 13132 Federalism

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. While this proposed rule will impact tribal governments, there is no Federalism impact on the trust relationship or balance of power between the United States government and the various tribal governments affected by this rulemaking. Therefore, in accordance with Executive Order 13132, it is determined that this rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

G. Review Under the National Environmental Policy Act of 1969

This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is necessary for this proposed rule.

H. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the Act, the Department generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. This proposed rule will not result in the expenditure by the state, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. The Department, however, has determined that because the proposed rulemaking will uniquely affect tribal governments it will follow Departmental and Administration protocols in consulting with tribal governments on the rulemaking. These consultations will be in keeping with the President's Executive Order 13084, ''Consultation and Coordination with Indian Tribal Governments.'' Consequently, tribal governments will be notified through this publication in the **Federal Register** and through the field offices of the BIA of the

ramifications of this rulemaking. This will enable tribal officials and the affected tribal constituency throughout Indian Country to have meaningful and timely input in the development of the final rule. This will reinforce good intergovernmental relations with tribal governments and better inform, educate, and advise such tribal governments on compliance requirements of the rulemaking.

List of Subjects

25 CFR Part 15

Estates, Indians-law.

25 CFR Part 114

Accounting, Indians = business and finance.

25 CFR Part 115

Administrative practice and procedure, Indians-business and finance.

25 CFR Part 162

Indians-lands.

25 CFR Part 166

Grazing lands, Indians-lands, Livestock.

For the reasons stated in the preamble, the Department of the Interior, Bureau of Indian Affairs, proposes to amend 25 CFR as follows:

PART 15—PROBATE OF INDIAN ESTATES, EXCEPT FOR MEMBERS OF THE FIVE CIVILIZED TRIBES

1. Part 15 is revised to read as follows:

Subpart A—Introduction

Sec.
15.1 What is the purpose of this part?
15.2 What terms do I need to know?
15.3 Will the Department probate all the property in Indian estates?
15.4 How does the probate process work?

Subpart B—Starting the Probate Process

15.101 How do I begin the BIA probate process?
15.102 May I notify the BIA of a death if I'm not related to the decedent?
15.103 Is there a deadline for notifying the BIA of a death?
15.104 Can I get assistance immediately for funeral expenses?
15.105 Do I need to give the BIA any other documents?
15.106 Will the BIA wait to begin the probate process until it is notified of the decedent's death?
15.107 Who prepares an Indian probate package?
15.108 If the decedent was not an enrolled member of a tribe, but own interests in trust or restricted property, what agency prepares the probate package?
15.109 Can I give up my interest in trust or restricted lands or trust funds if I am an heir?

Subpart C—Preparing the Probate Package

15.201 What will the BIA do with the documents that I provide?
15.202 What must the probate package contain?
15.203 What happens after the BIA prepares the probate package?
15.204 Is there a summary process for distributing a trust estate with cash assets?
15.205 Will I be notified where my probate is sent?
15.206 When will the BIA refer a probate to the OHA?

Subpart D—Claims and Distributions

15.301 What does the attorney decision-maker do with the probate package?
15.302 What happens if the decedent owes debts?
15.303 If the decedent owed me money, how do I file a claim?
15.304 When will I know if my claim will be paid?
15.305 Which claims will be paid first?
15.306 Can the attorney decision-maker reduce claims?
15.307 What if there is not enough money in the IIM account to pay all claims?
15.308 Will the BIA keep the estate open and use future income to pay claims?
15.309 Will the attorney decision-maker authorize payment of interest or penalties on claims?
15.310 Will the BIA file tax returns for the decedent or the estate?
15.311 When will the BIA send me a copy of the probate decision?
15.312 What happens after the decision is made?

Subpart E—Appeals

15.401 May I appeal the decision of the attorney decision-maker?
15.402 How do I file an appeal?
15.403 How long do I have to file an appeal?
15.404 What will happen to the estate if an appeal is filed?
15.405 If I miss the 60-day appeal period, do I have any other rights?

Subpart F—Information and Records

15.501 If I have a question about a probate case that has been assigned to an attorney decision-maker, may I contact the attorney decision-maker directly?
15.502 How can I find out the status of a probate?
15.503 What is a nationwide Indian probate tracking system?

Authority: Secs. 1, 2, 36 Stat. 855, as amended, 856, as amended, sec. 1, 38 Stat. 588, 42 Stat. 1185, as amended, secs. 1, 2, 56 Stat. 1021, 1022, 25 U.S.C. 372, 373, 374, 373a, 373b. Cross reference: For special rules applying to proceedings in Indian Probate (Determination of Heirs and Approval of Wills, Except for Members of the Five Civilized Tribes and Osage Indians), including hearings and appeals within the jurisdiction of the Office of Hearings and Appeals, see Title 43, Code of Federal Regulations, Part 4, Subpart D; Funds of deceased Indians other than the Five Civilized Tribe see Title 25 Code of Federal Regulations, Part 115.

Subpart A—Introduction

§ 15.1 What is the purpose of this part?

This part contains the procedures that the Secretary follows to probate the trust estate of a deceased individual Indian who owned trust or restricted property. This part tells you how to file the necessary documents to probate the trust estate.

§ 15.2 What terms do I need to know?

ALJ—Means an administrative law judge or other employee of the Department of the Interior's Office of Hearings and Appeals (OHA) upon whom authority has been conferred by the Secretary to conduct hearings in accordance with 43 CFR part 4 subpart D.

BIA—Means the Bureau of Indian Affairs within the Department of the Interior.

IIM account—Means Individual Indian Money Account.

LTRO—Means the Land Titles and Records Office within the BIA.

OHA—Means the Hearings Division, Office of Hearings and Appeals, Department of the Interior.

Agency—Means the agency or any other designated office in the BIA having jurisdiction over trust or restricted property and money. This term also means any office of a tribe which has contracted or compacted the probate function.

Attorney decision-maker—Means an attorney with the BIA who reviews a probate package, determines heirs and beneficiaries, determines creditors claims, and issues a written decision based on the record.

Beneficiary—Means any individual who receives trust or restricted property or money in a decedent's will.

Day—Means a calendar day.

Deciding official means the official with the delegated authority to make a decision on a probate matter, and may include a BIA regional director, agency superintendent, or field representative, an ALJ or other designated official.

Decision—Means a written document issued by the deciding official determining heirs and beneficiaries, approving creditors claims, and ordering distribution of property and money.

Form OHA–7—Means a form issued by the OHA which lists data for heirship and family history, and provides information on any wills, trust and restricted property, adoptions, names and addresses of all interested persons.

Heir—Means any individual who receives trust or restricted property or

money from a decedent by operation of law.

Interested person—Means any potential or actual heir, any beneficiary under a will, any party asserting a claim against a deceased Indian's estate, and any tribe having a statutory option to purchase the trust or restricted property interest of a decedent.

Intestate—Means the decedent died without a will.

Minor—Means an individual that has not reached the age of majority as defined by the applicable tribal or state law.

Probate—Means the legal process by which applicable tribal or State laws affecting the distribution of property is applied to:

(1) Determine the heirs and beneficiaries of a decedent's trust and restricted real property; and

(2) Transfer any funds held in trust by the Secretary for a decedent to the heirs, beneficiaries, or other persons or entities entitled by law.

Probate specialist—Means a BIA or tribal paralegal trained in Indian probate law.

Secretary—Means the Secretary of the Interior or an authorized representative.

Superintendent or Field Representative—Means an authorized representative of the Secretary of the Interior who is the officer in charge of a BIA agency or field office.

Vendor or Creditor—Means any individual or company who submits a claim for payment from a decedent's estate.

We—Means either an official of the BIA or a tribe performing probate functions under a BIA contract or compact.

Will—Means a written testamentary document, including any properly executed written changes, called codicils, which was signed by the decedent and was attested by two disinterested adult witnesses, that states who will receive the decedent's trust or restricted property.

You/I—Means an interested person, as defined herein, with an interest in the decedent's estate unless a specific section says otherwise.

§ 15.3 Will the Department probate all the property in Indian estates?

(a) No. We will probate only the trust or restricted property in the estate of an Indian decedent.

(b) We will not probate:

(1) Real or personal property in an estate of an Indian decedent that is not trust or restricted property;

(2) Restricted property derived from allotments in the estates of members of the Five Civilized Tribes (Cherokee, Choctaw, Chickasaw, Creek and Seminole) in Oklahoma; and

(3) Trust or restricted interests derived from allotments made to Osage Indians in Oklahoma and Osage headright interests.

(c) We will probate trust or restricted property in the estates of members of the Five Civilized Tribes or Osage Indians when that trust or restricted property is derived from other tribal allotments.

§ 15.4 How does the probate process work?

The basic steps of the probate process are:

(a) We find out about a person's death (see subpart B of this part for details);

(b) We prepare a probate package which includes documents that you send us (see subpart C of this part for details);

(c) We refer the completed probate package to a deciding official in BIA or OHA (see subpart D of this part for details);

(d) The deciding official decides how to distribute the property (see subparts D and E of this part for details).

Subpart B—Starting the Probate Process

§ 15.101 How do I begin the BIA probate process?

To begin the probate process, as soon as possible you should contact the nearest BIA agency or regional office where the decedent was enrolled. You must provide a copy of the death certificate, if one exists. If a death certificate does not exist, you may provide one or more of the following:

(a) A copy of the obituary notice from a local newspaper;

(b) An affidavit of death prepared by someone who knows about the decedent; or

(c) Any other document that we accept that verifies the death, such as a church record or a court record.

§ 15.102 May I notify the BIA of a death if I'm not related to the decedent?

You do not need to be related to the decedent in order to notify us of the death. You can be a friend, neighbor, or any other interested person.

§ 15.103 Is there a deadline for notifying the BIA of a death?

There is no deadline for notifying us of a death. However, you should notify us of a death as soon as possible after the person dies.

§ 15.104 Can I get assistance immediately for funeral services?

If you are responsible for making the funeral arrangements of a decedent who had an IIM account and have an immediate need to pay for funeral arrangements prior to burial, you may make a request to the agency for up to $1,000 from the decedent's IIM account if the decedent's IIM account has more than $2,500 in the account at the date of death. The agency may approve reasonable costs for this purpose. We will not pay this money directly to you; we will only pay the persons who provide the funeral services. To apply for this assistance you must submit the following to us:

(a) An original itemized receipt, contract or statement for each service; and

(b) An affidavit signed by the vendor or provider stating that the service rendered is necessary for tribal burial services.

§ 15.105 Do I need to give the BIA any other documents?

(a) You must provide us with the following documents and information before we can begin to process the probate package.

(1) Social Security number of the decedent;

(2) The birth certificate or other record of birth;

(3) All death records including those listed in § 15.101;

(4) A list of known creditors and their addresses;

(5) Current names and addresses of potential heirs and beneficiaries;

(6) Any statements renouncing an interest in the estate;

(7) All marriage licenses of the decedent;

(8) All divorce decrees of the decedent;

(9) Adoption and guardianship records;

(10) All original or certified copies of wills and codicils;

(11) Any sworn statements regarding the decedent's family, including any statements of paternity or maternity; and

(12) Additional documents that we request.

(b) You must inform us if any of the documents or information identified in these regulations are not available.

§ 15.106 Will the BIA wait to begin the probate process until it is notified of the decedent's death?

No. We may find out about the death of a person without being notified by an interested person. If we do, and if the decedent meets the criteria in § 15.3, we will initiate the process without notification. You should not assume that we will find out about a death. It is still your responsibility to notify us as required by § 15.101.

§ 15.107 Who prepares an Indian probate package?

The probate specialist or probate clerk at the agency or tribe where the decedent is an enrolled member will prepare the probate package.

§ 15.108 If the decedent was not an enrolled member of a tribe, but owns interests in trust or restricted property, what agency prepares the probate package?

If the decedent was not an enrolled member of a tribe, but owns interests in trust or restricted property, the agency that has jurisdiction over the trust property of the decedent, or the greater amount of trust property will prepare the probate package.

§ 15.109 Can I give up my interest in trust or restricted lands or trust funds if I believe am an heir?

(a) If you are a non-Indian, you may give up all or part of your interest by submitting a notarized statement in which you renounce your interest in the estate. You must send the statement to the probate specialist at the agency preparing the probate.

(b) If you are an Indian and you wish to give up all or part of your interest, we must refer your request to OHA in accordance with 43 CFR part 4, subpart D.

(c) You must file your statement renouncing your interest with the OHA or the probate specialist before the deciding official issues an order.

Subpart C—Preparing the Probate Package

§ 15.201 What will the BIA do with the documents that I provide?

Once we receive the documents that you provide us under § 15.105, the probate specialist or probate clerk will:

(a) Use the documents to prepare a probate package; and

(b) Consult with you and any other sources to obtain any additional information needed for a complete package.

§ 15.202 What must the probate package contain?

The probate package must contain all of the following:

(a) A copy of the death certificate, if one exists, or some other reliable evidence of death as required by § 15.101;

(b) A completed Form OHA–7, ''Data for Heirship Findings and Family History,'' certified by the superintendent;

(c) A certified inventory of trust or restricted real property including a description of any income generating activity that may produce income during the probate process;

(d) A copy of the decedent's IIM account ledger showing:

(1) The balance of the account at date of death;

(2) The balance of the account at date of probate package submission; and

(3) An IIM account history for five (5) years previous to the date of death;

(e) All original wills, codicils and any revocations of wills or codicils. We will accept copies if original wills, codicils or any revocations of wills or codicils are unavailable;

(f) All statements renouncing interest;

(g) All documentation of payment of claims paid prior to probate hearing;

(h) Claims of creditors;

(i) Other supporting documents, such as marriage license, divorce decrees, birth certificate, adoption decrees, guardianship decrees, any affidavits (which may include paternity, maternity issues, or adoptions);

(j) Tribal options to purchase interests of a decedent; and

(k) Any other information that may be required at the time of proceedings.

§ 15.203 What happens after the BIA prepares the probate package?

Within 120 days after we receive all the documents required by § 15.105 and after all the probate documents listed in § 15.202 are received, a probate specialist will review the probate package and refer it to the superintendent, attorney decision-maker or the appropriate ALJ in the OHA in accordance with §§ 15.204 and 15.206.

§ 15.204 Is there a summary process for distributing a trust estate with cash assets?

(a) Yes, when an Indian dies intestate, leaving in a trust estate only trust personal property or cash of a value less than $5,000, not including any interest that may have accrued after the death of the decedent, the superintendent or the attorney decision-maker will review the probate package, identify the legal heirs and determine the proper distribution of the trust estate.

(b) Within 20 days after receipt of notice under § 15.205, the apparent heirs may request that an ALJ assume jurisdiction and hold a hearing to determine the proper distribution of the trust estate.

(c) Within 60 days after determining the proper distribution of the trust estate, the superintendent or attorney decision-maker will prepare and distribute to the interested persons a memorandum showing the date of the decedent's death and the value and distribution of the trust estate, or refer the probate to an ALJ.

(d) In the disposition of the trust estate, the superintendent or the attorney decision-maker will:

(1) Order the payment of creditors' claims as provided in §§ 15.302–307; and

(2) Order the balance of the trust estate remaining after payment of claims, if any, to be transferred to the legal heirs of the decedent.

(e) Interested persons may appeal a summary distribution determination in accordance with subpart E of this part or 25 CFR part 2.

§ 15.205 Will I be notified where the probate is sent?

Yes, the BIA will notify you and post notice of the designated office where the probate has been sent.

(a) After the probate specialist has forwarded the probate package under paragraph (a) of this section, we will notify you where we have sent the probate package:

If we send the probate to	We will send you	And
(1) A superintendent or attorney decision-maker under § 15.204.	A letter that gives you 20 days to tell us if you want the probate package sent to the OHA for a hearing.	If we don't hear from you within the 20 days, we will have the superintendent or the attorney decision-maker process the probate package based on the documents in the probate package.
(2) An attorney decision-maker.	A letter that gives you 20 days to tell us if you want the probate package sent to the OHA for a hearing.	If we don't hear from you within the 20 days, we will have the attorney decision-maker process the probate package based on the documents in the probate package.

If we send the probate to	We will send you	And
(3) The OHA	A notification that we are sending the probate to the OHA for a hearing.	We will notify the potential heirs that they may ask the OHA for an in-person hearing at a site convenient to most of the parties, a video conference or teleconference hearing (if available), or a decision based on documents in the probate package.

(b) We will post notice identifying the designated office that has been assigned the probate package. We will post the notice for at least 20 days in five or more conspicuous places in the vicinity of the designated office.

§ 15.206 When will the BIA refer a probate to the OHA?

We will refer a probate to the OHA under § 15.204(b) if the probate specialist decides that a referral is appropriate. In deciding whether to refer a probate to the OHA, the probate specialist will consider all of the criteria listed below. The probate specialist will refer a case to the OHA based upon the following criteria:

(a) *Problems with the will.* The probate specialist will refer the case to the OHA if the will:

(1) Is likely to be contested;

(2) Is complex or ambiguous; or

(3) Is of questionable validity.

(b) *Contested claims.* The probate will be referred to the OHA if you:

(1) Contest a creditor claim; or

(2) Contest a claim made by a family member.

(c) *Other problems.* The probate will be referred to the OHA if:

(1) There are substantial questions about family relationships;

(2) There is a conflict in prior probates;

(3) There are problems with the evidence;

(4) The adoption of an heir is questionable;

(5) You are seeking a presumption of death;

(6) There are minor heirs whose rights may be jeopardized; or

(7) The case involves determinations of escheat under 43 CFR 4.205.

Subpart D—Claims and Distributions

§ 15.301 What does the attorney decision-maker do with the probate package?

The attorney decision-maker reviews the probate package and determines whether the issues of fact or law of the case indicate that the probate package should be referred to the OHA. If the probate package is not referred to the OHA, the attorney decision-maker will:

(a) Determine validity of the will and any codicils;

(b) Determine intestate heirs;

(c) Determine beneficiaries in self-proved wills;

(d) Approve claims according to §§ 15.302 through 15.310; and

(e) Issue a written decision.

§ 15.302 What happens if the decedent owes debts?

The attorney decision-maker may order payment of some or all of the debts of the decedent.

§ 15.303 If the decedent owed me money, how do I file a claim?

If you wish to make a claim against the estate of a decedent, you must submit to us an original and two copies of an itemized statement of the debt showing the amount of the original debt and the remaining balance on the date of the decedent's death as soon as possible. We must receive your claim within 60 days from the date of death to be included as part of the probate file.

§ 15.304 When will I know if my claim will be paid?

The attorney decision-maker may direct the payment of some or all of the debts of the decedent after reviewing the probate package. No claim prohibited by 43 CFR part 4, subpart D will be paid. The order to pay claims will be included in the attorney decision-maker's final decision.

§ 15.305 Which claims will be paid first?

The first claims to be paid, referred to as priority claims, are listed in paragraphs (a) through (d) of this section. Following payment of the priority claims, the attorney decision-maker will authorize all remaining claims, referred to as general claims. Priority claims that will be paid first are:

(a) Funeral expenses (including the cemetery marker);

(b) Medical expenses for the last illness; and

(c) Nursing home or other care facility expenses.

(d) A claim of the United States Government.

§ 15.306 Can the attorney decision-maker reduce claims?

The attorney decision-maker has the discretion to decide that part or all of an otherwise valid claim is unreasonable and reduce the claim to a reasonable amount.

(a) If a claim is reduced, the attorney decision-maker will authorize payment only of the reduced amount.

(b) The attorney decision-maker may reduce both priority claims and general claims.

§ 15.307 What if there is not enough money in the IIM account to pay all claims?

If there is not enough money in the IIM account to pay all claims, the attorney decision-maker will authorize payment of the priority claims first. If there is not enough in the IIM account to pay the priority claims, the attorney decision-maker will authorize payment of the priority claims on a pro rata basis.

§ 15.308 Will the BIA keep the estate open and use future income to pay claims?

(a) The attorney decision-maker will review the history of the IIM account and may order the estate to remain open under the following conditions:

If within * * *	The account can generate * * *	Then * * *
(1) 5 years	Enough money to pay at least 20 percent of the priority claims.	The attorney decision-maker may order the estate to remain open for up to 5 years to pay priority claims in accordance with §§ 15.305–15.307.
(2) 3 years	Enough money to pay all of the priority claims and at least 20 percent of the general claims.	The attorney decision-maker may order the estate to remain open for up to 3 years to pay general claims in accordance with §§ 15.305–15.307.

(b) If the attorney decision-maker decides that the IIM account cannot meet the requirements in paragraph (a)(1) of this section, the estate will be closed and any remaining balance in the IIM account will be distributed to the legal heirs. The unpaid balance of any claims will not be enforceable against the estate or any of its assets.

§ 15.309 Will the attorney decision-maker authorize payment of interest or penalties on claims?

No. The attorney decision-maker will not authorize payment of interest or penalties charged after date of death as part of either priority claims or general claims.

§ 15.310 Will the BIA file tax returns for the decedent or the estate?

No. It is the responsibility of the administrator of the estate to file any federal or state tax returns that may be required on behalf of the decedent or the estate.

§ 15.311 When will the BIA send me a copy of the probate decision?

Within 30 working days after the attorney decision-maker has determined how the estate will be distributed, we will send all interested persons a written decision that identifies the heirs and the distribution of the trust and restricted property, including funds in the IIM account. It will also list the amounts of the claims to be paid. The decision will state what date it is mailed and how you may file an appeal.

§ 15.312 What happens after the decision is made?

We will not pay claims or transfer property or money for 60 days after the decision is mailed to the interested persons. After 60 days, if there is no appeal, we will pay claims, transfer property or money according to the decision, and the LTRO will change its land title records for the trust and restricted property in accordance with the decision.

Subpart E—Appeals

§ 15.401 May I appeal the decision of the attorney decision-maker?

You have a right to appeal the decision made by the attorney decision-maker if you are an interested party and are affected by the probate decision.

§ 15.402 How do I file an appeal?

(a) To file an appeal, you may send or deliver a signed, written statement to the superintendent or field representative of the agency where the probate package was assembled that contains:

(1) The name of the decedent;

(2) A description of your relationship to the decedent:

(3) An explanation of why you are appealing; and

(4) Any errors you believe the attorney decision-maker made.

(b) The superintendent or field representative will notify all other interested parties of the appeal in writing within ten working days from date of receipt of the appeal.

§ 15.403 How long do I have to file an appeal?

You must send or deliver your written appeal within 60 days of the date that the attorney decision-maker mailed his decision to you. If you mail your appeal, it must be postmarked within 60 days of the date of the postmark of the decision.

§ 15.404 What will happen to the estate if an appeal is filed?

We will refer your appeal to the OHA in accordance with 43 CFR Part 4, Subpart D. We will not pay claims or distribute any funds or property, nor will the LTRO modify the land title records until the appeal has been resolved.

§ 15.405 If I miss the 60-day appeal period, do I have any other rights?

(a) Yes. You have a right to file a written statement with the superintendent or field representative asking to have the decision changed for one or more of the following reasons:

(1) You did not receive notice of the probate;

(2) You have new evidence or information pertaining to the probate; or

(3) Known evidence was not included in the probate package.

(b) After we receive your request, we will forward it to the OHA for action in accordance with 43 CFR Part 4, Subpart D. After a request has been filed, we will not distribute any funds or property in the estate until directed by the OHA.

Subpart F—Information and Records

§ 15.501 If I have a question about a probate that has been assigned to an attorney decision-maker, may I contact the attorney decision-maker directly?

No. In order to avoid communications with the attorney decision-maker that might be interpreted as affecting the distribution of the estate, you should direct your questions to the attorney decision-maker's clerk or the probate specialist.

§ 15.502 How can I find out the status of a probate?

You may request information about the status of an Indian probate from any BIA agency or regional office. Information will be retrieved for you from a nationwide Indian probate tracking system.

§ 15.503 What is a nationwide Indian probate tracking system?

A nationwide Indian probate tracking system is an electronic computer program that tracks all Indian probate proceedings that have been filed in BIA or OHA offices.

PART 114—SPECIAL DEPOSITS—[REMOVED AND RESERVED]

2. Under authority of 25 U.S.C. 2, 25 U.S.C. 9; Pub. L. 97–100; and Pub. L. 97–257 part 114 is removed and reserved.

PART 115—TRUST FUNDS FOR TRIBES AND INDIVIDUAL INDIANS

3. Part 115 is revised to read as follows:

Subpart A—Purpose, Definitions, and Public Information

Sec.
115.1 What is the purpose of this part?
115.2 What definitions do I need to know?

Subpart B—Trust Fund Accounts—Generally

115.100 Why is money held in trust for tribes and individual Indians?
115.101 What types of accounts are maintained for Indian trust funds?
115.102 What specific sources of money will OTFM accept for deposit into a trust fund account?

Frequently Asked Questions

115.103 If a tribe or individual Indian is paid directly under a lease, permit or contract of sale for trust land or trust resources, may the Secretary accept those payments from an account holder for deposit into a trust account?
115.104 If a direct payment for the use or sale of trust lands or resources is returned to the payor as undeliverable, may the payor present the payment to the BIA for deposit into a trust account?
115.105 If a tribe operates a business located on trust or restricted land, may the Secretary accept for deposit into a trust account profits from the business?
115.106 May the Secretary accept for deposit into a trust account money not specified in § 115.102?
115.107 May the Secretary accept for deposit in a trust account money awarded or assessed by a court of competent jurisdiction?
115.108 When funds are awarded or assessed by a court of competent jurisdiction involving trust lands or resources, what documentation is required to deposit the funds into a trust account?
115.109 Will the Secretary accept administrative fees for deposit into a trust account?
115.110 How quickly will payments received on behalf of tribes or individual Indians be deposited?

Investments and Interest

115.111 Does money in a trust account earn interest?
115.112 How does the OTFM invest money in a trust account?
115.113 What is the interest rate earned on money in a trust account?
115.114 When does money in a trust account start earning interest?

Subpart C—Tribal Accounts

115.200 When does the OTFM open a tribal account?
115.201 How often will a tribe receive information about its trust account(s)?
115.202 May a tribe make a request to receive information about its account more frequently?
115.203 What information will be provided in a statement of performance?
115.204 Will an annual audit be conducted on tribal accounts?
115.205 Does a tribe have to submit an annual budget for use of its trust funds?
115.206 When a tribe is required to complete a budget for use of its trust funds, must the tribe submit the budget to the BIA for approval?
115.207 Does a tribe have any flexibility to modify its budget after the budget has been approved by the BIA?
115.208 Is a tribe responsible for expenditures that do not comply with an approved budget for those trust funds?
115.209 What will the OTFM consider in deciding how to meet a tribe's projected cash flow needs?
115.210 How will the BIA assist in the administration of tribal judgment fund accounts?
115.211 If a tribe withdraws money from its trust account for a particular purpose or project, may the tribe redeposit any money that was not used for the particular purpose or project?

Recovering Unclaimed Judgment Funds

115.212 What happens if a tribal member does not cash his or her judgment per capita check?
115.213 What steps will the OTFM take to locate an individual whose judgment per capita check is returned as undeliverable?
115.214 May the OTFM return money in a tribal per capita account to a tribal account?

Investing and Managing Money in Tribal Accounts

115.215 Can tribal trust fund investments made by the Department lose money?
115.216 May a tribe recommend how the OTFM invests the tribe's trust funds?
115.217 May a tribe directly invest and manage its trust funds?
115.218 May a tribe return funds to the OTFM that were previously withdrawn under the Trust Reform Act for investment by the tribe?

Requesting Money From Tribal Accounts

115.219 How does a tribe request money from its trust account?
115.220 May a tribe's request for a withdrawal of money from its trust account be delayed or denied?
115.221 How does the OTFM send money to a tribe?

Subpart D—Individual Indian Money (IIM) Accounts

General Provisions

115.300 What funds are held in an IIM account?
115.301 How many IIM accounts should a person have?
115.302 How long may I leave money in my IIM account?

Information About Your IIM Account

115.303 How do I obtain my IIM account balance?
115.304 What information will be provided in a statement of performance?
115.305 Will an annual audit be conducted on IIM accounts?
115.306 When will I receive a statement of performance?
115.307 Who has access to information about my account?
115.308 If I apply for a loan with a private lender, will the OTFM give the lender information about my account?
115.309 What information about an IIM account does the OTFM report to the Internal Revenue Service (IRS)?
115.310 How will I know how much income OTFM reported to the IRS?
115.311 Who is responsible for filing tax returns on trust income which may be reportable income?
115.312 If I apply for government funded public assistance will my IIM account balance be considered in determining my eligibility?

Moving and Changing Addresses

115.313 If I move to a new address how will I receive money from my IIM account?
115.314 How do I give the OTFM my new address?
115.315 If I move, will the post office forward my check to my new address?
115.316 If I don't have a permanent address or I move frequently, may I receive money from my IIM account?

Uncashed Checks and Stolen Checks

115.317 How long do I have to cash my IIM check?
115.318 What should I do if I cannot cash my check because it is torn or damaged?
115.319 How long do I have to request a replacement check?
115.320 What happens if I lose my check or I do not receive my check because it was stolen?
115.321 How long do I have to file a claim if my check was lost or stolen?
115.322 What happens if I do not file a claim for my check within one year from the date on the check?
115.323 Does the OTFM charge to stop payment on an IIM check?
115.324 Who may authorize a stop payment on my IIM check?

Depositing Money Into an IIM Account

115.325 May I deposit money into my IIM account?
115.326 May I redeposit IIM funds back into my trust account once I receive the money?
115.327 If a court orders that money be deposited into my IIM account, will the BIA or the OTFM honor the court order?

Withdrawing Money From an Unrestricted IIM Account

115.328 How do I withdraw money from my IIM account?
115.329 What is ''verifiable photo identification''?
115.330 What if I do not have any photo identification?
115.331 Where should I mail my request for a withdrawal from my IIM account?
115.332 How will the OTFM send me my money from my IIM account?
115.333 May I authorize the OTFM to make payments directly to a third party on my behalf?
115.334 Will the BIA ever withdraw money from my account without my authorization?
115.335 May I always withdraw money from my IIM account?
115.336 Will I receive notice when money is withdrawn from my IIM account?

Estate Accounts

115.337 Who inherits the money in an IIM account when an account holder dies?
115.338 May money in an IIM account be withdrawn after the death of an account holder but prior to the end of the probate proceedings?
115.339 If I am a non-Indian who has a life estate in income-producing trust or restricted property, how do I receive the income?

Supervised Accounts

115.340 Who receives statements of performance for supervised accounts?
115.341 If an account is supervised does the account holder have to have a legal guardian?
115.342 Who appoints a legal guardian?
115.343 What are the qualifications for guardians who manage IIM accounts for individual account holders?
115.344 As a parent with custody of a minor or as a guardian of an account holder, what are my responsibilities?
115.345 If I am a parent with custody of a minor or a guardian of an account holder, may BIA disburse funds without my knowledge?
115.346 Who receives a copy of an approved distribution plan and any amendments to the annual plan?
115.347 What will we do if we find that a distribution plan has not been followed or a guardian or minor's custodial parent has acted improperly in regard to his or her duties involving the trust funds of an account holder?
115.348 When will the BIA authorize a withdrawal from a supervised account?

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115.350 What is a social service assessment?

115.351 What happens once the BIA receives an order from a court of competent jurisdiction?
115.352 Who is responsible for performing a social services assessment?
115.353 What information must be included in a social services assessment?
115.354 Will the BIA notify me if a decision is made to place my account in supervised status?
115.355 How may I challenge a decision to place my account in supervised status?
115.356 How may I change my account status from supervised to unrestricted?
115.357 How will a supervised account be managed?
115.358 What must be in a distribution plan?
115.359 How may funds in a supervised account be used under a distribution plan?
115.360 What is the review process for a supervised account?
115.361 If I have a power of attorney for an account holder, may I withdraw money from the account holder's IIM account?
115.362 If I am incarcerated will the BIA automatically supervise my account?
115.363 How do I continue to receive my IIM funds and statements of performance if I am incarcerated?

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115.364 When will the BIA authorize withdrawals from a minor's account?
115.365 May the BIA permit a parent or legal guardian to receive funds from a minor's IIM account?
115.366 Will I automatically receive all my IIM funds when I turn 18?
115.367 What do I need to do when I reach the age of majority to access my trust fund account?
115.368 Will my account lose its supervised status when I reach the age of majority?
115.369 Are there any reasons other than supervision that would prevent me from obtaining my funds once I reach the age of 18?
115.370 If I am an emancipated minor may I withdraw funds from my account?

Encumbered Accounts

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115.372 What type of encumbrances may I place on my IIM account?
115.373 How may I request a voluntary hold on my account?
115.374 May I authorize the OTFM to make third party payments from my IIM account to pay my monthly bills or other obligations?
115.375 If I have a voluntary hold on my account, may I make a withdrawal from my account?
115.376 How do I remove a voluntary hold from my account?
115.377 When may I assign my current account balance and any future income to be deposited into my IIM account directly to a third party?
115.378 What amount of my IIM income may I assign directly to a third party for health care emergencies?
115.379 How will an assignment of IIM income made directly to a third party for health care emergencies be paid from my account?
115.380 May I assign future IIM income as security for a debt?
115.381 What must a third party do to acquire a right to receive disbursements from my IIM account?
115.382 If the court order specifies that my account be encumbered immediately, will the Secretary honor the court order before my time for a hearing has expired?
115.383 If I assign my income to a third party for health care emergencies or make an assignment of income as security for a secured loan under the Indian Finance Act, will my account be encumbered immediately?
115.384 If I have an involuntary encumbrance on my account, may I make withdrawals from my account?
115.385 When will BIA place an involuntary encumbrance on my IIM account?
115.386 How does the BIA determine the amount of an involuntary encumbrance?
115.387 When will the BIA remove an involuntary encumbrance?
115.388 If my account is supervised or involuntarily encumbered, when will the BIA develop a payment schedule?
115.389 Will the payment schedule developed to pay a debt or other obligation expire?
115.390 If I have multiple encumbrances on my trust account, will there be a priority of payment for those encumbrances?

Subpart E—Special Deposit Accounts

115.400 Who receives the interest earned on a special deposit account?
115.401 When will the money in a special deposit account be credited or paid out to the owner of the funds?
115.402 May administrative or land conveyance fees paid as federal reimbursements be deposited in a special deposit account?
115.403 May cash bonds (*e.g.,* performance bonds, bid deposits, appeal bonds, *etc.*) be deposited into a special deposit account?
115.404 May the BIA deposit into a special deposit account money that is paid prior to approval of a conveyance or contract instrument for land sales, right-of-ways, resource sales, grazing, or leasing, *etc.*?

Subpart F—Hearing Process for Restricting an IIM Account

115.500 Under what circumstances may the BIA restrict my IIM account through supervision or an involuntary encumbrance?
115.501 Will I be notified if the BIA decides to place an involuntary encumbrance on or supervise my account?
115.502 How will the BIA notify me of its decision to place a hold on my account?
115.503 What happens if the notice by certified mail is returned to the BIA marked undeliverable?
115.504 When will the BIA restrict my IIM account once it has decided to involuntarily encumber or supervise my account?
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115.803 Osage Agency

Authority: R.S. 441, as amended, R.S. 468, R.S. 465; 5 U.S.C. 301; 25 U.S.C. 2; 25 U.S.C. 9; 43 U.S.C. 1457; 25 U.S.C. 4001; 25 U.S.C. 161(a); 25 U.S.C. 162a; 25 U.S.C. 164; Pub. L. 87–283; Pub. L. 97–100; Pub. L. 97–257; Pub. L. 103–412; and Pub. L. 97–458.

Subpart A—Purpose, Definitions, and Public Information

§ 115.1 What is the purpose of this part?

This part sets forth guidelines for the Secretary of the Interior to carry out his trust responsibility to tribes and individual Indians in managing and administering trust assets for the exclusive benefit of tribal and individual Indian beneficiaries.

§ 115.2 What definitions do I need to know?

Account holder means a tribe or a person who owns the funds in a tribal or IIM account.

Account means a record of trust funds owned by a tribe or a person.

Adult means someone who has reached the age of majority.

Adult in need of financial management assistance means an individual who is adjudicated by a court of competent jurisdiction to be in need of financial management assistance, as determined by a psychological or medical assessment that deems the individual incapable of administering or managing property or money and incapable of performing day-to-day living activities.

Assignment of income means a transfer of interest for a specific amount of funds in or the total contractual amounts due to be paid into an IIM account within 12 months of the assignment to a third party for a health care emergency. BIA will not be a party to any assignment of income.

Assignment of income as security means a transfer of interest for a specific amount of funds in or owed to an IIM account from future IIM income to a third party that is used as collateral for a loan. The assignment of income as security will only be acted upon in the event of default on the loan. The third party must present the assignment to a court of competent jurisdiction to perfect an interest in an IIM account unless the loan being secured is guaranteed under the Indian Finance Act.

BIA means the Bureau of Indian Affairs, Department of the Interior, or its authorized representative.

Cash bond, cash performance bond, surety bond means a bond for a sum of money to secure an action by the issuer of the bond up to the amount of the bond in the event of a default.

Court of competent jurisdiction means a court with jurisdiction over the subject matter, usually a tribal or federal court.

Day means a calendar day.

Department means the Department of the Interior or its authorized representative.

Deposits means receiving funds into a treasury general account normally through a Federal Reserve Bank.

Emancipated minor means a person under 18 years of age who is married or who is determined by a court of competent jurisdiction to be legally able to care for himself or herself and to enter into a contract on his or her own behalf.

Encumber or encumbrance means a limitation on the access to assets held by the Secretary, such as a claim against a specified amount of funds in an IIM encumbered account.

Encumbered account means a trust fund account where some portion of the proceeds are obligated to third parties by court order or voluntary contractual agreements that have been approved by the BIA.

Estate account means an account for a deceased IIM account holder. IIM accounts are classified as estate accounts at the time we receive notification of death and are maintained until the trust estate has been probated and the account balance has been distributed.

FOIA means the Freedom of Information Act, 5 U.S.C. 552.

Guardian means a person who is legally responsible for the care and management of an individual and his or her estate. This definition includes, but is not limited to, conservator or guardian of the property.

Guardian bond means a type of surety bond posted by a guardian. In the event of a finding by a court of competent jurisdiction that there was mismanagement, malfeasance or theft by the guardian, the bond will be turned over to the account holder proportionally to the amount of damage.

Indian land means:

(1) Lands held by the United States in trust for a tribe or an individual Indian; or

(2) Lands legally owned in fee simple by a tribe or an individual Indian that are subject to federal restrictions against alienation or encumbrance.

Indian resources means any matter derived from Indian land which when extracted or used has economic value.

Individual Indian Money (IIM) account means an interest bearing account for trust funds held by the Secretary that belongs to an individual Indian, an heir of an Indian account holder, or a life estate holder of Indian trust assets. These accounts are under the control and management of the Secretary. There are four categories of IIM accounts: unrestricted, restricted-supervised, restricted-encumbered, and restricted estate accounts.

IRS means the Internal Revenue Service.

Judgment funds means funds awarded by the Indian Claims Commission or the United States Court of Federal Claims, and authorized and appropriated by the Congress of the United States to be used or distributed based on a plan approved by Congress.

Judgment per capita means a distribution of funds among persons identified in the settlement or use and distribution plan.

Judgment per capita IIM account means an IIM account established for a judgment per capita for minors.

Legislative settlement means monetary compensation appropriated by the US Congress as trust funds.

MSW means a Master of Social Work degree from an accredited college or university.

Minor means a person who has not reached the age of 18, unless a Federal law, a judgment settlement, or a use and distribution plan specifies a different age for distribution of IIM funds.

Non-compos mentis means an individual who has been found by a court of competent jurisdiction, based on established criteria that includes a psychological or medical evaluation, to be of unsound mind or incapable of transacting or conducting business and managing his or her own affairs.

OST means the Office of the Special Trustee for American Indians, Department of the Interior, or its authorized representative.

OTFM means the Office of Trust Funds Management, within the Office of the Special Trustee for American Indians, Department of the Interior, or its authorized representative.

Perfect means to present documentation to a neutral party (i.e., the BIA or a court of competent jurisdiction) proving an interest in an IIM account based on an assignment of income or an assignment of income as security.

Per capita means a distribution process under which persons entitled to funds receive a share.

Power of attorney means an instrument authorizing a person to act as the agent of another. The power may be general or specific.

Privacy Act means the Federal Privacy Act, 5 U.S.C. 552a.

Probate means the process by which claims against an Indian estate are heard and considered, and then the trust and restricted property are transferred to the decedent's heirs, or other persons or entities entitled by law.

Resolution means the formal manner in which a tribal government expresses its legislative will.

Restricted lands means land that a tribe or individual Indian holds in fee simple title that is subject to limitations or restrictions against alienation.

Secretary means the Secretary of the Interior or an authorized representative; it also means a tribe or tribal organization if that entity is administering specific programs, functions, services or activities, previously administered by the Secretary of the Interior, but now authorized under a Self-Determination Act contract (pursuant to 25 U.S.C. 450f) or a Self-Governance compact (pursuant to 25 U.S.C. 558cc).

Special deposit account means a temporary account for the deposit of trust funds that cannot immediately be credited to the rightful account holder.

Statement of performance means a quarterly report that identifies the source, type, and status of the funds; the beginning balance; the gains and losses; receipts and disbursements; and the ending balance.

Supervised account means an account for minors, emancipated minors, and adults who have been judged to be non-compos mentis or in need of financial management assistance from which disbursements must be approved by the BIA.

Surety bond means a contract by which one party agrees to make good up to the amount specified the default or debt of another.

Tribal account or tribal trust account generally means an account for a federally recognized tribe that is held in trust by the Secretary.

Tribal per capita account means a tribal account for judgment fund checks that have been returned to the Secretary as undeliverable to the account holder or where the judgment fund checks were not cashed by the account holder within 12 months of issuance of the check.

Tribe means any Indian tribe, nation, band, pueblo, rancheria, colony, or community, including any Alaska Native Village or regional or village corporation as defined or established under the Alaska Native Claims Settlement Act which is federally recognized by the U.S. government for special programs and services provided by the Secretary to Indians because of their status as Indians. For this purpose, it also means two or more tribes joined for any purpose, the joint assets of which include funds held in trust by the Secretary.

Trust account means a tribal account, an IIM account or a special deposit account for funds held in trust.

Trust funds means money that the Secretary must accept into trust and deposits into a tribal account, IIM account, or a special deposit account.

Trust personalty means money in an IIM account or owed to a decedent's IIM account at time of death.

Trust Reform Act means the American Indian Trust Fund Management Reform Act of 1994, Pub.L. 103–412, 108 Stat. 4239, 25 U.S.C. 4001.

Unrestricted account means an IIM account in which an individual Indian may determine the timing and amount of disbursements from the account.

Us or *We* means the Secretary as defined in this part.

Use and distribution plan means a document submitted to Congress by the Secretary on behalf of a tribe or enacted by Congress for the use of judgment funds or legislative document.

Voluntary hold means a request by an individual with an unrestricted account to keep his or her trust funds in a trust account instead of having the funds automatically disbursed to the account holder.

You means an IIM account holder, or his or her legal guardian.

Subpart B—Trust Fund Accounts—Generally

§ 115.100 Why is money held in trust for tribes and individual Indians?

Congress has passed a number of laws that require the Secretary to establish trust fund accounts for Indian tribes and certain individual Indians who have an interest in Indian lands and resources or trust assets.

§ 115.101 What types of accounts are maintained for Indian trust funds?

Indian trust funds are deposited in tribal accounts, Individual Indian Money (IIM) accounts, and special deposit accounts. The following table provides information on each of these trust accounts.

Type of trust account	Qualified by	Qualified by	Description
Individual Indian Money (IIM) Account.	Unrestricted IIM		There are no restrictions on these accounts. Funds may be left on deposit, or paid to the account holder based upon instructions by the account holder
	Restricted IIM	Supervised	These accounts are established for: • Minors, • Emancipated minors, • Adults who are non-compos mentis, and • Adults in need of financial management assistance. Funds from these accounts can be withdrawn only in compliance with an approved distribution plan.
		Encumbered	A restriction is placed on the account until money owed to a third party is paid pursuant to a payment plan. An encumbrance can be placed on an account involuntarily by the BIA. The account holder may withdraw any money above the amount owed to the third party.
		Estate Account	An account for a deceased IIM account holder.
Tribal account			An account for trust funds that belong to a tribe.
Special Deposit account			An account for the temporary deposit of trust funds that cannot be distributed immediately to its rightful owners.

§ 115.102 What specific sources of money will be accepted for deposit into a trust fund account?

For tribal or IIM accounts, OTFM must accept proceeds on behalf of tribes or individual Indians from any of the following sources:

Sources	Accounts			
	Tribal	Individual Indian money		
		Unrestricted	Restricted supervised	Restricted encumbered
(a) Payments from the United States as a Result of—				
(1) Federal laws requiring deposits in trust accounts	✔	✔	✔	✔
(2) Settlement of a claim related to Indian lands or resources that requires the trust funds to be deposited in trust accounts	✔	✔	✔	✔
(3) A final order from a United States court for a cause of action directly related to trust resources or assets requiring funds to be deposited in trust accounts	✔	✔	✔	✔
(4) Unspent forestry funds specifically appropriated as trust funds to the BIA	✔			
(5) Certain Federal assistance payments, such as VA benefits, Social Security, or Supplemental Security Income, *but only* if the account holder has a supervised account *and* the account holder does not have a legal guardian other than the BIA			✔	
(b) Payments resulting from—				
(1) Purchase or use of Indian lands or resources, including any late payment penalties, when paid directly to the Secretary	✔	✔	✔	✔
(2) Civil penalties for trespass on Indian lands	✔	✔	✔	✔
(3) Default or breach of the terms of a contract for the lease or purchase of Indian lands or resources arising from cash performance or surety bonds, or other source(s)	✔	✔	✔	✔
(c) Deposits from Indian Tribes—				
(1) Redeposit of tribal trust funds previously withdrawn under an investment plan submitted and approved pursuant to the American Indian Trust Fund Management Reform Act of 1994, Pub.L. 103–412, 108 Stat. 4239, 25 U.S.C. 4001 (Trust Reform Act)	✔			
(2) Tribal funds derived directly from trust resources	✔			
(3) Judgment funds legislation settlement withdrawn, but not spent, for a specific project. Documentation showing source of funds is required.				
(d) Other—				
(1) Interest earned on trust fund deposits	✔	✔	✔	✔
(2) Trust to trust transfers of trust funds from tribal accounts to existing IIM accounts of tribal members, or from IIM estate accounts to IIM accounts of heirs pursuant to probate orders		✔	✔	✔

Frequently Asked Questions

§ 115.103 If a tribe or individual Indian is paid directly under a lease, permit or contract of sale for trust land or trust resources, may the Secretary accept those payments from an account holder for deposit into a trust account?

No. Tribal and individual account holders should not forward direct payments they receive to the Secretary for deposit into a trust account. The BIA will return such direct payments to the account holders.

§ 115.104 If a direct payment for the use or sale of trust lands or resources is returned to the payor as undeliverable, may the payor present the payment to the BIA for deposit into a trust account?

Yes. The payor must submit proof of attempted delivery, including additional information that may assist OTFM in ensuring payment to the correct account.

§ 115.105 If a tribe operates a business located on trust or restricted land, may the Secretary accept for deposit into a trust account profits from the business?

The only funds that will be accepted into trust are those identified in § 115.102.

§ 115.106 May the Secretary accept for deposit into a trust account money not specified in § 115.102?

No funds will be accepted in trust except from the sources specifically identified in the table in § 115.102.

§ 115.107 May the Secretary accept for deposit in a trust account money awarded or assessed by a court of competent jurisdiction?

Money awarded or assessed by a court of competent jurisdiction for a violation that affects Indian lands or resources, an approved trust agreement, or a trust land contract may be deposited into a trust account. Other funds awarded by a court of competent jurisdiction may not be deposited into a trust account.

§ 115.108 When funds are awarded or assessed by a court of competent jurisdiction involving trust lands or resources, what documentation is required to deposit the funds into a trust account?

We must receive a copy of the court's order and the funds to be deposited.

§ 115.109 Will the Secretary accept administrative fees for deposit into a trust account?

No. Administrative fees are not trust funds. Tribal programs that assess administrative fees may not deposit those funds into a trust account. However, a tribe may deposit administrative fees into a non-interest bearing, non-trust tribal account with the BIA or in a private sector account in accordance with tribal policies.

§ 115.110 How quickly will payments received on behalf of tribes or individual Indians be deposited?

Generally, deposits will be made within twenty-four hours of the receipt of funds, or no later than the close of business on the next business day following the receipt of funds, in a designated federal depository.

Investments and Interest

§ 115.111 Does money in a trust account earn interest?

Yes. All money deposited in a trust account is invested and earns interest or yield returns, or both.

§ 115.112 How does the OTFM invest money in a trust account?

The OTFM's investment decisions regarding trust funds are governed by federal statute. See 25 U.S.C. 161(a) and 162a.

§ 115.113 What is the interest rate earned on money in a trust account?

The rate of interest changes based on how the money is invested and how those investments perform.

§ 115.114 When does money in a trust account start earning interest?

Funds must remain on deposit at least one business day before interest is earned to the account. Interest earnings of less than one cent are not credited to any account.

Subpart C—Tribal Accounts

§ 115.200 When does the OTFM open a tribal account?

A tribal account is opened when the OTFM receives income from the sources described in § 115.102.

§ 115.201 How often will a tribe receive information about its trust account(s)?

The OTFM will send each tribe a statement of performance every quarter, no later than 20 business days after the close of each calendar quarter. The calendar quarters end on March 31, June 30, September 30, and December 31.

§ 115.202 May a tribe make a request to receive information about its account more frequently?

Yes. A tribe may contact the OTFM at any time to:

(a) Request information about account transactions and balances;

(b) Make arrangements to access account information electronically; or

(c) Receive a monthly statement.

§ 115.203 What information will be provided in a statement of performance?

The statement of performance will identify the source, type, and status of the trust funds; the beginning balance; the gains and losses; receipts and disbursements; and the ending account balance.

§ 115.204 Will an annual audit be conducted on tribal accounts?

Each tribe will be notified when the Secretary has caused to be conducted an annual audit on a fiscal year basis of all the trust funds held by the United States for the benefit of tribes deposited or invested under 25 U.S.C. 162a. This notice will be provided in the first quarterly statement of performance following the audit.

§ 115.205 Does a tribe have to submit an annual budget for use of its trust funds?

(a) Tribes must submit annual budgets to the BIA for:

(1) Accounts with funds that have specific use and distribution plans;

(2) Forest land assistance accounts; and

(3) Other accounts, when required by federal law.

(b) If there is no federal law that requires a tribe to submit an annual budget, a tribe does not need to submit an annual budget. However, tribes are encouraged to voluntarily submit annual projected cash flow needs to the OTFM because the plans assist the OTFM in developing prudent investment strategies to meet the tribe's needs.

§ 115.206 When a tribe is required to complete a budget for use of its trust funds, must the tribe submit the budget to the BIA for approval?

Yes. If a tribe is required to develop a budget for the use of its trust funds, the budget must be submitted to the BIA for approval. The BIA will act on a budget request within thirty days. If BIA, after consultation with the OTFM, approves the budget, the BIA will forward the budget to the OTFM. If the budget is not approved, the BIA will return it to the tribe with an explanation of needed changes and will work with the tribe to obtain approval.

§ 115.207 Does a tribe have any flexibility to modify its budget after the budget has been approved by the BIA?

When the BIA, after consultation with the OTFM, approves the budget, the BIA will specify, by dollar or percentage, the amount allowable for transfer among the approved budget categories. If a tribe wishes to exceed the amount allowed for transfer, an amended budget must be submitted to the BIA for approval. The BIA will approve or disapprove the budget modification request within 30 days. If the budget is not approved, the BIA will return it to the tribe with an explanation.

§ 115.208 Is a tribe responsible for expenditures that do not comply with an approved budget for those trust funds?

Yes. If a tribe expends money for goods or services not within the approved budget, the Secretary may require the tribe to reimburse the trust fund account for those expenditures.

§ 115.209 What will the OTFM consider in deciding how to meet a tribe's projected cash flow needs?

The OTFM, in conjunction with tribal officials, will review:

(a) The balance of a tribe's trust funds;

(b) The date when a tribe needs specific funds; and

(c) Any requirements for the use and distribution of trust funds that were specified in congressional directives, court orders, court-approved settlements, settlement agreements, bond or loan payments, or use and distribution plans.

§ 115.210 How will the BIA assist in the administration of tribal judgment fund accounts?

(a) The BIA will provide technical assistance to a tribe in developing a judgment use and distribution plan if the tribe requests assistance or if Congress directs the BIA to provide that assistance.

(b) The BIA will review all tribal requests for distribution of tribal judgment money and certify to the OTFM that each request complies with any requirements associated with the use of that money found in congressional directives, court orders, court-approved settlements, settlement agreements, bond or loan payments, or use and distribution plans.

§ 115.211 If a tribe withdraws money from its trust account for a particular purpose or project, may the tribe redeposit any money that was not used for the particular purpose or project?

(a) A tribe may redeposit funds not used for a particular purpose or project if the tribe can provide documentation showing the source of the funds and if the funds were withdrawn in accordance with:

(1) The terms of Trust Reform Act;

(2) The terms of the legislative settlement; or

(3) The terms of a judgment use and distribution plan.

(b) Funds withdrawn from a tribe's proceeds of labor account may not be returned to a trust account.

Recovering Unclaimed Judgment Funds

§ 115.212 What happens if a tribal member does not cash his or her judgment per capita check?

(a) If a tribal member does not cash his or her judgment per capita check within twelve months, the money will be deposited to a tribal per capita account where the funds will be held for the use of the tribal member or for disposition under § 115.214.

(b) If a tribal member's judgment per capita check is returned as undeliverable, the money is

immediately deposited into a tribal per capita account. Funds in a tribal per capita account are for the use of the tribal member or for disposition under § 115.214.

§ 115.213 What steps will the OTFM take to locate an individual whose judgment per capita check is returned as undeliverable?

The OTFM will notify a tribe of the judgment fund checks that have been returned as undeliverable and will take reasonable action, including utilizing electronic search tools, to locate the individual entitled to receive the judgment per capita funds after the funds are returned as undeliverable.

§ 115.214 May the OTFM return money in a tribal per capita account to a tribal account?

Yes. A tribe may apply under 25 U.S.C. 164 and Pub. L. 87–283, 75 Stat. 584 (1961), to have the unclaimed judgment per capita money returned to its account for the tribe's use after six years have passed.

Investing and Managing Money in Tribal Accounts

§ 115.215 Can tribal trust fund investments made by the Department lose money?

Yes, a tribal trust fund investment can vary depending on the investment and, including but not limited to, any one or more of the following:

(a) Current interest rates;

(b) Whether the investment is held to its maturity; and

(c) Original purchase price.

§ 115.216 May a tribe recommend how the OTFM invests the tribe's trust funds?

(a) Tribes may recommend certain investments to the OTFM, but the recommendations must be in accordance with the statutory requirements set forth in 25 U.S.C. 161a and 162a. The OTFM will make the final investment decision based on prudent investment practices.

(b) Upon request, the OTFM will consult with tribes at least annually to develop investment strategies to accommodate the cash flow needs of the tribe.

§ 115.217 May a tribe directly invest and manage its trust funds?

Yes, a tribe may apply to withdraw some or all of its trust funds from the OTFM for management by the tribe. The request for withdrawal of funds must be in accordance with the Trust Reform Act requirements in 25 CFR part 1200 subpart (B).

§ 115.218 May a tribe return funds to the OTFM that were previously withdrawn under the Trust Reform Act for investment by the tribe?

Yes, a tribe may return funds withdrawn under the Trust Reform Act to the OTFM, under the following conditions:

(a) A tribe wishing to return funds withdrawn under the Trust Reform Act must make its request in writing to the OTFM.

(b) A tribe may return all or part of the withdrawn funds to the OTFM.

(c) No funds may be redeposited during the first six months after withdrawal.

(d) Funds may only be returned a maximum of twice a year.

(e) The return of trust funds must be in accordance with the Trust Reform Act requirements in 25 CFR part 1200 subpart (C).

Requesting Money From Tribal Accounts

§ 115.219 How does a tribe request money from its trust account?

(a) Generally, before money may be withdrawn from a tribal trust account:

(1) A tribe must submit to the BIA or the OTFM:

(i) A written request signed by the proper authorizing officials, and

(ii) An approved tribal resolution, or

(2) A tribe may contact the OTFM to withdraw funds in accordance with the Trust Reform Act and 25 CFR part 1200.

(b) However, by law or regulation additional documentation or information may be required to withdraw certain trust funds. If additional documentation or information is required, OTFM will notify the tribe of the additional requirement(s).

(c) Upon receipt of all necessary documentation, the OTFM will process the request for disbursement and send the tribe the requested amount of money within one business day.

§ 115.220 May a tribe's request for a withdrawal of money from its trust account be delayed or denied?

(a) Action on a tribe's request for a withdrawal may be delayed or denied if:

(1) The tribe did not submit all the necessary documentation;

(2) The tribe's request is not signed by the proper authorizing officials;

(3) The tribe's request is in conflict with a settlement agreement or an approved use and distribution plan for the money they requested; or

(4) The BIA or the OTFM requires clarification regarding the disbursement request.

(b) If action on a tribe's request will be delayed or denied, the BIA or the OTFM will:

(1) Notify the tribe within 10 working days of the date of a request made under § 115.219(a)(1)–(2) or for requests under the Trust Reform Act, and

(2) Provide technical assistance to the tribe to address any problems.

§ 115.221 How does the OTFM send money to a tribe?

Whenever possible, funds will be sent electronically to a bank account designated by the tribe. If there are circumstances that preclude electronic payments, the OTFM will mail a check to an address specified by the tribe.

Subpart D—Individual Indian Money (IIM) Accounts

General Provisions

§ 115.300 What funds are held in an IIM account?

See § 115.102 for sources of trust funds that may be deposited into IIM accounts.

§ 115.301 How many IIM accounts should a person have?

A person should have only one IIM account unless the account holder is entitled to receive judgment funds in addition to other trust income.

§ 115.302 How long may I leave money in my IIM account?

You may leave your funds on deposit in an IIM account for as long as you choose. The only exception applies to non-Indian life estate holders. See § 115.339.

Information About Your IIM Account

§ 115.303 How do I obtain my IIM account balance?

We will send you a statement of performance every three months. If you need to know the balance of your account between statements, you may call any OTFM office or you may go in person to a BIA or OTFM office to request your current balance.

§ 115.304 What information will be provided in a statement of performance?

The statement of performance will identify the source, type, and status of the funds; the beginning balance; the gains and losses; receipts and disbursements; and the ending balance.

§ 115.305 Will an annual audit be conducted on IIM accounts?

Each IIM account holder will be notified when the Secretary has caused to be conducted an annual audit on a fiscal year basis of all trust funds held by the United States for the benefit of

individual Indians deposited or invested under 25 U.S.C. § 162a. This notice will be provided in the first quarterly statement of performance following the audit.

§ 115.306 When will I receive a statement of performance?

The Department will send each IIM account holder a statement of performance every quarter, not later than 20 business days after the close of a calendar quarter.

§ 115.307 Who has access to information about my account?

The only people who may obtain information about your account are:

(a) You;

(b) your guardian, if you have a supervised account;

(c) those DOI employees who are specifically authorized by the Secretary to access account information;

(d) any other federal or state agency or tribal program for which you have given a signed authorization;

(e) any third party to whom you have given a signed and notarized statement;

(f) any federal court that orders us to provide the information; and

(g) other parties permitted access under the Privacy Act.

§ 115.308 If I apply for a loan with a private lender, will the OTFM give the lender information about my account?

Yes, if you or the private lender provides the OTFM with a signed notarized authorization from you to release the information.

§ 115.309 What information about an IIM account does the OST report to the Internal Revenue Service (IRS)?

The OST will report annually to the IRS the account holder's name and address, tax identification number, taxable interest earned, and related earnings information on an IIM account.

§ 115.310 How will I know how much income is reported to the IRS?

The account holder will be mailed a copy of the IRS Form 1099 that was sent to the IRS.

§ 115.311 Who is responsible for filing tax returns on trust income which may be reportable income?

The following table lists the person responsible for filing taxes for each type of IIM account.

IIM account	Account holder	Tax filer
Unrestricted	All	Account holder.
Restricted—Supervised	non-compos mentis	Guardian, if there is one, otherwise the BIA may authorize the use of account funds to pay for the preparation and filing of your tax return.
	minor	Parent or guardian.
	emancipated minor	Account holder.
	adult in need of financial management assistance.	Guardian, if there is one, otherwise the BIA may authorize the use of account funds to pay for the preparation and filing of your tax return.
Restricted—Involuntary Encumbered.	All	Account holder.
Estate account	All	Administrator or Executor of the estate. If the BIA is administering the trust estate, then the BIA may authorize the use of account funds to pay for the preparation and filing for that portion of the trust estate.
Life estate		Account holder.

§ 115.312 If I apply for government-funded public assistance will my IIM account balance be considered in determining my eligibility?

You must contact the agency providing the assistance to determine whether your IIM funds will be considered in determining eligibility for service(s).

Moving and Changing Addresses

§ 115.313 If I move to a new address how will I receive money from my IIM account?

It is your responsibility to give the OTFM your new address so that the OTFM can mail your checks and other information about your account to you.

§ 115.314 How do I give the OTFM my new address?

You may give the OTFM or the BIA your new address:

(a) In person, but you must have your request for a change of address signed by a DOI employee to whom you have shown verifiable photo identification, See § 115.329, or

(b) Through the mail.

(1) If you mail us a change of address you must include:

(i) Your name,

(ii) Your old address,

(iii) Your new address, and

(iv) Your notarized signature.

(2) You may also provide any of the following information to assist us in verifying your account:

(i) Your account number,

(ii) Your birth date,

(iii) Your social security number,

(iv) Your tribal affiliation,

(v) Your tribal enrollment number (if applicable), and

(vi) Your phone number.

§ 115.315 If I move, will the post office forward my check to my new address?

No. Federal law does not allow the post office to forward checks that are issued by the federal government. You must provide us with a change of address so that your check can be sent directly to your new address.

§ 115.316 If I don't have a permanent address or I move frequently, may I receive money from my IIM account?

Yes. You may receive the money in your IIM account, but you must keep us updated on your current bank account information so that we can electronically deposit your funds or your most current address where we can send your checks.

Uncashed Checks and Stolen Checks

§ 115.317 How long do I have to cash my IIM check?

The check is good for one year from the date printed on the check. If you do not cash your IIM check within one year of the check being issued, the check will be canceled and the money will be redeposited into your IIM account.

§ 115.318 What should I do if I cannot cash my check because it is torn or damaged?

If your check is torn or damaged you must contact an OTFM office to request a replacement check.

§ 115.319 How long do I have to request a replacement check?

You have one year from the date the check was issued to request a replacement check.

§ 115.320 What happens if I lose my check or I do not receive my check because it was stolen?

If you lost your check or if your check was stolen, you must contact the OTFM to file a claim for the amount of the check and to request a stop payment on the check. See § 115.323.

§ 115.321 How long do I have to file a claim if my check was lost or stolen?

You have one year from the date on the check.

§ 115.322 What happens if I do not file a claim for my check within one year from the date on the check?

If you do not file a claim within one year of the date on the check, one of two things may happen:

(a) If the check has not been cashed within 12 months from the date on the check, the OTFM will re-deposit the money into your IIM account. If you have an unrestricted IIM account, a new check will be automatically sent after the funds have been credited to your account. If your account has a voluntary hold, the money will be credited to your account and will remain in the account until you make a request for withdrawal. If your account is restricted, the money will be credited to your account.

(b) If your check has been cashed by someone else, the money will not be redeposited into your IIM account and you will not be able to request a new check. You may contact the OTFM to request a copy of the canceled check. The OTFM may be able to provide assistance in contacting the proper investigatory officials regarding your check.

§ 115.323 Does the OTFM charge to stop payment on an IIM check?

No. The OTFM does not charge for this service.

§ 115.324 Who may authorize a stop payment on my IIM check?

Account holders and guardians of account holders and estate administrators may place a stop payment on an IIM check. However, if we send you a check in error, the OTFM may place a stop payment on that check. The OTFM will notify you if it places a stop payment on your check.

Depositing Money into an IIM Account

§ 115.325 May I deposit money into my IIM account?

No. You may not deposit money into your IIM account.

§ 115.326 May I redeposit IIM funds back into my trust account once I receive the money?

No. IIM funds cannot be redeposited once withdrawn.

§ 115.327 If a court orders that money be deposited into my IIM account, will the BIA or the OTFM honor the court order?

If the source of the money to be deposited is included in the chart in § 115.102, we will deposit the funds ordered by a court.

Withdrawing Money From an Unrestricted IIM Account

§ 115.328 How do I withdraw money from my IIM account?

(a) If you have an unrestricted IIM account, you may request a withdrawal from your account

(1) In person, but you must have your request for withdrawal signed by a DOI employee to whom you have shown verifiable photo identification, see § 115.329; or

(2) Through the mail, but your signature on your request must be notarized.

(b) You may request that the OTFM:

(1) Make a one time withdrawal for you;

(2) Automatically send you your total account balance when the account balance reaches a predetermined threshold amount; or

(3) Send you a specific amount of money from your account on specific dates.

§ 115.329 What is ''verifiable photo identification''?

If you make a request in person, you must provide the BIA or the OTFM with one of the following types of photo identification:

(a) A valid driver's license;

(b) A government-issued identification card, such as a passport or a security badge; or

(c) A photo identification card issued by your tribe.

§ 115.330 What if I do not have any photo identification?

If you cannot show us verifiable identification with your picture on it, we will talk with you and review information in your file to see if we can be certain that you are who you say you are. If we cannot verify your identity, we will not accept your request to withdraw funds from an IIM account.

§ 115.331 Where should I mail my request for a withdrawal from my IIM account?

You may mail your request to your local OTFM office or to one of the regional offices that serves your current address. The address of your local OTFM office is printed on your quarterly statement of performance.

§ 115.332 How will the OTFM send me my money from my IIM account?

The OTFM will either:

(a) Make a direct deposit to your checking or savings account at a financial institution. A direct deposit into your checking or savings account will eliminate lost, stolen or damaged checks and the money will be available to you sooner as there is no mail time involved, or

(b) Mail you a check.

§ 115.333 May I authorize the OTFM to make payments directly to a third party on my behalf?

If your account balance will cover your payment authorization on the date payment is to be made, you may authorize the OTFM to make payments to third parties on your behalf. See § 115.374.

§ 115.334 Will the BIA ever withdraw money from my account without my authorization?

The BIA may withdraw money from your account only after a decision has been made to supervise or involuntarily encumber your IIM account. See subpart F of this part.

§ 115.335 May I always withdraw money from my IIM account?

(a) If you have a supervised account, you will not be able to withdraw money from your account without BIA approval. See § 115.348.

(b) If you have an encumbered account and the entire account balance is encumbered, you will not be able to withdraw any money from your account. See § 115.371 *et seq.*

§ 115.336 Will I receive notice when money is withdrawn from my IIM account?

All transactions regarding your account will be reflected on your quarterly statement of performance which you should review to ensure that you are aware of all disbursements. In addition, if the OTFM transfers funds electronically to your checking or savings account, we will mail a notice each time that a deposit has been made.

Estate Accounts

§ 115.337 Who inherits the money in an IIM account when an account holder dies?

At the end of all probate procedures, funds remaining in a decedent's IIM

account will be distributed or credited from the decedent's IIM account into an IIM account of the decedent's heirs, beneficiaries, or other persons or entities entitled by law to receive the funds. See 25 CFR Part 15.

§ 115.338 May money in an IIM account be withdrawn after the death of an account holder but prior to the end of the probate proceedings?

If the IIM account has a minimum balance of $2,500.00, including any trust funds owed to the IIM account holder or estate on the date of death pursuant to sources of income in section 155.102, anyone responsible for making the funeral arrangements for the deceased account holder may make a written request to the BIA for funeral expenses up to $1,000.00. Payment will be made directly to the funeral service provider(s).

§ 115.339 If I am a non-Indian who has a life estate in income-producing trust or restricted property, how do I receive the income?

If a non-Indian has a life estate in trust or restricted property which is earning income, the OTFM will open an IIM-life estate account. The OTFM will deposit income from the trust or restricted property into the IIM-life estate account, and will send a check or directly deposit funds into a checking or savings account as soon as practicable after the receipt of the funds into the life estate account. Life estate funds are due to the life estate holder at the time funds are deposited.

Supervised Accounts

§ 115.340 Who receives statements of performance for supervised accounts?

If the account is for * * *	Then the OTFM will send the statement of performance to* * *
A minor	The parent or guardian.
An emancipated minor.	The account holder.
A non-compos mentis	The guardian.
An adult in need of financial management assistance.	The guardian.

§ 115.341 If an account is supervised does the account holder have to have a legal guardian?

If an account is supervised and the account holder is * * *	Then the account holder * * *
A minor	Must have a parent or other legal guardian.
An emancipated minor.	Is not required to have a guardian; however the account will be supervised.
Non-compos mentis	Must have a guardian.
An adult in need of financial management assistance.	Must have a guardian.

§ 115.342 Who appoints a legal guardian?

A legal guardian can only be appointed by a tribal court or a federal court, whichever has competent jurisdiction over the Indian individual.

§ 115.343 What are the qualifications for guardians who manage IIM accounts for individual account holders?

Qualifications	If the guardian is * * *	
	Related	Not related
Must not be a convicted felon	✔	✔
Must be over the age of 18	✔	✔
Must live near the account holder	✔	✔
Must complete guardianship training, when required	✔	✔
Must have no conflict of interest		✔
Must post a surety bond, if required		✔

§ 115.344 As a parent with custody of a minor or as a guardian of an account holder, what are my responsibilities?

If you are a parent with custody of a minor or a guardian of an individual with a supervised account, you must:

(a) Work with the BIA to develop and sign an annual distribution plan;

(b) Follow any applicable court order and the terms of an approved distribution plan;

(c) Provide receipts for all expenses paid out of the account holder's IIM funds to the BIA social services official;

(d) Review the statements of performance for the IIM account for errors;

(e) File tax returns on behalf of the account holder; and

(f) Notify the BIA social services of any change in circumstances that impairs your performance of your obligations under this part or that threatens the account holder's interest in his or her trust account.

§ 115.345 If I am a parent with custody of a minor or a guardian of an account holder, may BIA disburse funds without my knowledge?

No. The BIA will only disburse funds in accordance with an approved distribution plan and the BIA will consult with the guardian/parent to develop the distribution plan.

§ 115.346 Who receives a copy of an approved distribution plan and any amendments to the annual plan?

An annual distribution plan, once approved, will be made available to:

(a) The account holder;

(b) The parent with custody of a minor;

(c) The guardian of an account holder; and

(d) The BIA and the OTFM.

§ 115.347 What will we do if we find that a distribution plan has not been followed or a guardian or minor's custodial parent has acted improperly in regard to his or her duties involving the trust funds of an account holder?

If we find that a distribution plan has not been followed, or a guardian or minor's custodial parent has failed to satisfactorily account for expenses or has not used account funds for the primary benefit of the beneficiary, or has otherwise failed to properly execute the payee's duties, we will:

(a) Notify the guardian and the court which appointed the guardian; and

(b) Take action to protect the interests of the account holder, which may include

(1) Demanding repayment from any person improperly withdrawing or expending trust funds;

(2) Proceeding against any bond posted by the guardian;

(3) Immediately modifying the distribution plan for up to sixty days, including suspending the authority of a

guardian or minor's custodial parent to make further withdrawals; or

(4) Referring the matter for civil or criminal legal action.

§ 115.348 When will the BIA authorize a withdrawal from a supervised account?

The BIA may only authorize withdrawals from a supervised account in accordance with an approved distribution plan or an approved amendment to the distribution plan.

Supervised Accounts—Adults

§ 115.349 Will the BIA place an adult's account under supervision at the request of the account holder or other interested party?

No. We will not place an adult's account under supervision at the request of the account holder or an interested party without an order by a court of competent jurisdiction stating that the adult is *non compos mentis* or in need of financial management assistance. However, an account holder or interested party may request orally or in writing that the BIA conduct a social services assessment to determine whether the BIA should recommend guardianship proceedings to a court of competent jurisdiction for the account holder.

§ 115.350 What is a social service assessment?

A social service assessment is an evaluation of an account holder's circumstances and abilities, including the extent to which the account holder needs assistance in managing his or her affairs.

§ 115.351 What happens once the BIA receives an order from a court of competent jurisdiction?

The BIA will perform a social services assessment, if not already completed.

§ 115.352 Who is responsible for performing a social services assessment?

A BIA social worker will perform the assessment which must be approved by a BIA social worker who has a Master of Social Work degree.

§ 115.353 What information must be included in a social services assessment?

A social services assessment must contain:

(a) Identifying information about the account holder (for example, name, address, age, gender, social security number, telephone number, certificate of Indian blood, education level), family history and medical history of the account holder;

(b) Description of the household composition: Information on each member of the household (*e.g.,* name, age, and gender) and that person's relationship to the account holder;

(c) The account holder's current resources and future income (*e.g.,* VA benefits, retirement pensions, trust assets, employment income, judgment funds, general assistance benefits, unemployment benefits, social security income, supplemental security income and other governmental agency benefits);

(d) A discussion of the circumstances which justify special services, including ability of the account holder to handle his or her financial affairs and to conduct day-to-day living activities. Factors to be considered should include, but are not limited to:

(1) Age

(2) Developmental disability

(3) Chronic alcoholism or substance abuse

(4) Lack of family assistance or social support systems, or abandonment

(5) Self-neglect

(6) Financial exploitation or abuse

(7) Physical exploitation, neglect or abuse

(8) Senility

(9) Dementia

(e) Documentation supporting the need for assistance (*e.g.,* medical reports, police reports, court orders, letters from interested parties, prior assessments or evaluations, diagnosis by psychologist/psychiatrist);

(f) Summary of findings including proposed services and an annual distribution plan; and

(g) Final recommendation signed by a BIA social worker with a MSW degree.

§ 115.354 Will the BIA notify me if a decision is made to place my account in supervised status?

Yes. We will notify you of the decision to place your account under supervision based on a court order. The notice will advise you of your rights to request a hearing to challenge the decision to supervise your account. See subpart F of this part.

§ 115.355 How may I challenge a decision to place my account in supervised status?

To challenge a decision by the BIA to supervise your account, you must request a hearing within forty (40) days from the date on the certified mail receipt of the letter that we mailed to you regarding the decision to supervise your account. See subpart F of this part.

§ 115.356 How may I change my account status from supervised to unrestricted?

You may petition a court of competent jurisdiction to make a determination that you are capable of managing your financial affairs or not *non compos mentis.* If the court issues an order declaring that you are capable of managing your financial affairs or are no longer *non compos mentis,* the BIA will honor the court's decision and remove your account from supervision.

§ 115.357 How will a supervised account be managed?

The BIA social services staff (in conjunction with a guardian) will:

(a) Evaluate the needs of the account holder;

(b) Develop an annual distribution plan and amendments to the distribution plan, as needed, for approval by the BIA;

(c) Authorize the OTFM to distribute IIM funds in accordance with an approved distribution plan;

(d) Monitor the implementation of the approved distribution plan to ensure that the funds are expended in accordance with the plan;

(e) Review the supervised account every six months or more often as necessary if conditions have changed:

(1) To warrant a recommendation to a court to change the status of the account holder, or (2) to modify the distribution plan.

§ 115.358 What must be in a distribution plan?

A distribution plan must contain the following:

(a) Information about the reasons for supervision, including

(1) The date of all applicable guardianship orders and the court that issued them;

(2) The date of the most recent applicable social services assessment and the name(s) of the preparer;

(3) A concise statement of the reason for supervision; and

(4) The name of the person or court who initiated the request for supervision.

(b) The names and identifying information for individuals to whom disbursements may be made, including, as applicable

(1) A guardian;

(2) Any third parties, such as landlords or long-term-care facilities, to whom the BIA will make payment; and

(3) The account holder, if an allowance is to be paid directly.

(c) A description of what disbursements are authorized, including

(1) The amounts that can be disbursed to each authorized payee;

(2) The purposes for which disbursement may be made;

(3) The frequency or dates of authorized disbursements

(d) Any additional requirements, such as frequency and documents required for an accounting by the guardian;

(e) The dates the disbursement plan was developed, approved, amended, and reviewed, and the date for the next scheduled review;

(f) The signature of the BIA official approving the plan with the following certification:

(1) The plan is in the best interest of the account holder, and

(2) The guardian meets the criteria contained in § 115.314.

(g) The signature of the guardian, with date signed, certifying that he or she has read the plan or had it read to him or her and that the guardian will follow the disbursement plan.

§ 115.359 How may funds in a supervised account be used under a distribution plan?

A distribution plan for an individual whose account is supervised may authorize disbursements and expenses for the primary benefit of the account holder. Such expenses may include, among other items, amounts for the account holder's food, clothing, shelter, medical care, transportation, education, institutional care, recreation, and religious observances, and for support of the account holder's minor dependents. Expenses must be reasonable in amount, considering the account holder's needs and available resources.

§ 115.360 What is the review process for a supervised account?

A review will be conducted every six months and social services will:

(a) Consult with a guardian to verify that the money was spent in accordance with a distribution plan by

(1) Reviewing the receipts for an account holder's expenses, or

(2) Accepting the court's accounting, if a court is monitoring the guardianship of IIM funds, instead of reviewing receipts from the guardian if that annual review includes accounting for the proceeds of an IIM account;

(b) Review all case worker reports and notes, and any information submitted by the account holder;

(c) Review BIA/OTFM account records to insure that withdrawals and payments were made in accordance with the distribution plan;

(d) Decide whether the distribution plan needs to be modified; and

(e) Evaluate the recommendation made to the court regarding the need for the guardianship of the account holder to continue.

§ 115.361 If I have a power of attorney for an account holder, may I withdraw money from the account holder's IIM account?

No. We will not recognize a power of attorney for purposes of distributing money from an IIM account to anyone other than the account holder.

§ 115.362 If I am incarcerated will the BIA automatically supervise my account?

No. Your account will not be automatically supervised just because you are in prison or in jail.

§ 115.363 How do I continue to receive my IIM funds and statements of performance if I am incarcerated?

To continue receiving your IIM funds and statements of performance, you must notify the OTFM of your address change in accordance with § 115.326 and the amount of money you wish to receive from your account.

Supervised Accounts—Minors

§ 115.364 When will the BIA authorize withdrawals from a minor's account?

(a) Judgment fund account: withdrawals may only be made upon BIA approval of an application made under Pub.L. 97–458. See 25 CFR 1.2.

(b) Other trust fund accounts: withdrawals may only be made under a BIA-approved distribution plan based on a justified need for the minor's health, education, or welfare.

§ 115.365 May the BIA permit a parent or legal guardian to receive funds from a minor's IIM account?

The BIA will not permit a minor's parent or guardian to withdraw funds unless it is in accordance with an approved distribution plan. See § 115.345.

§ 115.366 Will I automatically receive all my IIM funds when I turn 18?

No. We will not automatically send your IIM funds to you when reach the age of majority.

§ 115.367 What do I need to do when I reach the age of majority to access my trust fund account?

You must contact the OTFM to request the withdrawal of any or all of your IIM funds.

§ 115.368 Will my account lose its supervised status when I reach the age of majority?

Your account status will no longer be supervised when you reach the age of majority, unless a court of competent jurisdiction has found you to be *non compos mentis* or in need of financial management assistance and the BIA has decided to supervise your account.

§ 115.369 Are there any reasons other than supervision that would prevent me from obtaining my funds once I reach the age of 18?

(a) If you have a judgment fund account, a tribal use and distribution plan for judgment funds may contain restrictions or requirements that must be met prior to obtaining your money once you turn 18 years of age.

(b) If your account has tribal per capita funds, the tribe may specify that additional requirements be met prior to obtaining these funds.

§ 115.370 If I am an emancipated minor may I withdraw funds from my account?

(a) For a judgment fund account: An emancipated minor may not make withdrawals from his or her account until the individual is no longer a minor. Exceptions are only granted upon the approval of an application made under Pub.L. 97–458. See 25 CFR 1.2.

(b) For other IIM accounts: You may be able to withdraw some or all of your funds, but the BIA must approve all requests for withdrawals from your account. You may work with the BIA to develop a distribution plan to access the funds in your account. In no instance will the BIA allow an emancipated minor to make unsupervised withdrawals.

Encumbered Accounts

§ 115.371 Are all encumbrances on an IIM account the same?

No, there are two types of encumbrances that may be placed on an IIM account:

(a) Encumbrances, including placing a hold on the account, authorized by an account holder; and

(b) Involuntary encumbrances authorized by the BIA.

§ 115.372 What type of encumbrances may I place on my IIM account?

(a) You may:

(1) Request a voluntary hold on your account so that your funds remain in your account;

(2) Request that the OTFM make third-party payments out of your account;

(3) Make an assignment of IIM income to a third party but only for health care emergencies under §§ 115.377 and 115.378;

(4) Make an assignment of IIM income as security for a debt to a third party; and

(5) Make an assignment of IIM income as security for a debt that is secured under the authority of the Indian Finance Act.

(b) The table below provides further information on encumbrances that may be placed on your account.

	Unrestricted accounts		Restricted accounts			
	Voluntary hold on an account by the account holder	Payments to third parties as directed by the account holder	Assignment of IIM income for a health care emergency	Assignment of IIM income as security for a loan	Assignment of IIM income as security for loans under the Indian Finance Act	Child support payments
Is BIA a signatory to the encumbrance?	No	No	No	No	Yes	No.
Is a court order necessary to encumber the account?	No	No	No	Yes	No	Yes.
May I make withdrawals from my account?	Yes, up to the balance in the account.		Yes, where the account balance exceeds the amount of the encumbrance and based on the payment plan.			
May an account be overdrawn to fulfill an encumbrance?	No	No	No.			
When will the encumbrance be removed?	OTFM will remove the encumbrance upon request by the account holder.		OTFM will remove the encumbrance upon receipt of notification that the debt or obligation is satisfied or upon expiration of the payment plan.			
Who may authorize the removal of an encumbrance?	Account holder	Account holder	BIA	BIA	BIA	Court of competent jurisdiction.

§ 115.373 How may I request a voluntary hold on my account?

You must contact the OTFM to authorize a voluntary hold on any or all income that is currently in or will be deposited into your IIM account.

§ 115.374 May I authorize the OTFM to make third-party payments from my IIM account to pay my monthly bills or other obligations?

You may authorize the OTFM to make third-party payments from your IIM account, but your account balance on the date of payment must be sufficient to cover your authorized payments. If your account balance is insufficient to cover your authorized payment(s) in full, no payment(s) will be made, including partial payment(s). The OTFM will notify you if the payment(s) was not made because of an insufficient account balance.

§ 115.375 If I have a voluntary hold on my account, may I make a withdrawal from my account?

You may withdraw any amount up to your current balance.

§ 115.376 How do I remove a voluntary hold from my account?

Contact the OTFM to authorize the removal of a voluntary hold.

§ 115.377 When may I assign my current account balance and any future income to be deposited into my IIM account directly to a third party?

The BIA will only honor an assignment of IIM income for health care emergencies made directly to a service provider for prescription drugs, medical equipment or other medical needs as supported by a physician's prescription or a physician's written recommendation.

§ 115.378 What amount of my IIM income may I assign directly to a third party for health care emergencies?

You may only assign and the BIA will only recognize an assignment of IIM income in an amount that is not greater than your current account balance plus the total contractual amounts due to be paid into the IIM account within one year from the date of the assignment of income made directly to a third party to pay for a health care emergency as defined in § 115.377. After the assignment of income is presented to the BIA, the assignment of income will no longer be voluntary. No trust account will be overdrawn to make third-party payments.

§ 115.379 How will an assignment of IIM income made directly to a third party for health care emergencies be paid from my account?

An assignment of income made directly to a third party in accordance with § 115.337 must be presented to the BIA for payment. The BIA will honor the direct assignment by authorizing an involuntary hold on your current and future account balance up to the amount you assigned for payment. Payments to third parties will be made in accordance with a payment plan. No account will be overdrawn to make third-party payments.

§ 115.380 May I assign future IIM income as security for a debt?

Yes, you may make an assignment of IIM income as security for a debt. However, unless the debt is secured under the authority of the Indian Finance Act, the creditor must perfect the security interest by obtaining an order from a court of competent jurisdiction specifying the amount of the debt to be secured by your assignment of IIM income prior to presenting the court order to the BIA for payment. We will not pre-approve or be a signatory party to any account holder's assignment of IIM income as security unless the debt being secured is secured under the authority of the Indian Finance Act. If the debt is secured under

the Indian Finance Act, the BIA will be a signatory party to the account holder's assignment of IIM income as security and the creditor.

§ 115.381 What must a third party do to acquire a right to receive disbursements from my IIM account?

(a) Before the BIA will consider placing an involuntary encumbrance on an IIM account, a third party must:

(1) Perfect an assignment of IIM income as security in a court of competent jurisdiction by obtaining an order/judgment stating the amount to be paid under the assignment unless the debt being secured is a debt secured under the authority of the Indian Finance Act;

(2) Perfect with the BIA an assignment of IIM income as security for a debt that was secured under the authority of the Indian Finance Act to determine the amount to be paid under the assignment. To perfect this interest, the third party must present to the BIA the original loan documentation, payment history, date of default, proposed payment schedule, and proof of assignment;

(3) Obtain an order or judgment from a court of competent jurisdiction for child support; or

(4) Present an assignment of income made by an account holder for a health care emergency as defined by § 115.377.

(b) Once a court of competent jurisdiction has issued an order for third party claims under paragraphs (a)(1) and (a)(3) stating the amount owed or the amount to be paid to the creditor or awardee, the creditor or awardee must present the order to the BIA.

§ 115.382 If the court order specifies that my account be encumbered immediately, will the Secretary honor the court order before my time for a hearing has expired?

No. A hold will not be placed on your account until five days after the date on which BIA mailed your notice or after five days after the final publication of your public notice.

§ 115.383 If I assign my income to a third party for health care emergencies or make an assignment of income as security for a secured loan under the Indian Finance Act, will my account be encumbered immediately?

No. A hold will not be placed on your account until five days after the date on which BIA mailed your notice or after five days after the final publication of your public notice.

§ 115.384 If I have an involuntary encumbrance on my account, may I make withdrawals from my account?

If the encumbrance(s) on your IIM account are less than your current account balance, you may withdraw the difference between the amount owed or obligated and the remaining balance.

§ 115.385 When will BIA place an involuntary encumbrance on my IIM account?

(a) The BIA may place an involuntary encumbrance on your IIM account for a specific amount of money to pay:

(1) A child support order from a court of competent jurisdiction;

(2) A debt owed to the United States;

(3) A debt secured under the authority of the Indian Finance Act where the account holder assigned his or her IIM income as security for the loan and the lender has presented the BIA with the loan documents, payment history, date of default, and schedule of payments;

(4) A debt or claim where an account holder assigned his or her IIM income as security for a transaction and there is an order from a court of competent jurisdiction stating the amount of the debt to be paid from the account holder's IIM account;

(5) An assignment of income for a health care emergency made by an account holder to a service provider under §§ 115.377 and 115.378; and

(6) Debt(s) ordered to be paid under a probate order.

(b) Before an IIM account is involuntarily encumbered by the BIA, the BIA will decide whether and what amount of the court ordered debt, child support award, or assignment of income will be paid from the account and develop a schedule for third-party payment.

(c) The BIA will not authorize payment to third parties under an involuntary hold until the account holder has been given an opportunity for a hearing. See subpart F of this part.

§ 115.386 How does the BIA determine the amount of an involuntary encumbrance?

The BIA will review all claims against an IIM account and will only recognize those listed in § 115.385. The BIA will determine the amount of money to be paid to a third party and the payment schedule based on the claim against your IIM account, the resources available to you, and the amount of funds in your account. The BIA will also consider your basic welfare needs such as food, clothing, and shelter in making its determination.

§ 115.387 When will the BIA remove an involuntary encumbrance?

(a) The BIA will authorize the removal of an involuntary encumbrance under the following circumstances:

(1) If the BIA decides during the hearing process that the debt or obligation should not be paid from your IIM account; or

(2) Upon satisfaction of your debt or obligation.

(b) The BIA will notify the account holder that it has authorized the removal of the involuntary encumbrance.

§ 115.388 If my account is supervised or involuntarily encumbered, when will the BIA develop a payment schedule?

(a) If your account is supervised, the BIA will develop an annual distribution plan in consultation with you and/or your guardian.

(b) If your account is involuntarily encumbered a distribution plan will be developed by the BIA prior to making any third party payments from your account. However, this plan may be modified based upon future claims against your account.

§ 115.389 Will the payment schedule developed to pay a debt or other obligation expire?

Yes. The payment schedule should state the time period in which third-party payments are to be made from your account. However, if a payment schedule does not specify a final payment date, the payment schedule will expire when the obligation or debt is paid in full or in five (5) years from the initial date of the restriction. However, there will be no expiration date for a payment schedule to fulfill a child support award other than the time period specified in the court order.

§ 115.390 If I have multiple encumbrances on my trust account, will there be a priority of payment for those encumbrances?

(a) Yes, the encumbrances will be paid with the following priority:

(1) A child support order from a court of competent jurisdiction;

(2) A debt to the United States;

(3) Assignment of income as security for a secured debt under the Indian Finance Act;

(4) A federal court order;

(5) A tribal court order;

(6) Assignment for a heath care emergency made in accordance with § 115.377.

(b) Where there is more than one encumbrance in one of the preceding categories, the encumbrance will be paid in the order received (*i.e.,* first in time).

(c) Whenever a new encumbrance is placed on an account, the BIA will review all payment schedules and revise as necessary.

Subpart E—Special Deposit Accounts

§ 115.400 Who receives the interest earned on a special deposit account?

Generally, interest follows principal. The tribal or individual account holder who owns the money will receive the interest earned in a special deposit account. The amount of interest paid will be directly proportional to the amount of principal owned by the account holder.

§ 115.401 When will the money in a special deposit account be credited or paid out to the owner of the funds?

The OTFM will disburse the money from a special deposit account as soon as the BIA certifies the ownership of the funds.

§ 115.402 May administrative or land conveyance fees paid as federal reimbursements be deposited in a special deposit account?

No. Administrative or land conveyance fees that are paid to reimburse the federal government for services provided will be retained by the BIA to cover the cost of such services.

§ 115.403 May cash bonds (e.g., performance bonds, bid deposits, appeal bonds, etc.) be deposited into a special deposit account?

No. All cash bonds held by the Secretary will be deposited in non-interest bearing accounts until the term of the bonds expire.

§ 115.404 May the BIA deposit into a special deposit account money that is paid prior to approval of a conveyance or contract instrument for land sales, right-of-ways, resource sales, grazing, or leasing, etc.?

No. All payments made prior to the BIA's approval of a transaction will be deposited by the BIA into a non-interest bearing, non-trust account. Once the transaction is approved by the BIA, the funds will be deposited into a trust fund account.

Subpart F—Hearing Process for Restricting an IIM Account

§ 115.500 Under what circumstances may the BIA restrict my IIM account through supervision or an involuntary encumbrance?

(a) Your IIM account may be restricted through an involuntary encumbrance if:

(1) The BIA receives an order or judgment from a court of competent jurisdiction:

(i) Perfecting an assignment of IIM income as security; or

(ii) Awarding child support from your IIM account; or

(2) The BIA is presented with your signed direct assignment of IIM income for a health care emergency as defined by § 115.377.

(3) The BIA is presented with your assignment of IIM income as security for a debt that is secured under the authority of the Indian Finance Act.

(b) Your IIM account may be restricted through supervision if the BIA receives an order from a court of competent jurisdiction that you are non-compos mentis or an adult in need of financial management assistance.

(c) Your IIM account may be restricted through an involuntary encumbrance if an administrative error caused a deposit or disbursement to be made to you, your IIM account, or to a third party on your behalf.

§ 115.501 Will I be notified if the BIA decides to place an involuntary encumbrance on or supervise my account?

If the BIA decides to place an involuntary encumbrance on or supervise your IIM account, the BIA will notify you and provide you with an opportunity to challenge the decision.

§ 115.502 How will the BIA notify me of its decision to place a hold on my account?

The BIA will notify you of its decision by:

(a) Certified mail to your address;

(b) Personal delivery to you or your address;

(c) Publication in your tribal newspaper if your whereabouts are unknown and in the local newspaper serving your last known mailing address; or

(d) First class mail to you in care of the warden, if you are incarcerated. The BIA may send a copy of the notification to your attorney if known.

§ 115.503 What happens if the notice by certified mail is returned to the BIA marked undeliverable?

If the notice by certified mail is returned to the BIA marked undeliverable, the BIA will remove the restriction, which was placed on your account five days after the notice was mailed, and will publish a notice in accordance with § 115.502(c).

§ 115.504 When will the BIA restrict my IIM account once it has decided to involuntarily encumber or supervise my account?

The BIA will place a restriction on your account:

(a) 5 days after the BIA mails you a notice of its decision to restrict your account;

(b) 1 day after personal delivery to you or your address of BIA's notice of its decision to restrict your account; or

(c) 5 days after the final publication of your public notice of BIA's decision to restrict your account.

§ 115.505 What information will the BIA include in its notice ?

(a) A letter providing notice of the BIA's decision to restrict your account must contain:

(1) The name on the account;

(2) The amount and reason for the restriction;

(3) An explanation that your IIM account will be restricted 5 days after the date on the certified mail receipt on your notice;

(4) Information explaining that you have 40 days from the date on the certified mail receipt on your notice to request a hearing to challenge the restriction;

(5) Information that explains how to request a hearing;

(6) Information that the BIA will conduct the hearing and that you are assured a fair hearing;

(7) A copy of the fair hearing guidelines;

(8) Information that you may contact the BIA to authorize immediate payment from your IIM account to pay the claim;

(9) The address and phone number of the BIA office that provided the notice; and

(10) Other information as may be determined appropriate by the BIA.

(b) Public notice of the BIA's decision to restrict your account must contain:

(1) The name on the account;

(2) The initial publication date;

(3) A statement that the BIA has been presented with a claim against your account;

(4) A statement that the BIA has decided to place a restriction on your account to pay the claim;

(5) A statement that the public notice will be published once a week for four consecutive weeks and that the initial publication date will be the first week of publication;

(6) A statement that the BIA will place a restriction on your account 5 days from the date of the fourth publication of the public notice;

(7) A statement that you have 30 days from the fourth publication date to challenge the BIA's decision to restrict your account; and

(8) An address and telephone number of the BIA office publishing the notice to request further information and instructions on how to request a hearing to challenge the decision.

§ 115.506 How do I request a hearing to challenge the BIA's decision to restrict my IIM account?

You must contact the BIA office that provided you notice of the restriction to request a hearing. Your request must:

(1) Be in writing;

(b) Specifically request a hearing to challenge the restriction;

(c) Be postmarked within:

(1) 40 days of the date of the certified mail receipt on your notice from the BIA or the date of personal delivery of your letter of notice, or

(2) 30 days of the final publication date of the public notice.

§ 115.507 When will the BIA conduct a hearing to allow me to challenge its decision to restrict my account?

The BIA will conduct a hearing within 10 working days from its receipt of your written request for a hearing.

§ 115.508 Will I be allowed to present testimony?

Yes. You will be provided the opportunity to present testimony during your hearing. You may not challenge the court order or judgment in this proceeding. Your testimony must be confined to why your IIM account should not be restricted.

§ 115.509 Will I be allowed to present witnesses?

Yes. You may present witnesses during a hearing. However, you are responsible for any and all expenses incurred with presenting witnesses.

§ 115.510 Will I be allowed to question opposing witnesses?

Yes. You may question all opposing witnesses in your hearing and present witnesses to challenge opposing witness testimony.

§ 115.511 May I be represented by an attorney at my hearing?

Yes. You may, at your own expense, have an attorney or other person represent you at your hearing.

§ 115.512 Will the BIA record the hearing?

Yes. The BIA will record the hearing.

§ 115.513 Why is the hearing recorded?

The hearing record must be made available for review if the hearing process is appealed under § 115.600. The record must be preserved in accordance with Subpart H of this part.

§ 115.514 How long after the hearing will the BIA make its final decision?

The BIA will provide a final written decision to all parties within 10 working days of the hearing.

§ 115.515 What happens if the BIA decides to supervise my account after my hearing?

BIA social services staff will consult with you and/or your guardian to develop an annual distribution plan. Upon approval by the BIA, the distribution plan will be valid for one year.

§ 115.516 What happens if the BIA or OST decides to restrict my account because of an administrative error which resulted in funds that I do not own being paid to me or a third party on my behalf?

The DOI will consult with the account holder to develop a repayment plan.

§ 115.517 If the BIA decides that the restriction on my account will be continued after my hearing, do I have the right to appeal that decision?

Yes, you have the right to appeal the BIA's decision under § 115.600.

§ 115.518 If I decide to appeal the BIA's decision made after my hearing, will BIA restrict my account during the appeal?

Yes. Your account will be restricted up to the amount at issue in the appeal. No third-party payments will be made until your appeal is decided.

Subpart G—Appeals

§ 115.600 Do I have a right to appeal any decision made under this part?

Appeals from an action taken by the BIA may be taken pursuant to 25 CFR part 2, subject to the terms of subpart F in this part.

Subpart H—Records

§ 115.700 Who owns the records associated with this part?

Any records generated in fulfillment of this part are the property of the United States.

§ 115.701 What are a tribe's obligations regarding trust fund records?

(a) A tribe must make and preserve all financial records that track the source and use of all trust fund expenditures under an approved budget.

(b) Tribal records documenting expenditures of trust funds under an approved budget are considered to be federal records that are subject to the Federal Records Act, 44 U.S.C. Chapter 31 *et seq.*

§ 115.702 How long must a tribe keep its records?

A tribe must preserve its records documenting expenditures of trust funds for the period of time authorized by the Archivist of the United States for similar Department of the Interior records in accordance with 44 U.S.C. Chapter 33. The records, and related records management practices and safeguards required under the Federal Records Act, are subject to inspection by the Secretary and the National Archives and Records Administration.

Subpart I—Exceptions

§ 115.801 Funds of deceased Indians of the Five Civilized Tribes.

Funds of a deceased Indian of the Five Civilized Tribes may be disbursed to pay *ad valorem* and personal property taxes, Federal and State estate and income taxes, obligations approved by the Secretary or his authorized representative prior to the death of the decedent, expenses of last sickness and burial, and claims found to be just and reasonable which are not barred by the statute of limitations, costs of determining heirs to restricted property by the State courts, and claims allowed pursuant to part 16 of this chapter.

§ 115.802 Assets of members of the Agua Caliente Band of Mission Indians.

(a) The provisions of this section apply to money or other property, except real property, held by the United States in trust for such Indians, which may be used, advanced, expended, exchanged, deposited, disposed of, invested, and reinvested by the Director, Palm Springs Office, in accordance with the Act of October 17, 1968 (Pub. L. 90–597). The management or disposition of real property is covered in other parts of this chapter.

(b) Investments made by the Director, Palm Springs Office, under the Act of October 17, 1968, supra, shall be of such a nature as will afford reasonable protection of the assets of the individual Indian involved. The Director is authorized to enter into contracts for the management of the assets (except real property) of individual Indians. The consent of the individual Indian concerned must be obtained prior to the taking of actions affecting his assets, unless the Director determines, under the provisions of section (e) of the Act, that consent is not required.

(c) The Director may, consistent with normal business practices, establish appropriate fees for reports he requires from guardians, conservators, or other fiduciaries appointed under State law for members of the Band.

§ 115.803 Osage Agency.

The provisions of this part do not apply to funds the deposit or expenditure of which is subject to the provisions of part 117 of this chapter.

PART 162—LEASES AND PERMITS

4. Part 162 is revised to read as follows:

Subpart A—Purpose and Definitions

Sec.
162.1 What is the purpose of this part?
162.2 What key terms do I need to know?

Subpart B—General Lease Provisions and Requirements

162.3 What leases are covered by this subpart?

General Provisions

162.4 Do tribal laws apply to leases?
162.5 How will the Secretary implement tribal laws on Indian agricultural lands?
162.6 What tribal policies will we apply for leasing on Indian agricultural lands?
162.7 May individual Indian landowners exempt their land from tribal policies for leasing on Indian agricultural lands?
162.8 What notifications are required that tribal law applies to a lease on Indian agricultural land?
162.9 Who enforces tribal laws pertaining to Indian agricultural lands?
162.10 How is a lease on Indian land obtained?
162.11 Is an agricultural resource management plan required?
162.12 How will the Secretary decide whether to grant and/or approve a lease?
162.13 What supporting documents must a potential lessee provide?
162.14 Must a lease be recorded?
162.15 Where are leases recorded?
162.16 Who is responsible for recording a lease?
162.17 Can more that one tract of land be combined into one lease?
162.18 Is there a standard lease form?
162.19 Will we notify the lessee of any change in land title status?
162.20 How is leased land described?
162.21 May a lease be amended, modified, assigned, transferred or sublet?
162.22 May a lease be used as collateral for a leasehold mortgage?
162.23 What factors does the BIA consider when reviewing a leasehold mortgage?
162.24 May a lessee voluntarily assign a leasehold interest under an approved encumbrance?
162.25 May the holder of a leasehold mortgage assign the leasehold interest after the sale or foreclosure of an approved encumbrance?

Rent and Terms

162.26 Are there specific provisions that must be included in a lease?
162.27 How long is a lease term?
162.28 When may a lessee take possession of leased Indian land?
162.29 Can improvements be constructed on Indian lands?
162.30 What happens to improvements constructed on Indian lands when the lease has been terminated?
162.31 What happens if the improvements are not removed within the specified time period?
162.32 When must a lease payment be made?
162.33 When is a lease payment late?
162.34 Will a lessee be notified when a lease payment is due?
162.35 What happens if a lessee does not receive notice that a lease payment is due?
162.36 What will the BIA do to collect lease payments that are not made in accordance with the terms of a lease?
162.37 Is there a penalty for late payment on a lease?
162.38 Does the BIA accept partial payment for a lease payment due?
162.39 May a lessee make a lease payment in advance of the due date?
162.40 May an individual Indian landowner modify the terms of the lease on a fractionated tract for advance lease payment?
162.41 To whom are lease payments made?
162.42 May a lessee send a lease payment directly to the Indian landowner?
162.43 What forms of payment are acceptable to the Secretary?
162.44 When required under a lease, how will the BIA adjust the lease payment?

Bonds and Insurance

162.45 Must a lessee, assignee or sublessee provide a bond for a lease?
162.46 How do we determine the amount of the bond?
162.47 What forms of bonds will the BIA accept?
162.48 How will a cash bond be administered?
162.49 Is interest paid on a cash performance bond?
162.50 Are cash performance bonds refunded?
162.51 Is insurance required for a lease?
162.52 What types of insurance may be required?

Subpart C—Process for Obtaining a Lease

162.60 Who is responsible for leasing Indian land?
162.61 How do I acquire a lease on Indian land?
162.62 How do I acquire a lease through negotiation?
162.63 What are the basic steps for acquiring a lease through negotiation?
162.64 Must I negotiate with and obtain the consent of all of the Indian landowners of a fractionated tract for a lease other than an agricultural lease?
162.65 Can I negotiate a contract with an Indian landowner to lease land at a future date?
162.66 How do I acquire an advertised lease through competitive bidding?
162.67 Must Indians who own Indian land obtain a lease before using this land for their purposes (owner's use)?
162.68 Must the parents or guardians of minors who own Indian land obtain a lease before using the land?

Subpart D—Granting a Lease

162.70 Who may grant a lease?
162.71 Who may represent an individual Indian landowner in granting a lease?
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Subpart E—Business Leases

General Provisions

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162.81 How is a business lease obtained?
162.82 What supporting documents must I provide?

Rent and Term

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162.85 Can a lease be renewed?
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Consents and Approvals

162.87 How and when can a lease be amended?
162.88 May a lease be assigned, sublet, or mortgaged without the consent of the Indian landowners?
162.89 May the Indian landowners withhold their consent to an assignment or encumbrance?
162.90 May a lease be assigned, sublet, or mortgaged without BIA approval?
162.91 How will the BIA decide whether to approve an assignment or sublease?

Subpart F—Compensation to Landowners

162.100 What does the BIA do with rent payments received from lessees?
162.101 How do Indian landowners receive rent payments?
162.102 How will the rent be distributed if the lease covers more than one tract of land with different owners?

Subpart G—Administrative Fees

162.110 Are there administrative fees for a lease?
162.111 How are administrative fees determined?
162.112 Are administrative fees refundable?
162.113 May the Secretary waive administrative fees?
162.114 Are there any other administrative or tribal fees, taxes or assessments that must be paid?

Subpart H—Lease Violations

162.120 What lease violations are addressed by this subpart?
162.121 How will the Secretary enforce compliance with lease provisions?
162.122 What happens if a violation of a lease occurs?
162.123 What will a written notice of violation contain?
162.124 Can a determination of a violation be contested?
162.125 What happens to a bond if a violation occurs?
162.126 What happens if you do not cure a lease violation?
162.127 If you do not cure a lease violation, what may an Indian landowner do?
162.128 Can the Secretary take emergency action without prior notice if the leased premises are being damaged?
162.129 What rights does a lessee have if the Secretary takes emergency action under this subpart?

Subpart I—Appeals

162.130 May decisions by the Secretary be appealed?

Subpart J—Non-Trust Interests

162.140 May the Secretary grant or approve leases for non-trust interests in Indian land?
162.141 Are non-trust interests included in a lease?
162.142 How will a lessee know there is a non-trust interest in Indian land?
162.143 From whom must a lessee lease a non-trust interest?
162.144 Is the non-trust interest shown in a lease of Indian land?
162.145 How much rent is due for the non-trust interest?
162.146 May a lessee payment made by a lessee to the BIA or to an Indian landowner include payment for any non-trust interest?
162.147 Will the BIA grant or approve a lease on a fractionated tract that is subject to a life estate held by the owner of a non-trust interest?

Subpart K—Valuation

162.150 Why must the Secretary determine the fair annual rental of Indian land?
162.151 How does the Secretary determine the fair annual rent of Indian land?
162.152 Will the BIA ever grant or approve a lease at less than fair annual rental?

Subpart L—Trespass

162.160 What is trespass?
162.161 What is the BIA's trespass policy?
162.162 Who can enforce this subpart?

Notification

162.163 How are trespassers notified of a trespass determination?
162.164 What can I do if I receive a trespass notice?
162.165 Who else will the BIA notify?

Actions

162.166 What actions does the BIA take against trespassers?
162.167 When will we impound unauthorized livestock or other property?
162.168 How will you be notified if your unauthorized livestock or other property are to be impounded?
162.169 What will we do after we impound unauthorized livestock or other property?
162.170 How do I redeem my impounded livestock or other property?
162.171 How will the sale of impounded livestock or other property be conducted?

Penalties, Damages, and Costs

162.172 What are the penalties, damages, and costs payable by trespassers on Indian land?
162.173 How will the BIA determine the value of forage or crops consumed or destroyed?
166.174 How will the BIA determine the value of the product illegally used or removed?
162.175 How will the BIA determine the amount of damages to Indian land?
162.176 How will the BIA determine the costs associated with enforcement of the trespass?
162.177 What happens if I do not pay the assessed penalties, damages and costs?
162.178 How are the proceeds from trespass distributed?
162.179 What happens if the BIA does not collect enough money to satisfy the penalty?

Subpart M—Records

162.180 Who owns records associated with this part?

Subpart N—Special Requirements for Certain Reservations

162.190 Crow Reservation
162.191 Fort Belknap Reservation
162.192 Cabazon, Augustine and Torres-Martinez Reservations, California
162.193 Colorado River Reservation
162.194 Salt River and San Xavier Reservations
162.195 Tulalip Reservation

Authority: 5 U.S.C. 301, R.S. 463 and 465; 25 U.S.C. 2 and 9. Interpret or apply sec. 3, 26 Stat. 795, sec. 1, 28 Stat. 305, secs. 1, 2, 31 Stat. 229, 246, secs. 7, 12, 34 Stat. 545, 34 Stat. 1015, 1034, 35 Stat. 70, 95, 97, sec. 4, 36 Stat. 856, sec. 1, 39 Stat. 128, 41 Stat. 415, as amended, 751, 1232, sec. 17, 43 Stat. 636, 641, 44 Stat. 658, as amended, 894, 1365, as amended, 47 Stat. 1417, sec. 17, 48 Stat. 984, 988, 49 Stat. 115, 1135, sec. 55, 49 Stat. 781, sec. 3, 49 Stat. 1967, 54 Stat. 745, 1057, 60 Stat. 308, secs. 1, 2, 60 Stat. 962, sec. 5, 64 Stat. 46, secs. 1, 2, 4, 5, 6, 64 Stat. 470, 69 Stat. 539, 540, 72 Stat. 968, 107 Stat. 2011, 108 Stat. 4572, March 20, 1996, 110 Stat. 4016; 25 U.S.C. 380, 393, 393a, 394, 395, 397, 402, 402a, 403, 403a, 403b, 403c, 409a,413, 415, 415a, 415b, 415c, 415d, 477, 635, 3701, 3702, 3703, 3712, 3713, 3714, 3715, 3731, 3733.

Subpart A—Purpose and Definitions

§ 162.1 What is the purpose of this part?

(a) The purpose of this part is to describe the authorities, policies, and procedures the Secretary will use to grant, approve, and administer, a surface lease or permit on Indian land or government land. This part does not apply to grazing permits, which are administered under part 166 of this chapter, or Indian forest land, which is administered under part 153 of this chapter.

(b) This part includes a subpart N, which applies to leases and permits on specific reservations. All of the requirements in subparts A through M of this part apply to these reservations unless the provisions contained in subpart N of this part for each specific reservation state otherwise.

§ 162.2 What key terms do I need to know?

For purposes of this part:

Adult means an individual who is 18 years of age or older.

Agricultural lease or permit means a lease or permit for farming and/or grazing purposes on Indian agricultural land.

Agricultural resource management plan means a ten year plan developed through the public review process specifying the tribal management goals and objectives developed for tribal agricultural and grazing resources. Plans developed and approved under AIARMA will govern the management and administration of Indian agricultural resources and Indian agricultural lands by the BIA and by Indian tribal governments.

AIARMA means American Indian Agricultural Resources Management Act of December 3, 1993 (107 Stat. 2011, 25 U.S.C. 3701 *et seq.*), as amended on November 2, 1994, (108 Stat. 4572).

Appeal bond means a type of bond that guarantees payment of an amount that may be owed after the completion of an appeal process.

Approving/approval means the action taken by the BIA to approve a lease.

Assign means to transfer the contract rights in a lease or permit for use of Indian land to an individual, company, corporation or partnership in exchange for compensation or other consideration. The party receiving the assignment (assignee) assumes all of the rights and obligations of the lease.

Assignee means the person to whom the contract rights for use of Indian land were assigned.

BIA means Bureau of Indian Affairs within the Department of the Interior.

Bond means an agreement in writing in which a surety, or an obligor for a personal bond, guarantees performance or compliance with the lease terms.

Crop share means the agreed upon percentage of an agricultural crop taken in kind as payment of rent under a lease.

Encumbrance means a mortgage, deed of trust or other instrument which secures a debt owed by a lessee to a lender or other encumbrancer.

Environmental baseline survey means an investigation that results in a qualitative and quantitative statement of the nature and magnitude of environmental contamination physically present on a defined tract of real property.

Fair annual rental means a reasonable annual return on fair market value, as this value may be determined by appraisal, advertisement, competitive bidding, negotiation, or any other appropriate method in accordance with the Uniform Standards of Professional Appraisal Practices (USPAP).

Fractionated tract means a parcel of Indian land with more than one owner.

Government land means the surface estate of a tract of land, or any interest therein, which is acquired or reserved by the United States for the Bureau of Indian Affairs administrative purposes. Indian land is not government land.

Grant/granting means the process of agreeing or consenting to a lease.

I/You means the person to whom this part directly applies.

In loco parentis means the person whom the BIA recognizes as standing in place of a parent.

Indian agricultural land means Indian land, including farmland and rangeland, excluding Indian forest land (except where authorized grazing occurs) that is used for production of agricultural products, and Indian lands occupied by industries that support the agricultural community, regardless of whether a formal inspection and land classification has been conducted.

Indian land means:

(1) The surface (non-mineral) estate of a tract of land, or any interest therein, which is held by the United States in trust for a tribe or an individual Indian; or

(2) A tract of land, or any interest therein, which is owned by a tribe or an individual Indian, subject to federal restrictions against alienation or encumbrance.

Indian landowner means an Indian tribe or individual Indian who owns an interest in Indian land.

Individually owned Indian land means Indian land or an interest therein owned by an individual.

Lease means a contract which grants the right to possess or use Indian land for a specified purpose and duration in exchange for compensation or other consideration.

Leasehold means the interest in real property held by a lessee.

Lessee means an individual, company, corporation, or partnership who has entered into a lease on tribal and/or Indian lands in exchange for compensation.

Life estate means an interest in Indian land that expires upon the death of the interest holder, as administered under part 179 of this chapter.

Majority interest means the total amount of tribal and/or Indian land interest that is more than 50 percent of the entire ownership in the land.

Negotiable Treasury securities means securities issued by the Treasury Department of the United States.

NEPA means the National Environmental Policy Act (42 U.S.C. 4321, *et seq.*)

Non compos mentis means a person who has been legally determined not capable of handling his/her own affairs.

Non-trust interest means an undivided interest in Indian land that is owned in fee simple, rather than in trust or restricted status.

Permit means a privilege, revocable at will in the discretion of the Secretary and not assignable, to enter on and use a specified tract of land for a specified purpose.

Restricted land means land for which a tribe or individual Indian holds fee simple title subject to limitations or restrictions against alienation or encumbrance as set forth in the title and/or by operation of law.

Secretary means the Secretary of the Interior or an authorized representative; it also means a tribe or tribal organization if that entity is administering specific programs, functions services or activities, previously administered by the Secretary, but now authorized under a Self-Determination Act contract (pursuant to 25 U.S.C. 450f) or a Self-Governance compact (pursuant to 25 U.S.C. 558cc). Such authority does not include inherently federal functions.

Surety means one who guarantees the performance, default or debt of another.

Sublease means a lease granted by a lessee of the property.

Trespass means an unauthorized occupancy, use of, or action on Indian agricultural lands.

Tribal land means land for which the United States holds fee title in trust for the benefit of a tribe, and includes assignments of tribal land.

Tribal law means the body of non-federal law that governs tribal lands and activities, and includes ordinances or other enactments by a tribe, tribal constitutions, tribal court rulings, and tribal common law.

Trust land means land, or an interest therein, for which the United States holds fee title in trust for the benefit of a tribe or an individual Indian.

Undivided interest means that the interest of co-owners is in the entire property and that each such interest is indistinguishable from every other interest: The interest has not been divided out from the whole parcel. (Example: If you own ¼ interest in 160 acres, you do not own an identifiable 40 acre tract. You own ¼ of the whole 160 acres because your 1/4 interest has not been divided out from the whole 160 acres.)

Us/We/Our means the Secretary, as defined in this part.

Uniform Standards of Professional Appraisal Practice (USPAP) means the standards promulgated by the Appraisal Standards Board of The Appraisal Foundation which establish requirements and procedures for professional real property appraisal practice.

Subpart B—General Lease Provisions and Requirements

§ 162.3 What leases are covered by this subpart?

This subpart applies to all leases under this part unless otherwise specified, such as business leases.

General Provisions

§ 162.4 Do tribal laws apply to leases?

Tribal laws will apply to leases of Indian land under the jurisdiction of the tribe enacting such laws, unless those tribal laws are inconsistent with applicable federal law.

§ 162.5 How will the Secretary implement tribal laws on Indian agricultural lands?

Unless prohibited by federal law, the Secretary will comply with laws or ordinances adopted by the tribal government to regulate land use or other activities under tribal jurisdiction and with tribal laws and ordinances pertaining to Indian agricultural lands, including laws regulating the environment and historic or cultural preservation.

§ 162.6 What tribal policies will we apply for leasing on Indian agricultural lands?

(a) When specifically authorized by an appropriate tribal resolution establishing a general policy for leasing of Indian agricultural lands, the Secretary will:

(1) Provide a preference to Indian lessees in issuing or renewing a lease, so long as the Indian landowner receives fair annual rental;

(2) Waive or modify the requirement that a lessee must post a surety or performance bond;

(3) Provide for posting of other collateral or security in lieu of a bond; and

(4) Approve leases on tribal lands at rates determined by the tribal governing body.

(b) When specifically authorized by an appropriate tribal resolution establishing a general policy for leasing of Indian agricultural lands, and subject to paragraph (c) of this section, the Secretary may:

(1) Waive or modify any general notice requirement of federal law; and

(2) Grant or approve a lease on ''highly fractionated undivided heirship lands'' as defined by tribal law.

(c) The Secretary may take the action specified in paragraph (b) of this section only if:

(1) The tribe defines by resolution what constitutes ''highly fractionated undivided heirship lands;''

(2) The tribe adopts a plan for notifying Indian landowners in place of any notice requirements of federal law; and

(3) The Secretary's action is necessary to prevent waste, reduce idle land acreage and ensure income.

§ 162.7 May individual Indian landowners exempt their land from tribal policies for leasing on Indian agricultural lands?

(a) The individual Indian landowner(s) of a tract of land or an undivided interest may exempt their Indian agricultural land from our application of a tribal leasing policy referred to in § 162.6 if:

(1) The Indian landowner(s) have at least 50% interest in such tract; and

(2) The Indian landowner(s) submit a written objection to us.

(b) The same procedure applies to withdrawing a request for exemption.

(c) Upon verification of the written objection we will notify the tribe of the landowners' exemption from the specific tribal policy. If the individual Indian landowner withdraws a request for exemption, we will notify the tribe of the withdrawal.

§ 162.8 What notifications are required that tribal law applies to a lease on Indian agricultural land?

(a) Tribes must notify us of the content and effective dates of new tribal laws that supercede these regulations.

(b) We will then notify any persons or entities undertaking activities on Indian lands of the superseding effect of the tribal law. We will provide:

(1) Individual written notice to each affected lessee; or

(2) Public notice posted at the tribal community building and at the United States Post Office, and published in the local newspaper nearest to the Indian lands where activities are occurring.

§ 162.9 Who enforces tribal laws pertaining to Indian agricultural land?

(a) The tribe is responsible for enforcing tribal laws and ordinances pertaining to Indian agricultural lands.

(b) The Secretary will:

(1) Provide assistance in the enforcement of tribal laws; and

(2) Require appropriate federal officials to appear in tribal forums when requested by a tribe.

§ 162.10 How is a lease on Indian land obtained?

A lease on Indian lands is granted by the Indian landowner and approved by us. However, there are exceptions to this general rule, as discussed in 25 U.S.C. 415 and subpart D of this part.

§ 162.11 Is an agricultural resource management plan required?

An agricultural resource management plan must be developed either by the tribe or by us in consultation with the affected tribe(s). This plan should be consistent with the tribe's integrated resource management plan. The agricultural resource management plan must:

(a) Determine available agricultural resources;

(b) Identify specific tribal agricultural resource goals and objectives;

(c) Establish management objectives for the resources;

(d) Define critical values of the Indian tribe and its members and identify holistic management objectives;

(e) Identify actions to be taken to reach established objectives;

(f) Be developed through public meetings;

(g) Use the public meeting records, existing survey documents, reports, and other research from federal agencies, tribal community colleges, and land grant universities; and

(h) Be completed within three years of the initiation of activity to establish the plan.

§ 162.12 How will the Secretary decide whether to grant and/or approve a lease?

(a) Before we grant or approve a lease, we must determine in writing that a lease is in the best interest of the Indian landowner by:

(1) Reviewing the lease and supporting documents;

(2) Identifying potential environmental impacts and ensuring compliance with all applicable environmental laws, land use laws, and ordinances (including preparation of the appropriate review under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321, et seq.));

(3) Recommending lease modifications or mitigation measures that are needed to satisfy any preliminary federal and tribal land use requirements; and

(4) After the parties agree to make the recommended modifications, making specific written findings that our grant or approval will further the best interests of the Indian landowners.

(b) In making the findings required by this section, we must specifically consider:

(1) The relationship between the use of the leased lands and use of neighboring lands;

(2) The height, quality, and safety of any structures or other facilities to be constructed on such lands;

(3) The availability of police and fire protection, utilities, and other essential community services;

(4) The availability of judicial forums for all criminal and civil matters arising on the leased lands;

(5) The effect on the environment of the uses to which the leased lands will be subject; and (6) The tribe's assessment of the potential impacts of the proposed use on the preservation of the Indian community, the continued practice of Indian cultural activities, and the exercise of tribal government authority on the leased lands and on other nearby land of that tribe.

(c) We will not grant or approve a lease more than 12 months before its beginning date.

§ 162.13 What supporting documents must a potential lessee provide?

(a) If the potential lessee is a corporation, limited liability company, partnership, joint venture, or other legal entity, it must provide organizational documents, certificates, filing records, financial statements, and resolutions or other authorization documents, as needed to show that the lease will be enforceable against the lessee and the lessee will be able to perform all of its lease obligations.

(b) If the lease authorizes new construction, the potential lessee must provide environmental reports, which may include an environmental baseline survey, archaeological reports, and other planning documents as we may determine are necessary to facilitate our compliance with NEPA and other federal and tribal environmental and land use requirements.

§ 162.14 Must a lease be recorded?

All leases on Indian land in excess of one year must be recorded.

§ 162.15 Where are leases recorded?

Leases are recorded in the appropriate BIA Land Titles and Records Office.

§ 162.16 Who is responsible for recording a lease?

We are responsible for ensuring that all leases that we approve or grant are recorded in the Land Titles and Records Office. Tribes are responsible for recording leases that do not require our approval.

§ 162.17 Can more than one tract of land be combined into one lease?

Yes. A lease may include more than one tract of land. The tracts may be owned by a tribe, individual(s), or a combination of tribe and individual(s). Leases may include tribal, individual, or government lands, or any combination thereof.

§ 162.18 Is there a standard lease form?

In order to accommodate the variety of leases that may be let on Indian land,

there is no standard lease form. However, the provisions of the lease must conform to the requirements of this part.

§ 162.19 Will we notify the lessee of any change in land title status?

Yes. We will notify the lessee if a fee patent is issued or if restrictions are removed, but the lease continues in effect for its term. After we notify the lessee, our obligation under § 162.8 and this section ceases.

§ 162.20 How is leased land described?

The land should be described by aliquot parts. However, if the land cannot be described by aliquot parts, a current certified plat by a registered surveyor or other acceptable description of the land being leased must be provided.

§ 162.21 May a lease be amended, modified, assigned, transferred or sublet?

(a) We must approve an amendment, modification, assignment, transfer or sublease with the written consent of all parties to the lease and the sureties in accordance with paragraphs (b) through (d) of this section.

(b) An Indian landowner may designate in writing one or more co-owners or other representatives to negotiate and/or agree to amendments on the landowner's behalf.

(1) The designated landowner or representative may:

(i) Negotiate or agree to amendments; and

(ii) Consent to or approve other items as necessary.

(2) The designated landowner or representative may not:

(i) Negotiate or agree to amendments that reduce the rentals payable to the other landowners; or

(ii) Terminate or modify the term of the lease.

(c) We may approve a lease for tribal land to individual members of a tribe or to tribal housing authorities which contains a provision permitting the assignment of the lease by the lessee or the lender without our approval when a lending institution or an agency of the United States:

(1) Makes, insures or guarantees a loan for the construction of housing for Indians on the leased premises;

(2) Accepts the leasehold as security for the loan; or

(3) Obtains the leasehold through foreclosure or otherwise.

(d) We may approve a lease containing a provision which authorizes the lessee to sublease the premises in whole or in part without further approval.

(e) Subleases made under this provision do not relieve the sublessor (lessee of record) from any liability under the lease, nor will it diminish our authority to take any action authorized under this subpart to protect the trust asset.

§ 162.22 May a lease be used as collateral for a leasehold mortgage?

Yes. We may approve a lease containing a provision that authorizes the lessee to encumber the leasehold interest for the development, improvement or refinancing of the leased premises. We must approve the leasehold mortgage before it can be effective. We will record the approved leasehold mortgage instrument.

§ 162.23 What factors does the BIA consider when reviewing a leasehold mortgage?

(a) We will approve the leasehold mortgage if:

(1) All consents required in the lease have been obtained from the Indian landowner and any surety or guarantor;

(2) The mortgage covers only the interest in the leased premises, and no unrelated collateral belonging to the lessee;

(3) The financing being obtained will be used only in connection with the development or use of the leased premises, and the mortgage does not secure any unrelated obligations owed by the lessee to the mortgagee; and

(4) We find no compelling reason to withhold our approval in order to protect the best interests of the Indian landowner.

(b) In making the finding required by paragraph (a)(4) of this section, we will consider whether:

(1) The ability to perform the lease obligations would be adversely affected by the cumulative mortgage obligations;

(2) Any negotiated lease provisions as to the allocation or control of insurance or condemnation proceeds would be modified;

(3) The remedies available to us or to the Indian landowners would be limited (beyond the additional notice and cure rights to be afforded to the mortgagee), if the lessee defaults on the lease; and

(4) Any rights of the Indian landowners would be subordinated or adversely affected in the event of a foreclosure, assignment in lieu of foreclosure, or issuance of a ''new lease'' to the mortgagee.

(c) We will notify the Indian landowners of our approval of the leasehold mortgage.

§ 162.24 May a lessee voluntarily assign a leasehold interest under an approved encumbrance?

Yes. With our approval, under an approved encumbrance a lessee voluntarily may assign the leasehold interest to someone other than the holder of a leasehold mortgage if the assignee agrees in writing to be bound by the terms of the lease. A lease may provide the Indian landowner with a right of first refusal on the conveyance of the leasehold interest.

§ 162.25 May the holder of a leasehold mortgage assign the leasehold interest after the sale or foreclosure of an approved encumbrance?

Yes. The holder of a leasehold mortgage may assign a leasehold interest obtained by the sale or foreclosure of an approved encumbrance without our approval if the assignee agrees in writing to be bound by the terms of the lease. A lease may provide the Indian landowner with a right of first refusal on the conveyance of the leasehold interest.

Rent and Terms

§ 162.26 Are there specific provisions that must be included in a lease?

Yes. In addition to other provisions identified in this part, all leases must provide at a minimum for the following:

(a) The lessee and sureties maintain an obligation to the United States and the Indian landowners;

(b) The lease will not delay or prevent the issuance of a fee patent.

(c) Except for agricultural leases, there must not be a preference right to future leases;

(d) There must not be any unlawful conduct, creation of a nuisance, illegal activity, negligent use or waste of property;

(e) Farming and grazing operations must be conducted in accordance with the principles of sustained yield management, integrated resource management planning, sound conservation practices, and other community goals as expressed in tribal laws;

(f) Lessees must comply with all applicable laws, ordinances, rules, regulations, and other legal requirements. If a lessee does not comply with the lease provisions and requirements, the lease is considered to be in violation (see subparts H and I of this part for violation, cancellation, and remedies available);

(g) A citation of the authority used to grant and the delegation of authority for the approval of the lease;

(h) A statement indicating that any rental payments of a fixed amount will be adjusted under section 162.48, including:

(1) When the adjustments will be made;

(2) Who will make the adjustments;

(3) How the adjustment will be determined; and

(4) How any disputes arising from the adjustments will be settled;

(i) A legal description or current certified plat of the lands being leased, or other acceptable description of the land being leased; and

(j) The lessee will indemnify the United States and the Indian landowner against all liabilities or costs relating to the use, handling, treatment, removal, storage, transportation, or disposal of hazardous materials or the release or discharge of any hazardous material from the lease premises that occur during the lease term, regardless of fault.

§ 162.27 How long is a lease term?

(a) The lease term (including any renewal period permitted under § 162.16(g) of this subpart), must be reasonable, given the purpose of the lease and the type of financing and level of investment required. A longer term may be permitted, if it is necessary to ensure that the land value is preserved and that the land is utilized to the maximum benefit of the Indian owners.

(b) Unless otherwise authorized by federal statute (such as 25 U.S.C. 415(a) or 4211(b)), leases for public, religious, educational, recreational, residential or business purposes will have a maximum primary term that does not exceed 25 years and may include an option to extend for one additional term that may not exceed 25 years.

(c) Leases for housing development and residential purposes can not exceed 50 years including renewals, unless a federal statute (such as 25 U.S.C. 415(a)) has authorized a longer period for leases of land within certain reservations.

(d) Leases for agricultural purposes will not usually exceed five years for dry-farming land or ten years for irrigable lands. If substantial investment in the development or production of a specialized crop is required, agricultural leases may be made for up to 25 years. To determine if a term longer than ten years is justified, we will consider the feasibility of the proposed development, crop production, or consideration of the amount of investment required by the lessee or other relevant factors;

(e) For the undetermined heirs of an individual Indian decedent owning 100 percent (%) interest in the land, we will grant leases for a maximum term of two years.

(f) A lease can be extended only by renewal or extension as defined in the lease. Leases may provide multiple options for termination; and

(g) A lease will specify the beginning and ending dates of the term allowed, as well as any option to renew, extend, or terminate.

§ 162.28 When may a lessee take possession of leased Indian land?

The lessee may take possession of leased Indian land on the date specified in the lease as the beginning date of the term, but not before we approve the lease.

§ 162.29 Can improvements be constructed on Indian lands?

Improvements may be constructed if the lease contains a provision allowing them.

§ 162.30 What happens to improvements constructed on Indian lands when the lease has been terminated?

If improvements are to be constructed on the land, the lease must contain a provision that improvements will either:

(a) Remain on the lands upon termination of the lease, in a condition that is in compliance with applicable building, health and other codes, and will become the property of the Indian landowner; or

(b) Be removed within a time period specified in the lease. The lands must be restored as close as possible to the original condition prior to construction of such improvements. At the request of the lessee we may, at our discretion, grant an extension of time for the removal of improvements for circumstances beyond the control of the lessee.

§ 162.31 What happens if the improvements are not removed within the specified time period?

If a lessee fails to remove the improvements within the time allowed in the lease, the lessee may forfeit the right to remove the improvements and the improvements may become the property of the Indian landowner.

§ 162.32 When must a lease payment be made?

A lease payment is due by the date specified in the lease. The BIA will not accept a lease payment beyond the lease term, except in collection of unpaid lease payments.

§ 162.33 When is a lease payment late?

A lease payment is deemed to be late if it is not received within 15 days of the payment date specified in the lease.

§ 162.34 Will a lessee be notified when a lease payment is due?

Each lessee will receive written notice stating when lease payments are due. Additionally, each lease informs the lessee of the schedule of payments agreed to by the parties.

§ 162.35 What happens if a lessee does not receive notice that a lease payment is due?

If a lessee does not receive notice that a lease payment is due, the lessee remains responsible for making timely payment of all amounts due under the lease.

§ 162.36 What will the BIA do to collect lease payments that are not made in accordance with the terms of a lease?

Failure to make payments in accordance with the terms of a lease will be enforced against the lessee as a lease violation under subpart H of this part.

§ 162.37 Is there a penalty for late payment on a lease?

Yes. A lease will contain a provision that specifies the penalty that will be assessed and collected for late payment.

§ 162.38 Does the BIA accept partial payment for a lease payment due?

Yes, in special circumstances. Ordinarily, the total amount is due and payable by the payment date specified in the lease, and failure to make complete payment may constitute a violation of the lease. Exceptions are rarely granted and require a specific written request and the consent of the parties to the lease and our approval. For example, partial payment may be allowed for the bankruptcy of a lessee.

§ 162.39 May a lessee make a lease payment in advance of the due date?

Rent may be paid only 30 days in advance of the due date as specified in the lease. The BIA will not accept a lease payment more than 30 days prior to the beginning of the new lease term.

§ 162.40 May an individual Indian landowner modify the terms of the lease on a fractionated tract for advance lease payment?

No. An individual Indian landowner of a fractionated tract may not modify a lease to permit a lease payment in advance of the due date specified in the lease.

§ 162.41 To whom are lease payments made?

All lease payments must be submitted as provided in the lease. The lessee must make payments payable to the party identified in the lease in the amount due, including any late payment, penalties, interest, or other amount if applicable.

§ 162.42 May a lessee send a lease payment directly to the Indian landowner?

Yes, if the lease provides for direct payment.

§ 162.43 What forms of payment are acceptable to the Secretary?

Payment must be in accordance with the lease. Payments of money must be United States currency in one of the following forms:

(a) Postal money order;

(b) Bank money order;

(c) Cashier's check;

(d) Certified check; or

(e) Electronic funds transfer.

§ 162.44 When required under a lease, how will the BIA adjust the lease payment?

(a) We will adjust the lease payment every fifth year.

(b) We will make our adjustments by appropriate valuation method, taking into account the value of any improvements made under the lease, unless the lease provides otherwise. These adjustments will be retroactive, if they are not made at the time specified in the lease.

(c) For leases granted by tribes, we will consult with the granting tribe to determine whether an adjustment of the lease payment should be made. The lease must be modified to document the granting tribe's waiver of the adjustment.

Bonds and Insurance

§ 162.45 Must a lessee, assignee or sublessee provide a bond for a lease?

Yes. A lessee, assignee or sublessee must provide a bond for each lease interest acquired. Upon request by an Indian landowner, we may waive the bond requirement.

§ 162.46 How do we determine the amount of the bond?

(a) We will determine the amount of the bond for each lease based on the following considerations, as appropriate:

(1) The value of one year's rental;

(2) The value of any improvements to be constructed;

(3) The cost of performance of any additional obligations, such as irrigation charges; and

(4) The cost of performance of restoration and reclamation.

(b) Tribal policy made applicable by § 162.6 of this part may establish or waive specific bond requirements for leases.

(c) We may adjust security or bond requirements at any time to reflect changing conditions.

§ 162.47 What forms of bonds will the BIA accept?

(a) We will only accept bonds in the following forms:

(1) Cash;

(2) Negotiable Treasury securities that:

(i) Have a market value at least equal to the bond amount; and

(ii) Are accompanied by a statement granting full authority to the Secretary to sell such securities in case of a violation of the terms of the lease.

(3) Certificates of deposit that indicate on their face that Secretarial approval is required prior to redemption by any party;

(4) Irrevocable letters of credit (LOC) issued by federally-insured financial institutions authorized to do business in the United States. LOC's must:

(i) Contain a clause that grants the Secretary authority to demand immediate payment if the lessee defaults or fails to replace the LOC within 30 calendar days prior to its expiration date;

(ii) Be payable to the Department of the Interior, BIA;

(iii) Be irrevocable during its term and have an initial expiration date of not less than one year following the date the BIA receives it; and

(iv) Be automatically renewable for a period of not less than one year, unless the issuing financial institution provides the BIA with written notice at least 90 calendar days before the letter of credit's expiration date that it will not be renewed;

(5) Surety bond; or

(6) Any other form of highly liquid, non-volatile security subsequently approved by us that is easily convertible to cash by us and for which Secretarial approval is required prior to redemption by any party.

(b) For tribal leases, a tribe may negotiate a lease term that specifies the use of any of the bond forms described in paragraph (a) of this section.

§ 162.48 How will a cash bond be administered?

If you submit a cash bond, the BIA will establish an account in your name with the Office of Trust Funds Management to retain the funds.

§ 162.49 Is interest paid on a cash performance bond?

No. We will not pay interest on a cash performance bond.

§ 162.50 Are cash performance bonds refunded?

Yes. If the cash performance bond has not been forfeited for cause, we will refund the principal amount deposited to the depositor at the end of the lease period.

§ 162.51 Is insurance required for a lease?

When we determine it to be in the best interest of the Indian landowners, we will require a lessee to provide insurance. If insurance is required, it must:

(a) Be provided in an amount sufficient to:

(1) Protect any improvements on the leased premises;

(2) Cover losses such as personal injury or death; and

(3) Protect the interest of the Indian landowner.

(b) Identify the Indian landowners and the United States as insured parties.

§ 162.52 What types of insurance may be required?

We may require any or all of the following types of insurance depending upon the activity conducted under the lease: Property, crop, liability, and casualty (such as for fire, hazard, or flood).

Subpart C—Process for Obtaining a Lease

§ 162.60 Who is responsible for leasing Indian land?

The Indian landowner is primarily responsible for leasing Indian land, with the assistance and approval of the Secretary,except where otherwise provided by law. You may contact the local BIA office for assistance in leasing Indian land.

§ 162.61 How do I acquire a lease on Indian land?

You may acquire a lease on Indian land through either negotiation or responding to an advertisement for competitive bids. A tribe may lease land under either of these methods. We must approve all leases of Indian land in order for the leases to be valid.

§ 162.62 How do I acquire a lease through negotiation?

(a) Leases may be negotiated and granted by the Indian landowners with the lessee of their choice. The Secretary also may negotiate and grant leases on behalf of Indian landowners pursuant to § 162.60 (b) and (c) of this part.

(b) Upon the conclusion of negotiations with the Indian landowners or their representatives, and the satisfaction of any applicable conditions, you may submit an executed lease and any required supporting documents to us for appropriate action.

(c) In negotiating a lease, the Indian owners may choose to contribute their land to the project in exchange for their

receipt of a share of the revenues or profits generated by the lease. Under such an arrangement, the lease may be granted to a joint venture or other legal entity owned, in part, by the Indian owners of the land. Unless otherwise required by this title, we will not enter into or approve any agreements related to the formation of such a joint venture or other legal entity.

(d) Receipt of lease payments based upon income received from the land will not, of itself, make the Indian landowner a partner, joint venturer, or associate of the lessee(s).

(e) We will assist prospective lessees in contacting the Indian landowners or their representatives for the purpose of negotiating a lease.

§ 162.63 What are the basic steps for acquiring a lease through negotiation?

The basic steps for acquiring a lease by negotiation are:

(a) We receive a request to lease from an Indian landowner or potential lessee;

(b) We prepare the lease documents and provide them to the Indian landowner or potential lessee, or assist the Indian landowner to prepare the documents;

(c) The Indian landowner, or the Secretary on the landowner's behalf, grants (agrees to) a lease;

(d) A potential lessee completes the requirements for securing a lease, *e.g.* bond, payment of administrative fee, etc.;

(e) We review the lease for proper completion and compliance with all applicable laws and regulations;

(f) We issue a decision on the lease based upon our review;

(g) We send the approved lease to the lessee and, upon request, to the Indian landowner; and

(h) We record and maintain the approved lease.

§ 162.64 Must I negotiate with and obtain the consent of all of the Indian landowners of a fractionated tract for a lease other than an agricultural lease?

Yes. All Indian landowners of fractionated interests must consent to an agricultural lease.

§ 162.65 Can I negotiate a contract with an Indian landowner to lease land at a future date?

In negotiating a lease with Indian landowners or their representatives, a prospective lessee may enter into a contract to lease the land at a future date, with the contract specifying the essential lease terms, as described in § 162.30 of this part, as well as any conditions that must be satisfied before the lease may be granted or approved.

(a) The conditions to be satisfied may require that the lessee comply with NEPA or other preliminary federal or tribal land use requirements; the conditions also may require that certain permits or financing commitments be obtained before the lease is granted or approved.

(b) We may participate in the contract negotiations (in order to ensure that all of the necessary terms and conditions are identified), but we will not be a party to such a contract.

(c) We will not approve such a contract unless approval is required under 25 U.S.C. § 81 and part 84 of this chapter.

§ 162.66 How do I acquire an advertised lease through competitive bidding?

(a) Advertised leases on Indian lands are awarded to the successful bidder after a public bidding process. We will grant or approve the lease on behalf of the Indian landowners and then, approve the lease. The basic steps for acquiring an advertised lease are:

(1) We prepare and distribute an advertisement of lands available for lease that identifies the terms and conditions of the lease sale, including, for agricultural leases, any preference rights;

(2) We solicit sealed bids and conduct the public lease sale;

(3) We determine and accept the highest bid(s), which may require further competitive bidding after the bid opening;

(4) We prepare leases for successful bidders;

(5) The successful bidder completes and submits the lease and satisfies its requirements, e.g., bond, payment of administrative fee, etc.;

(6) We review the lease for proper completion and compliance with all applicable laws and regulations;

(7) We grant the lease on behalf of Indian landowners where we are authorized to do so by law;

(8) We approve the lease;

(9) We distribute the approved lease to successful bidder/lessee and, upon request, to the Indian landowner; and

(10) We record and maintain the approved lease.

(b) [Reserved]

§ 162.67 Must Indians who own Indian land obtain a lease before using this land for their purposes (owners' use)?

(a) Indian landowners who own 100 percent (%) of a tract of land are not required to obtain a lease.

(b) If an Indian landowner does not own 100 percent (%) of a tract of land and wants to use the land, he or she must obtain a lease from the co-owners in the tract of land.

§ 162.68 Must the parents or guardians of minors who own Indian land obtain a lease before using the land?

A parent, guardian, or other person standing in loco parentis does not need to obtain a lease for lands owned by their minor children if:

(a) Those minor children own 100 percent (%) of the land; and

(b) The minor children directly benefit from the use. We may require the user of the land to provide evidence of a direct benefit to the minor children. When any of the minor children reach the age of majority, the user of the land must obtain a lease from the child for the use to continue.

Subpart D—Granting a Lease

§ 162.70 Who may grant a lease?

(a) Tribes grant leases of tribal land, including any tribally-owned undivided interest(s) in a fractionated tract. A lease granted by the tribe must be approved by us, unless the lease is authorized by a charter approved by us under 25 U.S.C. § 477, or unless our approval is not required under other applicable federal law. In order to lease tribal land in which the beneficial interest has been assigned to another party, the assignee and the tribe must both grant the lease, subject to our approval.

(b) Individual Indian landowners may grant a lease of their own land, including their undivided interest in a fractionated tract, subject to our approval. Except as otherwise provided in this part, these landowners may include the owner of a life estate holding 100 percent (%) interest in the lease tract.

(c) We may grant a lease on behalf of an individual Indian landowner, as provided in section 162.71.

(d) We will grant permits on Government lands.

§ 162.71 Who may represent an individual Indian landowner in granting a lease?

The following individuals or entities may represent an individual Indian landowner:

(a) An adult acting on behalf of :

(1) His or her minor children; or

(2) Other minor children to whom the adult stands *in loco parentis* who do not have a guardian or other legal representative;

(b) A guardian, conservator, or other fiduciary appointed by a court of competent jurisdiction to act on behalf of an individual Indian landowner;

(c) An adult or legal entity who has been given a written power of attorney which:

(1) Meets all of the formal requirements of any applicable tribal or state law;

(2) Identifies the attorney-in-fact and the land to be leased; and

(3) Describes the scope of the power granted and any limits thereon.

(d) The BIA acting on behalf of:

(1) An individual who is non compos mentis;

(2) An orphaned minor;

(3) An individual Indian landowner who has granted us a durable power of attorney to lease his or her land;

(4) The undetermined heirs and devisees of a deceased Indian landowner;

(5) An Indian landowner whose whereabouts are unknown to us after a reasonable attempt is made to locate the owner;

(6) The Indian landowners of a fractionated tract who:

(i) Have received actual notice of our intent to grant a lease on their behalf; and

(ii) Are unable to agree upon a lease during the three month negotiation period following the notice;

(7) The owners of a minority interest in the Indian ownership of a fractionated tract of Indian agricultural land when the majority interest has consented, as long as the minority interest owners receive fair annual rental;

(8) The owners of ''highly fractionated undivided heirship lands,'' for agricultural leases, consistent with § 162.6 of this part; or (9) The individual Indian owners of fractionated Indian land, when necessary to protect the interests of the individual Indian landowners.

§ 162.72 May an emancipated minor grant a lease on his or her own Indian land?

No. An emancipated minor, a person who is under 18 years of age and declared by a court of competent jurisdiction to be an adult, may not grant a lease on his or her own Indian land.

§ 162.73 When may the Secretary grant permits?

(a) We may grant a permit on behalf of all individual Indian landowners covering all trust and restricted interests if it is impractical to provide notice to the landowners and no substantial injury to the land would occur.

(b) We will not grant permits on tribal lands except upon request by a tribe.

(c) We will grant permits on Government land.

§ 162.74 What requirements apply to an agricultural lease on fractionated tracts?

(a) The owners of a majority interest in the Indian ownership of a fractionated tract may grant an agricultural lease without giving prior notice to the minority owners as long as the minority interest owners receive fair annual rental. We must approve such leases.

(b) We may grant an agricultural lease on behalf of all owners of a fractionated tract without giving prior notice to the minority owners. Before granting such a lease, we will offer a preference right to any Indian owner who:

(1) Possesses the entire lease tract;

(2) Submits a written offer to lease the land, subject to any required or negotiated terms and conditions, prior to our granting a lease to another party; and

(3) Provides any supporting documents needed to demonstrate the ability to perform all of the lessee's obligations under the proposed lease.

§ 162.75 When is a decision by the BIA regarding leases effective?

A decision by the BIA regarding leases is effective 30 days after the issuance of the decision document and exhaustion of all appeal rights.

Subpart E—Business Leases

General Provisions

§ 162.80 What types of leases are covered by this part?

(a) This subpart covers both ground leases (undeveloped land) and leases of developed land (together with the improvements thereon), authorizing the development or use of the leased premises for purposes other than farming, grazing, or use as an individual homesite. The regulations in this subpart also apply to leases made for those other purposes, if appropriate.

(b) Leases covered by this subpart may authorize the construction of single-purpose or mixed use projects designed for use by any number of tenants or occupants. These leases may include:

(1) Residential development leases;

(2) Leases for public, religious, educational, and recreational purposes; and

(3) Commercial or industrial leases for retail, office, manufacturing, storage, and/or other business purposes.

§ 162.81 How is a business lease obtained?

You may obtain a lease from an Indian landowner through negotiation. Generally, business leases will not be advertised for competitive bid. We will assist you in contacting the Indian landowners or their representatives for the purpose of negotiating a lease.

§ 162.82 What supporting documents must I provide?

(a) If you are a corporation, limited liability company, partnership, joint venture, or other legal entity, you must provide organizational documents, certificates, filing records, and resolutions or other authorization documents, as needed to show that the lease will be enforceable against the lessee and that the lessee will be able to perform all of its lease obligations.

(b) You must provide an appraisal, or other appropriate valuation, and financial *pro forma,* to support any negotiated rent and term provisions in the lease.

(c) You must provide current financial statements and credit reports or, where such records are not available, other appropriate documentation, to show that you will be able to meet the monetary obligations under the lease.

(d) If the lease authorizes new construction, you must provide:

(1) Environmental reports, which may include an environmental baseline survey, and archaeological reports and other documents, as determined by us to be necessary to facilitate our compliance with federal and tribal environmental and land use requirements;

(2) A preliminary site plan identifying the proposed location of any new buildings, roads and utilities, and a construction schedule showing the tentative commencement and completion dates for those improvements; and

(3) A certified survey plat depicting the boundaries of the leased premises and the location of any existing improvements and encumbrances.

Rent and Term

§ 162.83 How much rent must a lessee pay?

(a) The lease must require the initial payment of a fair annual rental, based on a fixed amount and/or a percentage of the projected income to be derived from the land, unless a lesser amount is permitted under paragraphs (b)–(c) of this section. If new construction is required, the lease may provide for the payment of less than a fair annual rental during the pre-development and construction periods specified in the lease.

(b) We will approve a negotiated lease of tribal land which provides for the payment of nominal rent, or less than a fair annual rental, if the tribe provides a resolution (or appropriate final tribal decision) and a written explanation indicating how approval will serve the tribe's best interest over the entire period in which the reduced rent will be paid.

(c) We will approve (but not grant) a lease of individually owned Indian land which provides for the payment of nominal rent, or less than a fair annual rental, if:

(1) The lease is for religious, educational, recreational, or other public purposes;

(2) The lease is for business purposes, and the lessee is the individual Indian landowner's spouse, brother, sister, lineal ancestor, lineal descendant, or co-owner; or

(3) The lessee is a joint venture or other legal entity in which the Indian owners directly participate in the revenues or profits generated by the lease, and the distribution of profits or revenues to the owners is projected to exceed the rent which would otherwise be paid over the entire lease term.

(d) The lease must provide for a rental adjustment at least every fifth year, unless the lessee is paying less than a fair annual rental or a rental based primarily on a percentage of the income derived from the land. If adjustments are required, the lease must specify:

(1) When adjustments are made;

(2) Who makes the adjustments;

(3) What the adjustments are based on; and

(4) How disputes arising from the adjustments are resolved.

§ 162.84 Is a surety bond or guaranty required?

(a) Yes. Unless the lease provides otherwise, you must furnish a surety bond or unconditional guaranty to secure the contractual obligations. If a bond or guaranty is required, you must furnish it before we grant or approve the lease.

(b) The lease may require that the surety bond or guaranty remain effective throughout the lease term and any holdover or renewal period. Alternatively, the lease may provide for the bond or guaranty to be modified or released:

(1) After a specified period of time;

(2) When the income generated by the lease reaches a specified level;

(3) If we determine that the original bond or guaranty is no longer needed to secure the contractual obligations; or

(4) If, for leases on tribal lands, the tribe requests the modification or release of the bond, and we approve the request.

(c) If the lease does not initially require a surety bond or guaranty, or if it provides for modification or release at some future date, the lease must allow us to establish or reinstate a bond or guaranty requirement at any time we deem it necessary to secure the contractual obligations. A tribe may request that we establish or reinstate a bond or guaranty requirement as may be necessary.

(d) We will review the surety bond or guaranty documents to ensure that they include the necessary waivers. We may require that the surety or guarantor provide any supporting documents needed to show that the bond or guaranty will be enforceable, and that the surety or guarantor will be able to perform the guaranteed obligations. The bond must be provided by a company certified by the Department of the Treasury as an acceptable surety on federal bonds.

(e) The lease must require that you obtain the consent of the surety or guarantor, with respect to any amendment, assignment, sublease, or leasehold mortgage. The lease must also provide for the surety or guarantor to receive a copy of any notice of default issued to the lessee by us or by the Indian owners.

§ 162.85 Can a lease be renewed?

(a) Unless otherwise provided by law (such as 25 U.S.C. 415(a)), the lease may provide the lessee with an option to renew the lease for a single renewal period of no more than 25 years, so long as the maximum term permitted under federal law is not exceeded. If an option to renew is provided, the lease must specify:

(1) The time and manner in which the option must be exercised; and

(2) Any additional consideration which will be due upon the exercise of the option or the commencement of the renewal period.

(b) The lease may not:

(1) Be renewed or extended by holdover;

(2) Provide an option to renew which covers less than the entire lease tract; or

(3) Provide a right of first refusal or any other type of preference with respect to a new lease.

§ 162.86 May a lease be terminated prior to its expiration date?

(a) Yes. The lease may provide either party with one or more options to cancel, for any reason. If an option to cancel is provided, the lease must specify the time and manner in which the option must be exercised. If the lessee is a joint venture or other legal entity in which the Indian owners participate directly in the revenues or profits generated by the lease, the lease must:

(1) Provide the Indian landowners with an option to cancel if the actual revenues or profits fall significantly below the initial projections; and

(2) Specify the time, manner, and terms upon which a new lease will be entered into with the successor-in-interest to the joint venture or legal entity whose lease is being canceled.

(b) The lease may provide the Indian landowners with a buyout option or an option to recapture the land upon the occurrence of certain conditions, such as a proposed renewal or assignment of the lease. If such an option is provided, the lease must specify the time and manner in which the option must be exercised.

(c) The lease may be terminated by agreement with the Indian landowners, subject to our approval. The lease may not be surrendered without such an agreement, nor will it be terminated if the Indian landowners retake possession upon abandonment of the land.

(d) In a default, the lease may be terminated by us or by the Indian landowners, in accordance with the negotiated remedies provided in the lease. The lease may also be canceled by us for cause under subpart H of this part.

Consents and Approvals

§ 162.87 How and when can a lease be amended?

A lease may be amended at any time, with the consent of the parties to the lease and our approval. The consent of the Indian landowners must be obtained in the same manner as the original grant of the lease, unless the lease authorizes one or more of the landowners to consent to certain types of amendments on behalf of all of the Indian landowners. The lease may not provide such an authorization with respect to any amendment which:

(a) Modifies the lessee's payment obligations;

(b) Extends the lease term;

(c) Expands the lease area; or

(d) Terminates the lease.

§ 162.88 May a lease be assigned, sublet, or mortgaged without the consent of the Indian landowners?

(a) Unless the lease provides otherwise, the leased premises may only be assigned, sublet, or mortgaged without the consent of the Indian landowners in the circumstances described in paragraphs (b)–(e) of this section. If the owners' consent is required, it must be obtained in the same manner as the original grant of the lease, unless the lease authorizes one or more of the Indian landowners to consent on behalf of all such owners.

(b) The lease may be assigned without the consent of the Indian landowners if:

(1) The assignee is a leasehold mortgagee or its designee, acquiring the lease either through foreclosure or by conveyance; and

(2) The assignee agrees in writing to assume all of the lessee's obligations under the lease.

(c) Part of the leased premises may be sublet without the consent of the Indian landowners when:

(1) The sublease is:

(i) Part of a large commercial development;

(ii) Part of a housing development; or

(iii) For residential purposes (including a development by a tribally designated housing entity as defined under 25 U.S.C. 4103(21)); and

(2) We have approved a sublease form and rent schedule for use in the project.

(d) The lease may be mortgaged without further consent of the Indian landowners if the lease contains a general authorization for such a mortgage, and the lease was negotiated with the understanding that it would be used to secure certain types of financing.

§ 162.89 May the Indian landowners withhold their consent to an assignment or encumbrance?

Yes. However, Indian landowners are encouraged not to withhold their consent unreasonably. A lease may require that:

(a) The Indian landowners specify their reasons for withholding consent; and

(b) The owners' consent will be deemed granted if a response to a request for consent is not given within a specified time period.

§ 162.90 May a lease be assigned, sublet, or mortgaged without the BIA's approval?

(a) The lease may not be mortgaged without our approval of the mortgage instrument. Except as provided in paragraphs (b)–(c) of this section, the leased premises may not be assigned or sublet without our approval.

(b) The lease may be assigned without our approval if:

(1) The assignee is a leasehold mortgagee or its designee, acquiring the lease either through foreclosure or by conveyance; and

(2) The assignee agrees in writing to assume all of the obligations under the lease.

(c) Part of the leased premises may be sublet without our approval when:

(1) The sublease is part of a large commercial or residential development; and

(2) We have approved a sublease form and rent schedule for use in the project.

(d) Assignees and sublessees must meet all bonding requirements for the leasehold interest, as provided in § 162.49.

§ 162.91 How will the BIA decide whether to approve an assignment or sublease?

(a) We will approve the assignment or sublease if:

(1) The required consents have been obtained from the Indian owners and any sureties or guarantors;

(2) The lessee is not in default, and will remain liable under the lease;

(3) The assignee agrees to be bound by, or the sublessee agrees to be subordinated to, the terms of the lease; and

(4) We find no compelling reason to withhold our approval in order to protect the best interests of the Indian owners.

(b) In making the finding required by paragraph (a)(4) of this section, we will consider whether:

(1) An equitable division of the income from the assignment or sublease is needed;

(2) The proposed use by the assignee or sublessee will require an amendment of the lease;

(3) The value of any part of the leased premises not covered by the assignment or sublease would be adversely affected; and

(4) The assignee or sublessee has provided supporting documents which demonstrate that the lease or sublease will be enforceable against the assignee or sublessee, and that the assignee or sublessee will be able to perform its obligations under the lease or sublease.

Subpart F—Compensation to Indian Landowners

§ 162.100 What does the BIA do with rent payments received from lessees?

Rent will be distributed to the Indian landowners in accordance with the interest that each owns in the leased land. The rent will be deposited to the appropriate account maintained by the Office of Trust Funds Management in accordance with 25 CFR part 115.

§ 162.101 How do Indian landowners receive rent payments?

Funds will be paid to the Indian landowners by the Office of Trust Funds Management in accordance with 25 CFR part 115.

§ 162.102 How will the rent be distributed if the lease covers more than one tract of land with different owners?

Except where otherwise provided in the lease, the rent will be prorated based upon the number and size of the tracts in relation to the total leasehold, and distributed to each owner according to their fractional share of each tract.

Subpart G—Administrative Fees

§ 162.110 Are there administrative fees for a lease?

Yes. We will charge an administrative fee before approving any lease, permit, sublease, assignment, encumbrance, modification, or other related document.

§ 162.111 How are administrative fees determined?

(a) Except as provided in paragraph (b) of this section, we will charge administrative fees based on the annual rent, according to the following table:

If the annual rent is * * *	Then the administrative fee will be * * *
Less than $500	3% of the annual rent.
Between $500.00 and $5,000.00.	2% of the annual rent.
Greater than $5,000.00.	1% of the annual rent.
Percentage rental	Based on the minimum annual rental or an estimated percentage of rental.
Crop share rental	Based on estimated value of the crop share.

(b) The minimum administrative fee is $10.00 and the maximum administrative fee is $500.00.

(c) If a tribe performs all or part of the administrative duties for this part under Public Law 93–638, the tribe may establish, collect, and use reasonable fees to cover its costs associated with the performance of administrative duties.

(d) The fees for subleases, assignments, encumbrances, modifications, or other related documents will be in accordance with the table in paragraph (a) of this section.

§ 162.112 Are administrative fees refundable?

No. We will not refund administrative fees.

§ 162.113 May the Secretary waive administrative fees?

Yes. We may waive the administrative fee for a justifiable reason.

§ 162.114 Are there any other administrative or tribal fees, taxes, or assessments that must be paid?

(a) The lessee may be required to pay additional fees, taxes, and/or assessments associated with the use of the land as determined by us or by the tribe.

(b) If the leased land is within an Indian irrigation project or drainage district, the lessee must pay all charges that may accrue during the term of the

lease. These may include charges for operation and maintenance of the irrigation project unless superseded by part 171 of this chapter. The lessee must pay the appropriate official in charge of the irrigation project or drainage district having jurisdiction.

Subpart H—Lease Violations

§ 162.120 What lease violations are addressed by this subpart?

This subpart addresses violations of lease provisions other than trespass. Trespass is addressed under subpart L of this part.

§ 162.121 How will the Secretary enforce compliance with lease provisions?

When reasonable grounds exist, the Secretary may enter the leased premises, consistent with provisions in the lease, at any reasonable time with or without prior notice to determine whether there has been a violation of the lease provisions and to protect Indian trust assets.

§ 162.122 What happens if a violation of a lease occurs?

If we determine that a violation of the lease has occurred based on facts known to us, as soon as practicable we will notify the lessee and the sureties of the violation by certified mail—return receipt requested. This notice will include an explanation of the violation.

§ 162.123 What will a written notice of a violation contain?

The written notice will provide the lessee with ten days from the receipt of the notice to:

(a) Cure the violation and notify us that the violation is cured;

(b) Explain why we should not cancel the lease; or

(c) Request in writing additional time to complete corrective actions. If additional time is granted, we may require that you take certain corrective actions immediately.

§ 162.124 Can a determination of a violation be contested?

Yes. In the written notice of violation we will advise the lessee of the procedure to follow to contest our determination that a violation of the lease has occurred.

§ 162.125 What happens to a bond if a violation occurs?

We may apply the bond to remedy the violation, in which case we will require you to submit a replacement bond of an appropriate amount. Our decision setting the amount of the appeal bond may not be appealed.

§ 162.126 What happens if you do not cure a lease violation?

(a) We will:

(1) Issue a written determination to cancel the lease if the violation is not cured. The decision letter will contain:

(i) An explanation why we are canceling the lease;

(ii) An order to vacate the property;

(iii) Notice of the right to appeal under part 2 of this chapter;

(iv) An order to pay delinquent rentals, damages, and other charges; and

(v) A requirement to post an appeal bond if applicable.

(2) Notify all interested parties, including the Indian landowners, in writing as soon as practicable, by certified mail—return receipt requested, of our determination to cancel a lease.

(b) We may require you to post an appeal bond in an amount determined by us. The amount of the appeal bond will be the amount of damages, and additional rentals expected to accrue during the settlement of the appeal.

§ 162.127 If you do not cure a violation, what may an Indian landowner do?

(a) If a violation is not cured within the required time frame, the lessor may exercise rights under the lease, including a right of entry, if any, or request that we cancel the lease.

(b) If a lease authorizes termination according to tribal or other law, or provides for the resolution of certain types of disputes through alternative dispute resolution methods, the lease provisions will govern in place of this part.

§ 162.128 Can the Secretary take emergency action without prior notice if the leased premises are being damaged?

Yes. If the lessee causes or contributes to a severe harm to the premises, the Secretary may take appropriate emergency action, in consultation with the Indian landowner, by:

(a) Initiating action to cancel the lease;

(b) Requiring immediate cessation of the activity resulting in the harm;

(c) Ordering the lessee to vacate the premises immediately; and

(d) Taking legal action as may be appropriate, including seeking emergency judicial action.

§ 162.129 What rights does a lessee have if the Secretary takes emergency action under this subpart?

A lessee may:

(a) Agree to remedy the harm in a manner and time frame satisfactory to the Secretary and the Indian landowner;

(b) Seek to have the lease reinstated after the harm to the property has been cured; and

(c) Contest the Secretary's emergency actions under 25 CFR Part 2.

Subpart I—Appeals

§ 162.130 May decisions by the Secretary be appealed?

(a) Except where otherwise provided in this part, appeals from decisions of the Secretary under this part may be taken pursuant to 25 CFR part 2.

(b) As may be necessary to protect the interests of the Indian landowner, we may require the appellant (or lessee) to post a bond in an amount sufficient to guarantee restoration of the Indian land if our decision to grant or approve the lease is reversed.

Subpart J—Non-Trust Interests

§ 162.140 May the Secretary grant or approve leases for non-trust interests in Indian land?

No. The Secretary has no statutory authority to grant or approve leases for non-trust interests in Indian land.

§ 162.141 Are non-trust interests included in a lease?

No. The undivided non-trust interests are not included in a lease granted or approved by the BIA.

§ 162.142 How will a lessee know there is a non-trust interest in Indian land?

When we lease Indian land, we will advise the lessee that the title to the Indian land contains non-trust interest(s). Upon request, and subject to applicable law, we will provide the lessee with the information we have in our records identifying the owner of the non-trust interest(s).

§ 162.143 From whom must a lessee lease a non-trust interest?

A lessee must lease any non-trust interest(s) directly from owner(s) of the non-trust interest(s).

§ 162.144 Is the non-trust interest shown in a lease of Indian land?

No. The lease terms will describe only the Indian owned interest. For example, if the Indian owned interests constitutes ¾ of the Indian land, the land will be described as: An undivided ¾ interest in and to the W/2 SW/4, Section 1, Township 10 North, Range 1 East, Principal Meridian, Billings, Montana. This will notify the lessee that the full interest in the tract has not been leased. The remaining undivided ¼ interest is the non-trust interest and the lessee must contact the non-trust interest owners directly to secure a lease of their interest.

§ 162.145 How much rent is due for the non-trust interest?

It is the responsibility of the lessee to contact the non-trust owners to negotiate the amount of rental to be paid and to make rental payments to the owners of the non-trust interest.

§ 162.146 May a lease payment made by a lessee to the BIA or to an Indian landowner include payment for any non-trust interest?

No. Payment for a non-trust interest must be made to the owner of that interest.

§ 162.147 Will the BIA grant or approve a lease on a fractionated tract that is subject to a life estate held by the owner of a non-trust interest?

We will grant or approve a lease on a fractionated tract that is subject to a life estate held by the owner of a non-trust interest only when it is necessary to preserve the value of the trust interests in the land.

Subpart K—Valuation

§ 162.150 Why must the Secretary determine the fair annual rental of Indian land?

The BIA must determine the fair annual rental of Indian land in order to:

(a) Assist the Indian landowner in negotiating a lease with potential lessees; and

(b) Enable the Secretary to determine whether a lease is in the best interests of the Indian landowner.

§ 162.151 How does the Secretary determine the fair annual rent of Indian land?

The Secretary determines the fair annual rent for lease by appraisal, advertisement, competitive bidding, negotiation, or any other appropriate method, in accordance with the Uniform Standards of Professional Appraisal Practices (USPAP).

§ 162.152 Will the BIA ever grant or approve a lease at less than fair annual rental?

(a) We will grant an agricultural lease of individually owned Indian land at less than fair annual rental if, after advertising the lease, we determine that such action would be in the best interests of the individual Indian landowners.

(b) We may approve a lease of individually owned Indian land at less than fair annual rental if:

(1) The lease is for religious, educational, recreational, or other public purposes;

(2) The lease is for a homesite for the landowner's spouse, brother, sister, lineal ancestor, lineal descendent or co-owner; or

(3) We determine it is in the best interest of the Indian landowners.

(c) We may approve a lease of tribal land at less than fair annual rental if:

(1) The lease is for religious, educational, recreational, or other public purposes;

(2) The lease is for residential, agricultural, or business purposes and the lessee is a tribal member or tribal entity; or

(3) We determine that it is in the best interest of the tribe.

(d) We will not grant or approve leases not addressed in paragraphs (a) through (c) of this section at less than fair annual rental.

Subpart L—Trespass

§ 162.160 What is trespass?

Under this part, trespass is any unauthorized occupancy, use of, or action on Indian agricultural and government lands. The following are some examples of trespass:

(a) Cultivating or harvesting of irrigated or non-irrigated crops or the harvesting of native hay, forage, or seed;

(b) Erecting or damaging fencing, gates or other structures;

(c) Developing water resources;

(d) Commercial filming or photography;

(e) Sale or barter of goods or services;

(f) Placing or storing of beehives;

(g) Cutting, damaging, taking, harvesting, or removing agricultural products for commercial purposes, including but not limited to: berries, nuts, flowers, seeds, moss, cones, leaves, mushrooms, cactus, yucca, and greenery;

(h) Recreation, hunting, trapping, or fishing;

(i) Disturbing soil, plants, or otherwise exposing or disturbing, damaging, or removing archaeological or paleontological resources;

(j) Littering or disposing of agricultural related products, hazardous waste, household or business waste, or garbage;

(k) Applying pesticides without proper certification or misusing pesticides;

(l) Aquaculture or the harvesting of fish raised for commercial sale or consumption;

(m) Unauthorized livestock activities, including:

(1) Driving livestock across Indian land without an approved crossing permit;

(2) Allowing livestock to drift and graze on Indian land without an approved grazing permit;

(3) Grazing livestock within an area closed to grazing of that class of livestock; and

(4) Grazing livestock in an area withdrawn from use by the BIA when damage to the Indian land is occurring due to improper handling of livestock; and

(n) Other actions designated by tribes as acts of trespass on Indian agricultural lands.

§ 162.161 What is the BIA's trespass policy?

We will:

(a) Investigate accidental, and willful, or incidental trespass.

(b) Respond to alleged trespass in a prompt, efficient manner.

(c) Assess trespass penalties for the value of products used or removed, cost of damage to the Indian land, and enforcement costs incurred as a consequence of the trespass.

(d) Ensure that unnecessary or undue damage to Indian lands resulting from trespass is rehabilitated and stabilized at the expense of the trespasser.

§ 162.162 Who can enforce this subpart?

(a) The BIA enforces the provisions of this subpart. If the tribe adopts the provisions of this subpart, the tribe will have concurrent jurisdiction to enforce this subpart. Additionally, if the tribe so requests, we will defer to tribal prosecution of trespass on Indian agricultural lands.

(b) The provisions in this subpart are exclusive of, and in addition to, any tribal action that may be taken under tribal law.

Notification

§ 162.163 How are trespassers notified of a trespass determination?

(a) Unless otherwise provided under tribal law, when we have reason to believe that a trespass on Indian agricultural land has occurred, we or the authorized tribal representative will provide written notice to the alleged trespasser, the possessor of trespass property, any known lien holder, and the beneficial Indian landowner, as appropriate. The written notice will include the following:

(1) The basis for the trespass determination;

(2) A legal description of where the trespass occurred;

(3) A verification of brands in the State Brand Book for cases of livestock trespass;

(4) Corrective actions that must be taken;

(5) Time frames for taking the corrective actions; and

(6) Potential consequences and penalties for failure to take corrective action.

(b) If we determine that the identity of the alleged trespasser or possessor of

trespass property is unknown or if the trespasser refuses delivery of the written notice, a public trespass notice will be posted at the tribal community building and at the United States Post Office, and published in the local newspaper nearest to the Indian agricultural lands where the trespass is occurring.

(c) Trespass notices under this subpart are not subject to appeal under 25 CFR part 2.

§ 162.164 What can I do if I receive a trespass notice?

If you receive a trespass notice, you may within the time frame specified in the notice:

(a) Comply with the ordered corrective actions; or

(b) Contact us in writing to explain why the trespass notice is in error. You may contact us by telephone, but any official explanation of trespass must be in writing. If we determine that we issued the trespass notice in error, we will withdraw the notice.

§ 162.165 Who else will the BIA notify?

We will notify anyone in possession of the Indian land on which the unauthorized livestock or other property has been identified that such property could be Indian trust property and that no action to remove or otherwise dispose of the unauthorized livestock or other property may be taken unless authorized by us.

Actions

§ 162.166 What actions does the BIA take against trespassers?

If the trespasser fails to comply with the corrective action specified by us, we may take one or more of the following actions, as appropriate:

(a) Seize, impound, sell or dispose of unauthorized livestock or other property involved in the trespass. We may keep such seized property for use as evidence.

(b) Assess penalties, damages, and costs, under § 162.172.

§ 162.167 When will we impound unauthorized livestock or other property?

We will impound unauthorized livestock or other property under the following conditions:

(a) If there is imminent danger of severe injury to a growing or harvestable crop or destruction of the range forage.

(b) When either you or your representative refuses to accept delivery of a written notice of trespass and you do not remove the unauthorized livestock or other property within the period prescribed in the written notice.

(c) Any time after five days of providing notice of impoundment if you failed to correct the trespass.

§ 162.168 How will you be notified if your unauthorized livestock or other property are to be impounded?

(a) We will send written notice of the intent to impound unauthorized livestock or other property to you or your representative, and to any known lien holder of the unauthorized livestock or other property, if you do not correct the trespass in the time specified in the initial trespass notice.

(b) If we determine that the identity of the owner of the unauthorized livestock or other property or his/her representative is unknown, or if the owner or his/her representative refuses delivery of the written notice, a public notice of intent to impound will be posted at the tribal community building and the United States Post Office, and published in the local newspaper nearest to the Indian agricultural lands where the trespass is occurring.

(c) After we have given notice as described in paragraphs (a) and (b) of this section, we will impound unauthorized livestock or other property without any further notice.

§ 162.169 What will we do after we impound unauthorized livestock or other property?

Following the impoundment of unauthorized livestock or other property, we will provide notice that we will sell the impounded property as follows:

(a) We will provide written notice of the sale to the owner, his/her representative, and any known lien holder. The written notice must include the procedure by which the impounded property may be redeemed prior to the sale.

(b) We will provide public notice of sale of impounded property by posting at the tribal community building and the United States Post Office, and publishing in the local newspaper nearest to the Indian agricultural lands where the trespass is occurring. The public notice will include a description of the impounded property, and the date, time and place of the public sale. The sale date must be at least five days after the publication and posting of notice.

§ 162.170 How do I redeem my impounded livestock or other property?

You may redeem impounded property by submitting proof of ownership and paying all penalties, damages, and costs under § 162.172, and completing all corrective actions that we identify under § 162.163.

§ 162.171 How will the sale of impounded livestock or other property be conducted?

(a) Unless the owner or known lien holder of the impounded property redeems the property prior to the time set by the sale, by submitting proof of ownership and the settlement of all obligations under § 162.163 and § 162.172, the property will be sold by public sale to the highest bidder.

(b) If a satisfactory bid is not received, we may reoffer the property for sale, return it to the owner, condemn and destroy it, or otherwise dispose of it.

(c) We will give the purchaser a bill of sale or other written receipt evidencing the sale.

Penalties, Damages and Costs

§ 162.172 What are the penalties, damages, and costs payable by trespassers on Indian land?

Trespassers on Indian land must pay the following penalties and costs:

(a) A penalty of three times the daily equivalent of the rental rate under the permit for each day of trespass;

(b) The reasonable value of forage or crops consumed or destroyed;

(c) Expenses incurred in gathering, impounding, caring for, and disposal of livestock in cases which necessitate impoundment under § 162.167;

(d) The costs associated with any damage to Indian land;

(e) The value of the property illegally used or removed, plus a penalty of double its value;

(f) The costs associated with enforcement of the regulations, including field examination and survey, damage appraisal, investigation assistance and reports, witness expenses, demand letters, court costs, and attorney fees; and

(g) All other penalties authorized by law.

§ 162.173 How will the BIA determine the value of forage or crops consumed or destroyed?

We will determine the value of forage or crops consumed or destroyed based upon the average rate received per month for comparable property or grazing privileges, or the estimated commercial value for such property or privileges.

§ 166.174 How will the BIA determine the value of the product illegally used or removed?

We will determine the value of the property illegally used or removed based upon a valuation of similar property.

§ 162.175 How will the BIA determine the amount of damages to Indian land?

We will determine the damages by considering the costs of rehabilitation and revegetation, loss of future revenue, loss of profits, loss of productivity, loss of market value, damage to other resources, and other factors.

§ 162.176 How will the BIA determine the costs associated with enforcement of the trespass?

Costs of enforcement may include detection and all processes through prosecution and collection of damages. This covers field examination and survey, damage appraisal, investigation assistance and report preparation, witness expenses, demand letters, court costs, attorney fees, and other costs.

§ 162.177 What happens if I do not pay the assessed penalties, damages and costs?

Unless otherwise provided by tribal law:

(a) We will refuse to issue you a permit for the use, development, or occupancy of Indian lands.

(b) We will forward the case for appropriate legal action.

§ 162.178 How are the proceeds from trespass distributed?

Unless otherwise provided by tribal law:

(a) We will treat any amounts recovered under § 162.175 as proceeds from the sale of agricultural property from the Indian agricultural land upon which the trespass occurred.

(b) All amounts collected in excess of the amounts assessed under § 162.172 will be applied by us against costs associated with the enforcement of this subpart.

(c) If we seize and dispose of impounded livestock or other property of the trespasser, we will apply any cash or other proceeds to satisfy the penalties and costs of enforcement. If any money is left over, we will return it to the trespasser or, where we cannot identify the owner of the impounded property, we will deposit the net proceeds of the sale into the accounts of the landowners where the trespass occurred.

§ 162.179 What happens if the BIA does not collect enough money to satisfy the penalty?

If we do not collect enough money from the trespasser, we will distribute collected penalties as follows:

(a) All amounts collected up to and including the amount assessed under §§ 162.171 through 162.172 will be distributed equally between the beneficial Indian landowner and towards the cost of restoring the Indian land.

(b) Written notice will be sent to the trespasser and any known lienholders to demand immediate settlement and to advise the trespasser that unless settlement is received within five working days from the date of receipt, the case will be forwarded for appropriate legal action.

Subpart M—Records

§ 162.180 Who owns records associated with this part?

Any records generated in the fulfillment of the part are the property of the United States, and must be maintained in accordance with approved records retention procedures under the Federal Records Act, 44 U.S.C. § 3101, *et seq.*

Subpart N—Special Requirements for Certain Reservations

§ 162.190 Crow Reservation.

(a) Notwithstanding the regulations in other sections of this part 162, Crow Indians classified as competent under the Act of June 4, 1920 (41 Stat. 751), as amended, may lease their trust lands and the trust lands of their minor children for farming or grazing purposes without the approval of the Secretary pursuant to the Act of May 26, 1926 (44 Stat. 658), as amended by the Act of March 15, 1948 (62 Stat. 80). However, at their election Crow Indians classified as competent may authorize the Secretary to lease, or assist in the leasing of such lands, and an appropriate notice of such action shall be made a matter of record. When this prerogative is exercised, the general regulations contained in this part 162 shall be applicable. Approval of the Secretary is required on leases signed by Crow Indians not classified as competent or made on inherited or devised trust lands owned by more than five competent devisees or heirs.

(b) The Act of May 26, 1926 (44 Stat. 658), as amended by the Act of March 15, 1948 (62 Stat. 80), provides that no lease for farming or grazing purposes shall be made for a period longer than five years, except irrigable lands under the Big Horn Canal; which may be leased for periods of ten years. No such lease shall provide the lessee a preference right to future leases which, if exercised, would thereby extend the total period of encumbrance beyond the five or ten years authorized by law.

(c) All leases entered into by Crow Indians classified as competent, under the above-cited special statutes, must be recorded at the Crow Agency. Such recording shall constitute notice to all persons. Under these special statutes, Crow Indians classified as competent are free to lease their property within certain limitations. The five-year (ten-year in the case of lands under the Big Horn Canal) limitation is intended to afford a protection to the Indians. The essence of this protection is the right to deal with the property free, clear, and unencumbered at intervals at least as frequent as those provided by law. If lessees are able to obtain new leases long before the termination of existing leases, they are in a position to set their own terms. In these circumstances lessees could perpetuate their leaseholds and the protection of the statutory limitations as to terms would be destroyed. Therefore, in implementation of the foregoing interpretation, any lease which, on its face, is in violation of statutory limitations or requirements, and any grazing lease executed more than 12 months, and any farming lease executed more than 18 months, prior to the commencement of the term thereof or any lease which purports to cancel an existing lease with the same lessee as of a future date and take effect upon such cancellation will not be recorded. Under a Crow tribal program, approved by the Department of the Interior, competent Crow Indians may, under certain circumstances, enter into agreements which require that, for a specified term, their leases be approved. Information concerning whether a competent Crow Indian has executed such an instrument is available at the office of the Superintendent of the Crow Agency, Bureau of Indian Affairs, Crow Agency, Montana. Any lease entered into with a competent Crow Indian during the time such instrument is in effect and which is not in accordance with such instrument will be returned without recordation.

(d) Where any of the following conditions are found to exist, leases will be recorded but the lessee and lessor will be notified upon discovery of the condition:

(1) The lease in single or counterpart form has not been executed by all owners of the land described in the lease;

(2) There is, of record, a lease on the land for all or a part of the same term;

(3) The lease does not contain stipulations requiring sound land utilization plans and conservation practices; or

(4) There are other deficiencies such as, but not limited to, erroneous land descriptions, and alterations which are not clearly endorsed by the lessor.

(e) Any adult Crow Indian classified as competent shall have the full responsibility for obtaining compliance with the terms of any lease made by him

pursuant to this section. This shall not preclude action by the Secretary to assure conservation and protection of these trust lands.

(f) Leases made by competent Crow Indians shall be subject to the right to issue permits and leases to prospect for, develop, and mine oil, gas, and other minerals, and to grant rights-of-way and easements, in accordance with applicable law and regulations. In the issuance or granting of such permits, leases, rights-of-way or easements due consideration will be given to the interests of lessees and to the adjustment of any damages to such interests. In the event of a dispute as to the amount of such damage, the matter will be referred to the Secretary whose determination will be final as to the amount of said damage.

§ 162.191 Fort Belknap Reservation.

Not to exceed 20,000 acres of allotted and tribal lands (nonirrigable as well as irrigable) on the Fort Belknap Reservation in Montana may be leased for the culture of sugar beets and other crops in rotation for terms not exceeding 10 years.

§ 162.192 Cabazon, Augustine, and Torres-Martinez Reservations, California.

(a) Upon a determination by the Secretary that the owner or owners are not making beneficial use thereof, restricted lands on the Cabazon, Augustine, and Torres-Martinez Indian Reservations which are or may be irrigated from distribution facilities administered by the Coacheella Valley County Water District in Riverside County, California, may be leased by the Secretary in accordance with the regulations in this part for the benefit of the owner or owners.

(b) All leases granted or approved on restricted lands of the Cabazon, Augustine, and Torres-Martinez Indian Reservations shall be filed for record in the office of the county recorder of the county in which the land is located, the cost thereof to be paid by the lessee. A copy of each such lease shall be filed by the lessee with the Coachella Valley County Water District or such other irrigation or water district within which the leases lands are located. All such leases shall include a provision that the lessee, in addition to the rentals provided for in the lease, shall pay all irrigation charges properly assessed against the land which became payable during the term of the lease. Act of August 25, 1950 (64 Stat. 470); Act of August 28, 1958 (72 Stat. 968).

§ 162.193 Colorado River Reservation.

The Act of April 30, 1964 (78 Stat. 188), fixed the beneficial ownership of the Colorado River Reservation in the Colorado River Indian Tribes of the Colorado River Reservation and authorized the Secretary of the Interior to approve leases of said lands for such uses and terms as are authorized by the Act of August 9, 1955 (69 Stat. 539), as amended (25 U.S.C. 415 *et seq.*), including the same uses and terms as are permitted thereby on the Agua Caliente (Palm Springs), Dania, Navajo, and Southern Ute Reservations. Regulations in this part 162 govern leasing under the Act of August 9, 1955. Therefore, part 162 shall also govern the leasing of lands on the Colorado River Reservation: Provided, however, That application of this part 162 shall not extend to any lands lying west of the present course of the Colorado River and south of sec. 12 of T. 5 S., R. 23 E., San Bernardino base and meridian in California and shall not be construed to affect the resolution of any controversy over the location of the boundary of the Colorado River Reservation; Provided further, That any of the described lands in California shall be subject to the provisions of this part 162 when and if determined to be within the reservation.

§ 162.194 San Xavier and Salt River Pima-Maricopa Reservations.

(a) Purpose and scope. The Act of November 2, 1966 (80 Stat. 1112), provides statutory authority for long-term leasing on the San Xavier and Salt River Pima-Maricopa Reservations, Ariz., in addition to that contained in the Act of August 9, 1955 (69 Stat. 539), as amended (25 U.S.C. 415). When leases are made under the 1955 Act on the San Xavier or Salt River Pima-Maricopa Reservations, the regulations in part 162 apply. The purpose of this section is to provide regulations for implementation of the 1966 Act. The 1966 Act does not apply to leases made for purposes that are subject to the laws governing mining leases on Indian lands.

(b) Duration of leases. Leases made under the 1966 Act for public, religious, educational, recreational, residential, or business purposes may be made for terms of not to exceed 99 years. The terms of a grazing lease shall not exceed 10 years; the term of a farming lease that does not require the making of a substantial investment in the improvement of the land shall not exceed 10 years; and the term of a farming lease that requires the making of a substantial investment in the improvement of the land shall not exceed 40 years. No lease shall contain an option to renew which extends the total term beyond the maximum term permitted by this section.

(c) Required covenant and enforcement thereof. Every lease under the 1966 Act shall contain a covenant on the part of the lessee that he will not commit or permit on the leased land any act that causes waste or a nuisance or which creates a hazard to health of persons or to property wherever such persons or property may be.

(d) Notification regarding leasing proposals. If the Secretary determines that a proposed lease to be made under the 1966 Act for public, religious, educational, recreational, residential, or business purposes will substantially affect the governmental interests of a municipality contiguous to the San Xavier Reservation or the Salt River Pima-Maricopa Reservation, as the case may be, he shall notify the appropriate authority of such municipality of the pendency of the proposed lease. The Secretary may, in his discretion, furnish such municipality with an outline of the major provisions of the lease which affect its governmental interests and shall consider any comments on the terms of the lease affecting the municipality or on the absence of such terms from the lease that the authorities may offer. The notice to the authorities of the municipality shall set forth a reasonable period, not to exceed 30 days, within which any such comments shall be submitted.

(e) Applicability of other regulations. The regulations in part 162 of this chapter shall apply to leases made under the 1966 Act except where such regulations are inconsistent with this section.

(f) Mission San Xavier del Bac. Nothing in the 1966 Act authorizes development that would detract from the scenic, historic, and religious values of the Mission San Xavier del Bac owned by the Franciscan Order of Friars Minor and located on the San Xavier Reservation.

PART 166—GRAZING PERMITS

5. Part 166 is revised to read as follows:

Sect.

Subpart A—Purpose, Policy, and Definitions

166.1 What is the purpose of this part?
166.2 What terms do I need to know?

Subpart B—Permit Requirements

General Requirements

166.100 Must Indian owners of Indian land obtain a permit before using land for grazing purposes?
166.101 Must parents or guardians of Indian minors who own Indian land

obtain a permit before using land for grazing purposes?
166.102 Who can grant a permit?
166.103 Who may represent an individual Indian landowner in granting a permit?
166.104 May an emancipated minor grant a permit?
166.105 What requirements apply to a permit on a fractionated tract?
166.106 What provisions must be contained in a permit?
166.107 How long is a permit term?
166.108 Are permits recorded?
166.109 Where are permits recorded?
166.110 Who is responsible for recording permits?
166.111 When may a permittee take possession of permitted Indian land?
166.112 Must I comply with any standards of conduct if I am granted a permit?
166.113 Will the BIA notify the permittee of any change in land title status?
166.114 When is a decision by the BIA regarding a permit effective?

Obtaining a Permit

166.115 How can I find Indian land available for grazing?
166.116 Who is responsible for permitting Indian land?
166.117 How do I acquire a permit on Indian land?
166.118 How do I acquire a permit through tribal allocation?
166.119 How do I acquire a permit through negotiation?
166.120 What are the basic steps for acquiring a permit through negotiation?
166.121 Can I negotiate a contract with an Indian landowner to permit land at a future date?
166.122 How do I acquire an advertised permit through competitive bidding?
166.123 Are there standard permit forms?

Permit (Leasehold) Mortgage

166.124 Can I use a permit as collateral for a loan?
166.125 What factors does the BIA consider when reviewing a leasehold mortgage?
166.126 May a permittee voluntarily assign a leasehold interest under an approved encumbrance?
166.127 May the holder of a leasehold mortgage assign the leasehold interest after a sale or foreclosure of an approved encumbrance?

Non-trust Interest

166.128 May the Secretary grant or approve a permit for non-trust interests in Indian land?
166.129 Are non-trust interests in Indian land included in a permit?
166.130 How will a permittee know there are non-trust interests in Indian land?
166.131 From whom must a permittee permit a non-trust interest?
166.132 Is the non-trust interest shown in a permit of Indian land?
166.133 How much rent is due for the non-trust interest?
166.134 May a grazing rental payment made by a permittee to the BIA or to an Indian landowner include payment for any non-trust interest?
166.135 Will the BIA grant or approve a permit on a fractionated tract that is subject to a life estate held by the owner of a non-trust interest?

Modifying a Permit

166.136 How can Indian land be removed from an existing permit?
166.137 How will the BIA provide notice if Indian land is removed from an existing permit?
166.138 Other than to remove land, how can a permit be amended, modified, assigned, transferred, or subpermitted?

Subpart C—Land and Operations Management

166.200 How is Indian agricultural land managed?
166.201 How is Indian land for grazing purposes described?
166.202 How is a range unit created?
166.203 Can more than one tract of Indian land be combined into one permit?
166.204 When is grazing capacity determined?
166.205 Will grazing capacity be increased if I graze adjacent trust or non-trust rangelands not covered by the permit?
166.206 What livestock can I graze on permitted Indian land?
166.207 What must a permittee do to protect livestock from exposure to disease?

Improvements

166.208 Can improvements be constructed on permitted Indian land?
166.209 What happens to improvements constructed on Indian lands when the permit has been terminated?

Management Plans and Environmental Compliance

166.210 Is an agricultural resource management plan required?
166.211 Is a conservation plan required?
166.212 Is environmental compliance required?

Subpart D—Tribal Policies and Laws Pertaining to Permits

166.300 What tribal policies will we apply to permitting on Indian agricultural lands?
166.301 May individual Indian landowners exempt their land from tribal policies for permitting on Indian agricultural lands?
166.302 Do tribal laws apply to permits?
166.303 What notifications are required that tribal laws apply to permits on Indian agricultural lands?
166.304 Who enforces tribal laws pertaining to Indian agricultural land?

Subpart E—Grazing Rental Rates

Rental Rate Determination and Adjustment

166.400 Who establishes grazing rental rates?
166.401 How does the Secretary establish grazing rental rates?
166.402 Why must the Secretary determine the fair annual rental of Indian land?
166.403 Will the Secretary ever grant or approve a permit at less than fair annual rental?
166.404 Whose grazing rental rate will be applicable for a permit on tribal land?
166.405 Whose grazing rental rate will be applicable for a permit on individually owned Indian land?
166.406 Whose grazing rental rate will be applicable for a permit on government land?
166.407 If a range unit consists of tribal and individually owned Indian lands, what is the grazing rental rate?
166.408 Can tribal members graze livestock that they do not own on tribal land at the grazing rental rate established for tribal members?
166.409 Is the grazing rental rate established by the BIA adjusted periodically?

Rental Payments

166.410 How is my grazing rental payment determined?
166.411 When do I pay grazing rental payments?
166.412 When is a grazing rental payment late?
166.413 Will a permittee be notified when a grazing rental payment is due?
166.414 If a permittee does not receive notice that a grazing rental payment is due must the scheduled payment still be made?
166.415 What will the BIA do to collect grazing rental payments that are not made in accordance with the terms of a permit?
166.416 Will I have to pay a penalty for late grazing rental payments?
166.417 What forms of grazing rental payments are acceptable?
166.418 To whom are grazing rental payments made?
166.419 May a permittee send a grazing rental payment directly to the Indian landowner?
166.420 Does the BIA accept partial payment for a grazing rental payment due?
166.421 May a permittee make a grazing rental payment in advance of the due date?
166.422 May an individual Indian landowner modify the terms of the permit on a fractionated tract for advance grazing rental payment?

Compensation to Indian Landowners

166.423 What does the BIA do with grazing rental payments received from permittees?
166.424 How do Indian landowners receive grazing rental payments that the BIA has received from permittees?
166.425 How will the rent be distributed if the permit covers more than one tract of land with different owners?

Subpart F—Administrative and Tribal Fees

166.500 Are there administrative fees for a permit?
166.501 How are administrative fees determined?
166.502 Are administrative fees refundable?
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166.504 Are there any other administrative or tribal fees, taxes, or assessments that must be paid?

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166.600 Must a permittee provide a bond for a permit?
166.601 How is the amount of the bond determined?
166.602 What form of bonds will the BIA accept?
166.603 If cash is submitted as a bond, how is it administered?
166.604 Is interest paid on a cash performance bond?
166.605 Are cash performance bonds refunded?
166.606 Is insurance required for a permit?
166.607 What types of insurance may be required?

Subpart H—Permit Violations

166.700 What permit violations are addressed by this subpart?
166.701 How will the Secretary enforce compliance with permit provisions?
166.702 What happens if a violation of a permit occurs?
166.703 What will a written notice of a violation contain?
166.704 Can a determination of violation be contested?
166.705 What happens to a bond if a violation occurs?
166.706 What happens if a permit violation is not cured?
166.707 If a violation is not cured, what may an Indian landowner do?
166.708 Can the Secretary take emergency action without prior notice if the permitted premises are being damaged?
166.709 What rights does a permittee have if the Secretary takes emergency action under this subpart?

Subpart I—Trespass

166.800 What is trespass?
166.801 What is the BIA's trespass policy?
166.802 Who can enforce this subpart?

Notification

166.803 How are trespassers notified of a trespass determination?
166.804 What can I do if I receive a trespass notice?
166.805 Who else will the BIA notify?

Actions

166.806 What actions does the BIA take against trespassers?
166.807 When will we impound unauthorized livestock or other property?
166.808 How are trespassers notified if their unauthorized livestock or other property are to be impounded?
166.809 What happens after my unauthorized livestock or other property are impounded?
166.810 How do I redeem my impounded livestock or other property?
166.811 How will the sale of impounded livestock or other property be conducted?

Penalties, Damages, and Costs

166.812 What are the penalties, damages, and costs payable by trespassers on Indian agricultural land?
166.813 How will the BIA determine the value of forage or crops consumed or destroyed?
166.814 How will the BIA determine the value of the property illegally used or removed?
166.815 How will the BIA determine the amount of damages to Indian agricultural land?
166.816 How will the BIA determine the costs associated with enforcement of the trespass?
166.817 What happens if I do not pay the assessed penalties, damages and costs?
166.818 How are the proceeds from trespass distributed?
166.819 What happens if the BIA does not collect enough money to satisfy the penalty?

Subpart J—Appeals

166.900 Can decisions by the BIA be appealed?

Subpart K—Records

166.1000 Who owns records associated with this part?

Subpart L—Agriculture Education, Education Assistance, Recruitment, and Training

166.1100 How are the Indian agriculture education programs operated?
166.1101 How will the BIA select an agriculture intern?
166.1102 How can I become an agriculture educational employment student?
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166.1104 What is agriculture education outreach?
166.1105 Who can get assistance for postgraduate studies?
166.1106 What can happen if we recruit you after graduation?
166.1107 Who can be an intern?
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166.1109 What are my obligations to the BIA after I participate in an agriculture education program?
166.1110 What happens if I do not fulfill my obligation to the BIA?

Authority: 5 U.S.C. 301; R.S. 463, 25 U.S.C. 2; R.S. 465, 25 U.S.C. 9; Sec. 6, 96 Stat. 986, 25 U.S.C. 466. Interpret or apply R.S. 2078, 25 U.S.C. 68; R.S. 2117, 25 U.S.C. 179; Sec. 3, 26 Stat. 795, 25 U.S.C. 397; Sec 1, 28 Stat. 305, 25 U.S.C. 402; Sec. 4, 36 Stat. 856, 25 U.S.C. 403; Sec. 1, 39 Stat. 128, 25 U.S.C. 394; Sec. 1, 41 Stat. 1232, 25 U.S.C. 393; Secs. 16, 17, 48 Stat. 987, 988, 25 U.S.C. 476, 477; Secs. 1, 2, 4, 5, 6, 69 Stat. 539, 540, 25 U.S.C. 415, 415a, 415b, 415c, 415d, 25 U.S.C. 3701, 3702, 3703, 3711, 3712, 3713, 3714, 3731, 3732, 3733, 3734, 3741, 3742, 3743, 3744, 3745, 107 Stat. 2011.

Subpart A—Purpose, Policy, and Definitions

§ 166.1 What is the purpose of this part?

(a) The purpose of this part is to describe the authorities, policies, and procedures the Secretary uses to approve, grant, and administer a permit for grazing on tribal land, individually owned Indian land, or government land.

(b) If the Secretary's approval is not required for a permit, these regulations will not apply.

(c) Nothing contained in the permit will operate to delay or prevent a termination of the Secretary's trust responsibility with respect to the Indian land by the issuance of a fee patent or otherwise during the term of the permit.

§ 166.2 What terms do I need to know?

Adult means an individual Indian who is 18 years of age or older.

Agency means the agency or field office or any other designated office in the Bureau of Indian Affairs (BIA) having jurisdiction over trust or restricted property or money.

Agricultural product means:

(1) Crops grown under cultivated conditions whether used for personal consumption, subsistence, or sold for commercial benefit;

(2) Domestic livestock, including cattle, sheep, goats, horses, buffalo, swine, reindeer, fowl, or other animals specifically raised and used for food or fiber or as a beast of burden;

(3) Forage, hay, fodder, food grains, crop residues and other items grown or harvested for the feeding and care of livestock, sold for commercial profit, or used for other purposes; and

(4) Other marketable or traditionally used materials authorized for removal from Indian agricultural lands.

Agricultural resource management plan means a ten year plan developed through the public review process specifying the tribal management goals and objectives developed for tribal agricultural and grazing resources. Plans developed and approved under AIARMA will govern the management and administration of Indian agricultural resources and Indian agricultural lands by the Secretary and Indian tribal governments.

AIARMA means American Indian Agricultural Resources Management Act of December 3, 1993 (107 Stat. 2011, 25 U.S.C. 3701 *et seq.*), and amended on November 2, 1994 (108 Stat. 4572).

Appeal bond means a type of bond that guarantees payment of an amount owed after the completion of an appeal process.

Approving/approval means the action taken by the BIA to approve a permit.

Assign means to transfer the contract rights in a permit for use of Indian land to an individual, company, corporation or partnership in exchange for compensation or other consideration.

Assignee means the person to whom the contract rights for use of Indian land were assigned.

Allocation means the apportionment of grazing privileges without competition to tribal members or tribal entities, including the tribal designation of permittees and the number and kind of livestock to be grazed.

Animal Unit Month (AUM) means the amount of forage required to sustain one cow or one cow with one calf for one month.

Bond means an agreement in writing in which a surety, or an obligor for a personal bond, guarantees performance or compliance with the permit terms.

BIA means the Bureau of Indian Affairs within the Department of the Interior.

Conservation plan means a statement of management objectives for grazing, including contract stipulations defining required uses, operations, and improvements. A conservation plan will be developed with the permittee and reviewed by us on an annual basis.

Day means a calendar day unless otherwise specified.

Encumbrance means mortgage, deed of trust or other instrument which secures a debt owed by a permittee to a lender or other holder of a leasehold mortgage on the permit interest.

Fair annual rental means a reasonable annual return on fair market value, as this value may be determined by appraisal, advertisement, competitive bidding, negotiation, or any other appropriate method in accordance with Uniform Standards of Professional Appraisal Practices (USPAP).

Farmland means Indian land, excluding Indian forest land, that is used for production of food, feed, fiber, forage, and seed, oil crops, or other agricultural products, and may be either dry land, irrigated land, or irrigated pasture.

Fractionated tract means a parcel of Indian land with more than one owner.

Government land means the surface estate of a tract of land, or any interest therein, which is acquired or reserved by the United States for the Bureau of Indian Affairs administrative purposes. Indian land is not government land.

Grant/granting means the process of agreeing or consenting to a permit.

Grazing capacity means the maximum sustainable number of livestock that may be grazed on a defined area and within a defined period, usually expressed in Animal Unit Month (AUM).

Grazing rental payment means the total of the grazing rental rate multiplied by the number of AUMs or acres in the permit.

Grazing rental rate means the amount you must pay for an AUM or acre based on the fair annual rental.

I/You means the person to whom these regulations directly apply.

Immediate family means the spouse, brothers, sisters, lineal ancestor, or lineal descendant of Indian blood.

In loco parentis means the person whom the BIA recognizes as standing in place of a parent.

Indian agricultural land means Indian land, including farmland and rangeland, excluding Indian forest land (except where authorized grazing occurs) that is used for production of agricultural products, and Indian lands occupied by industries that support the agricultural community, regardless of whether a formal inspection and land classification has been conducted.

Indian land means: (1) The surface estate (non-mineral) of a tract of land, or any interest therein, which is held by the United States in trust for a tribe or an individual Indian; or (2) A tract of land, or any interest therein, which is owned by a tribe or an individual Indian subject to federal restrictions against alienation or encumbrance.

Indian landowner means an Indian tribe or individual Indian who owns an interest in Indian land.

Individually owned Indian land means Indian land or an interest therein owned by an individual Indian.

Integrated resource management plan means the plan developed pursuant to the process used by tribal governments to assess available resources and to provide identified holistic management objectives that include quality of life, production goals, and landscape description of all designated resources that may include (but not limited to) water, fish, wildlife, forestry, agriculture, minerals, and recreation, as well as cultural, community, and municipal resources, and may include any previously adopted tribal codes and plans related to such resources.

Irrevocable letter of credit means an arrangement, with specified conditions, including the incapability of being recalled or revoked, whereby a bank agrees to substitute its credit for a customer's.

Majority interest means the total amount of tribal and/or Indian land ownership interest that is more than 50 percent of the entire ownership in the land.

Irrevocable letter of credit means an arrangement, with specified conditions, including the incapability of being recalled or revoked, whereby a bank agrees to substitute its credit for a customer's.

Majority interest means the total amount of tribal and/or Indian land ownership interest that is more than 50 percent of the entire ownership in the land.

Minor means an individual who is not 18 years of age or older.

Negotiable treasury securities means securities issued by the Treasury Department of the United States.

Non compos mentis means an individual who has been found by a court of competent jurisdiction, based on established criteria that include a medical or psychological evaluation, to be of unsound mind or incapable of transacting or conducting business and managing his or her own affairs.

Non-trust interest means an undivided interest in Indian land that is owned in fee simple, rather than in trust or restricted status.

Permit means a contract which grants the right to possess, use, and enjoy Indian land for grazing purpose and duration in exchange for compensation or other consideration, but which can be revoked.

Permittee means an individual, company, corporation, or partnership, who has entered into a permit for grazing on tribal, individually owned Indian, and/or government lands in exchange for compensation.

Range unit means rangelands consolidated to form a unit of land for the management and administration of grazing under a permit. A range unit may consist of a combination of tribal, individually owned Indian, and/or government land.

Rangeland means Indian land, excluding Indian forest land, on which native vegetation is predominantly grasses, grass-like plants, half-shrubs or shrubs suitable for grazing or browsing use, and includes lands re-vegetated naturally or artificially to provide a forage cover that is managed as native vegetation.

Restricted land means land for which a tribe or individual Indian holds fee simple title subject to limitations or restriction against alienation or encumbrance as set forth in the title or by operation of law or both.

Secretary means the Secretary of the Interior or an authorized representative; it also means a tribe or tribal organization if that entity is administering specific programs, functions services or activities, previously administered by the

Secretary of the Interior, but now authorized under a Self-Determination Act contract (pursuant to 25 U.S.C. 450f) or a Self-Governance compact (pursuant to 25 U.S.C. 558cc). Such tribal authority does not include inherently federal functions.

Subpermit means a permit granted by a permittee of all or part of the permitted property for a period up to the expiration date of the initial permit.

Surety means one who guarantees the performance, default or debt of another.

Sustained yield means the yield of agricultural products that a unit of land can produce continuously at a given level of use.

Trespass means any unauthorized occupancy, use of, or action on Indian agricultural lands.

Tribal land means land for which the United States holds fee title in trust for the benefit of a tribe, and includes assignments of tribal land.

Tribal law means the body of non-federal law that governs tribal lands and activities, and includes ordinances or other enactments by a tribe, tribal constitutions, tribal court rulings and tribal common law.

Trust land means land, or an interest therein, for which the United States holds fee title in trust for the benefit of a tribe or an individual Indian.

Undivided interest means that the interest of co-owners is in the entire property and that such interest is indistinguishable. The interest has not been divided out from the whole parcel. (Example: If you own ¼ interest in 160 acres, you do not own an identifiable 40 acre tract. You own ¼ of the whole 160 acres because your ¼ interest has not been divided out from the whole 160 acres.)

Us/We/Our means the Secretary as defined in this section.

Uniform Standards of Professional Appraisal Practices (USPAP) means the standards promulgated by the Appraisal Institute which establish requirements and procedures for professional real property appraisal practice.

Written notice means actual written letter mailed by way of United States mail, certified return receipt requested, postage prepaid, or hand delivered letter.

Subpart B—Permit Requirements

General Requirements

§ 166.100 Must Indian owners of Indian land obtain a permit before using land for grazing purposes?

(a) Indian landowners who own 100 percent (%) of a tract of land are not required to obtain a permit.

(b) If an Indian landowner does not own 100 percent (%) of a tract of land and wants to use the land for grazing purposes, a permit must be obtained from the co-owners of the tract of land.

§ 166.101 Must parents or guardians of Indian minors who own Indian land obtain a permit before using land for grazing purposes?

Parents, guardians, or other persons standing *in loco parentis* need not obtain a permit for Indian lands owned by their minor Indian children if:

(a) Those minor children own 100 percent (%) of the land; and

(b) The minor children directly benefit from the use. We may require the user to provide evidence of a direct benefit to the minor children. When one of the minor children becomes an adult, a permit must be obtained from the former minor child for the use to continue.

§ 166.102 Who can grant a permit?

(a) Tribes grant permits of tribal land, including any tribally-owned undivided interest(s) in a fractionated tract. A permit granted by the tribe must be approved by us, unless the permit is authorized by a charter approved by us under 25 U.S.C. 477, or unless our approval is not required under other applicable federal law. In order to permit tribal land in which the beneficial interest has been assigned to another party, the assignee and the tribe must both grant the permit, subject to our approval.

(b) Individual Indian landowners may grant a permit of their own land, including their undivided interest in a fractionated tract, subject to our approval. Except as otherwise provided in this part, these landowners may include the owner of a life estate holding 100 percent (%) interest in the permit tract.

(c) We may grant a permit on behalf of:

(1) An individual Indian landowner as provided in § 166.103; and

(2) Tribes that give us written authority to grant permits on their behalf.

(d) We will grant permits on Government lands.

§ 166.103 Who may represent an individual Indian landowner in granting a permit?

The following individuals or entities may represent an individual Indian landowner in granting a permit:

(a) An adult acting on behalf of:

(1) His or her minor children; or

(2) Other minor children to whom the adult stands in *loco parentis* who do not have a guardian or other legal representative;

(b) A guardian, conservator, or other fiduciary appointed by a court of competent jurisdiction to act on behalf of an individual Indian landowner;

(c) An adult or legal entity who has been given a written power of attorney that:

(1) Meets all of the formal requirements of any applicable tribal or state law;

(2) Identifies the attorney-in-fact and the land to be permitted; and

(3) Describes the scope of the power granted and any limits thereon.

(d) The BIA acting on behalf of:

(1) An individual who is non compos mentis;

(2) An orphaned minor;

(3) An individual Indian landowner who has granted us written authority to permit his or her land;

(4) The undetermined heirs and devisees of a deceased Indian landowner;

(5) An Indian landowner whose whereabouts are unknown to us after a reasonable attempt is made to locate the owner;

(6) The Indian landowners of a fractionated tract who:

(i) Have received actual notice of our intent to grant a permit on their behalf; and

(ii) Are unable to agree upon a permit during the three month negotiation period following the notice;

(7) The owners of a minority interest in the Indian ownership of a fractionated tract of Indian agricultural land when the majority interest has consented, as long as the minority interest owners receive fair annual rental;

(8) The owners of ''highly fractionated undivided heirship lands,'' for agricultural permits, under 166.300; or

(9) The individual Indian owners of fractionated Indian land, when necessary to protect the interests of the individual Indian landowners.

§ 166.104 May an emancipated minor grant a permit?

No. An emancipated minor, a person who is under 18 years of age and declared by a court of competent jurisdiction to be an adult for certain purposes, may not grant a permit.

§ 166.105 What requirements apply to a permit on a fractionated tract?

(a) The owners of a majority interest in the Indian ownership of a fractionated tract may grant a permit without giving prior notice to the minority owners as long as the minority interest owners receive fair annual rental. We must approve the permit.

(b) We may grant a permit on behalf of all owners of a fractionated tract as

long as the owners receive fair annual rental. Before granting such a permit, we may offer a preference right to any Indian owner who:

(1) Possesses the entire tract;

(2) Submits a written offer to permit the land, subject to any required or negotiated terms and conditions, prior to our granting a permit to another party; and

(3) Provides any supporting documents needed to demonstrate the ability to perform all of the permittee's obligations under the proposed permit.

§ 166.106 What provisions must be contained in a permit?

A permit, at a minimum, must include:

(a) Authorized use(s);

(b) Prohibited use(s);

(c) Prohibition against creating a nuisance, any illegal activity, and negligent use or waste or resources;

(d) Numbers and types of livestock allowed;

(e) Season(s) of use;

(f) Grazing rental rate;

(g) Administrative fees;

(h) Tribal fees, if applicable;

(i) Payment methodology;

(j) Location of range unit;

(k) Animal identification requirements;

(l) A description (preferably a legal description) of the permitted area;

(m) Term of permit;

(n) Conditions for making improvements, if any; and

(o) A right of entry by the Secretary for purposes of inspection or enforcement purposes.

§ 166.107 How long is a permit term?

(a) The duration must be reasonable given the purpose of the permit and the level of investment required by the permittee to place the property into productive use.

(b) We will not grant or approve a permit more than 12 months before its beginning date.

(c) On behalf of the undetermined heirs of an individual Indian decedent owning 100 percent (%) interest in the land, we will grant or approve permits for a maximum term of two years.

(d) Permits granted for agricultural purposes will not usually exceed ten years. A term longer than ten years, but not to exceed 25 years unless authorized by other federal law, may be authorized when a longer term is determined by us to be in the best interest of the Indian landowners and when such permit requires substantial investment in the development of the lands by the permittee.

(e) A tribe may determine the duration of permits composed entirely of its tribal land or in combination with government land, subject to the same limitations provided in paragraph (d) of this section.

(f) A permit may be extended only by renewal or extension as defined in the permit. Permits may provide multiple options for termination.

(g) A permit will specify the beginning and ending dates of the term allowed, as well as any option to renew, extend, or terminate.

§ 166.108 Are permits recorded?

All permits on Indian land in excess of one year must be recorded.

§ 166.109 Where are permits recorded?

Permits are recorded in the appropriate BIA Land Titles and Records Office.

§ 166.110 Who is responsible for recording permits?

We are responsible for ensuring that all permits we approve or grant are recorded in the Land Titles and Records Office. Tribes must record those permits not requiring our approval.

§ 166.111 When may a permittee take possession of permitted Indian land?

The permittee may take possession of permitted Indian land on the date specified in the permit as the beginning date of the term, but not before we approve the permit.

§ 166.112 Must I comply with any standards of conduct if I am granted a permit?

Yes. Permittees are expected to:

(a) Conduct grazing operations in accordance with the principles of sustained yield management, agricultural resource management planning, sound conservation practices, and other community goals as expressed in tribal laws, agricultural resource management plans, and similar sources.

(b) Comply with all applicable laws, ordinances, rules, regulations, and other legal requirements. You must also pay all applicable penalties if you do not comply.

(c) Fulfill all financial obligations of your permit owed to the Indian landowners and the United States.

(d) Conduct only those activities authorized by the permit.

§ 166.113 Will the BIA notify the permittee of any change in land title status?

Yes. We will notify the permittee if a fee patent is issued or if restrictions are removed, but the permit continues in effect for its term. After we notify the permittee our obligation under 166.303 and this section ceases.

§ 166.114 When is a decision by the BIA regarding a permit effective?

A decision by the BIA regarding a permit is effective 30 days after the issuance of the decision document and exhaustion of all appeal rights.

Obtaining a Permit

§ 166.115 How can I find Indian land available for grazing?

You may contact a local BIA office or tribal office to determine what Indian land may be available for grazing permits.

§ 166.116 Who is responsible for permitting Indian land?

The Indian landowner is primarily responsible for permitting Indian land, with the assistance and approval of the Secretary except where otherwise provided by law. You may contact the local BIA or tribal office for assistance in obtaining a permit for grazing purposes on Indian land.

§ 166.117 How do I acquire a permit on Indian land?

(a) A tribe may permit tribal land through tribal allocation, negotiation, or advertisement. We must approve all permits of Indian land in order for the permit to be valid.

(b) We will grant permits through negotiation or advertisement for range units containing, in whole or part, individually owned Indian land and range units that consist of, or in combination with individually owned Indian land, tribal or government land, under § 166.102. We will consult with tribes prior to granting permits for range units that include tribal land.

§ 166.118 How do I acquire a permit through tribal allocation?

(a) A tribe may allocate grazing privileges on range units containing trust or restricted land which is entirely tribally owned or which contains only tribal and government land under the control of the tribe.

(b) A tribe may allocate grazing privileges to its members and to tribally authorized Indian entities without competitive bidding on tribal and tribally controlled government land.

(c) We may implement the tribe's allocation procedure by authorizing the grazing privileges on individually owned Indian land.

(d) A tribe may prescribe the eligibility requirements for allocations 60 days before granting a new permit or before an existing permit expires. The eligibility requirements are subject to our written agreement.

(e) 120 days before the expiration of existing permits, we will notify the tribe

of the 60 day period during which the tribe may prescribe eligibility requirements.

(f) We will prescribe the eligibility requirements after the expiration of the 60 day period in the event satisfactory action is not taken by the tribe.

(g) Other than for tribal members, grazing rental rates for grazing privileges allocated from an existing permit, in whole or in part, must equal or exceed the rates paid by the preceding permittee(s) unless market conditions dictate a lower price. Tribal members will pay grazing rental rates established by the tribe.

§ 166.119 How do I acquire a permit through negotiation?

(a) Permits may be negotiated and granted by the Indian landowners with the permittee of their choice. The Secretary also may negotiate and grant permits on behalf of Indian landowners pursuant to § 166.102 of this part.

(b) Upon the conclusion of negotiations with the Indian landowners or their representatives, and the satisfaction of any applicable conditions, you may submit an executed permit and any required supporting documents to us for appropriate action.

(c) In negotiating a permit, the Indian owners may choose to contribute their land in exchange for their receipt of a share of the revenues or profits generated by the permit. Under such an arrangement, the permit may be granted to a joint venture or other legal entity owned, in part, by the Indian owners of the land. Unless otherwise required by this title, we will not enter into or approve any agreements related to the formation of such a joint venture or other legal entity.

(d) Receipt of permit payments based upon income received from the land will not, of itself, make the Indian landowner a partner, joint venturer, or associate of the permittee(s).

(e) We will assist prospective permittees in contacting the Indian landowners or their representatives, for the purpose of negotiating a permit.

§ 166.120 What are the basic steps for acquiring a permit through negotiation?

The basic steps for acquiring a permit by negotiation are as follows:

(a) We receive a request to permit from an Indian landowner or potential permittee;

(b) We prepare the permit documents and provide them to the Indian landowner or potential permittee, or assist the Indian landowner to prepare the documents;

(c) The Indian landowner, or the Secretary on the Indian landowner's behalf, grants (agrees to) a permit;

(d) A potential permittee completes the requirements for securing a permit, *e.g.*, bond, payment of administrative fee, *etc.*;

(e) We review the permit for proper completion and compliance with all applicable laws and regulations;

(f) We issue a decision on the permit based upon our review;

(g) We send the approved permit to the permittee and, upon request, to the Indian landowner; and

(h) We record and maintain the approved permit.

§ 166.121 Can I negotiate a contract with an Indian landowner to permit land at a future date?

In negotiating a permit with Indian landowners or their representatives, a prospective permittee may enter into a contract to permit the land at a future date, with the contract specifying the essential permit terms, as described in § 166.107 of this part, as well as any conditions that must be satisfied before the permit may be granted or approved.

(a) The conditions to be satisfied may require that the permittee prepare environmental documents that comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) or other preliminary federal or tribal land use requirements; the conditions also may require that certain permits or financing commitments be obtained before the permit is granted or approved.

(b) We may participate in the contract negotiations (in order to ensure that all of the necessary terms and conditions are identified), but we will not be a party to such a contract.

(c) We will not approve such a contract unless approval is required under 25 U.S.C. 81 and part 84 of this chapter.

§ 166.122 How do I acquire an advertised permit through competitive bidding?

Advertised permits on Indian lands are awarded to the successful bidder after a public bidding process. We will grant or approve the permit on behalf of the Indian landowners. The basic steps for acquiring an advertised permit are as follows:

(a) We prepare and distribute an advertisement of lands available for permit that identifies the terms and conditions of the permit sale, including, for agricultural permits, any preference rights;

(b) We solicit sealed bids and conduct the public permit sale;

(c) We determine and accept the highest bid(s), which may require further competitive bidding after the bid opening;

(d) We prepare permits for successful bidders;

(e) The successful bidder completes and submits the permit and satisfies requirements, *e.g.*, bond, payment of administrative fee, *etc.*;

(f) We review the permit for proper completion and compliance with all applicable laws and regulations;

(g) We grant the permit on behalf of Indian landowners where we are authorized to do so by law;

(h) We approve the permit;

(i) We distribute the approved permit to successful bidder/permittee and, upon request, to the Indian landowner; and

(j) We record and maintain the approved permit.

§ 166.123 Are there standard permit forms?

Yes. Standard permit forms, including bid forms, permit forms, and permit modification forms are available at our agency offices.

Permit (Leasehold) Mortgage

§ 166.124 Can I use a permit as collateral for a loan?

We may approve a permit containing a provision that authorizes the permittee to encumber the permit interest, known as a leasehold mortgage, for the development and improvement of the permitted Indian land. We must approve the leasehold mortgage that encumbers the leasehold mortgage before it can be effective. We will record the approved leasehold mortgage instrument.

§ 166.125 What factors does the BIA consider when reviewing a leasehold mortgage?

(a) We will approve the leasehold mortgage if:

(1) All consents required in the permit have been obtained from the Indian landowners and any surety or guarantor;

(2) The mortgage covers only the interest in the permitted premises, and no unrelated collateral belonging to the permittee;

(3) The financing being obtained will be used only in connection with the development or use of the permitted premises, and the mortgage does not secure any unrelated obligations owed by the permittee to the mortgagee; and

(4) We find no compelling reason to withhold our approval, in order to protect the best interests of the Indian landowner.

(b) In making the finding required by paragraph (a)(4) of this section, we will consider whether:

(1) The ability to perform the permit obligations would be adversely affected by the cumulative mortgage obligations;

(2) Any negotiated permit provisions as to the allocation or control of insurance or condemnation proceeds would be modified;

(3) The remedies available to us or the Indian landowners would be limited (beyond the additional notice and cure rights to be afforded to the mortgagee), if the permittee defaults on the permit;

(4) Any rights of the Indian landowners would be subordinated or adversely affected in the event of a foreclosure, assignment in lieu of foreclosure, or issuance of a ''new permit'' to the mortgagee.

(c) We will notify the Indian landowners of our approval of the leasehold mortgage.

§ 166.126 May a permittee voluntarily assign a leasehold interest under an approved encumbrance?

With our approval, under an approved encumbrance, a permittee voluntarily may assign the leasehold interest to someone other than the holder of a leasehold mortgage if the assignee agrees in writing to be bound by the terms of the permit. A permit may provide the Indian landowners with a right of first refusal on the conveyance of the leasehold interest.

§ 166.127 May the holder of a leasehold mortgage assign the leasehold interest after a sale or foreclosure of an approved encumbrance?

Yes. The holder of a leasehold mortgage may assign a leasehold interest obtained by a sale or foreclosure of an approved encumbrance without our approval if the assignee agrees in writing to be bound by the terms of the permit. A permit may provide the Indian landowners with a right of first refusal on the conveyance of the permit interest (leasehold).

Non-Trust Interest

§ 166.128 May the Secretary grant or approve a permit for non-trust interests in Indian land?

No. The Secretary has no statutory authority to grant or approve a permit for non-trust interests in Indian land.

§ 166.129 Are non-trust interests in Indian land included in a permit?

No. The undivided non-trust interests are not included in a permit granted or approved by the BIA.

§ 166.130 How will a permittee know there are non-trust interests in Indian land?

When we permit Indian land, we will advise the permittee whether the title to the Indian land contains non-trust interests. Upon request, and subject to applicable law, we will provide the permittee with the information we have in our records identifying the owner(s) of the non-trust interest.

§ 166.131 From whom must a permittee permit a non-trust interest?

A permittee must obtain a permit on any non-trust interest(s) directly from owner(s) of the non-trust interest(s).

§ 166.132 Is the non-trust interest shown in a permit of Indian land?

No. The permit will describe only the Indian owned interests. For example, if the Indian owned interests constitutes ¾ of the Indian land, the land will be described as: An undivided ¾ interest in and to the W/2 SW/4, Section 1, Township 10 North, Range 1 East, Principal Meridian, Billings, Montana. This will notify the permittee that the full interest in the tract has not been permitted. The remaining undivided ¼ interest is the non-trust interest and the permittee must contact the non-trust interest owners directly to secure a permit of their interest.

§ 166.133 How much rent is due for the non-trust interest?

It is the responsibility of the permittee to contact the non-trust owners to negotiate the amount of rental to be paid and to make rental payments to the owners of the non-trust interest.

§ 166.134 May a grazing rental payment made by a permittee to the BIA or to an Indian landowner include payment for any non-trust interest?

No. Payment for a non-trust interest must be made to the owner of that interest.

§ 166.135 Will the BIA grant or approve a permit on a fractionated tract that is subject to a life estate held by the owner of a non-trust interest?

We will grant or approve a permit on a fractionated tract that is subject to a life estate held by the owner of a non-trust interest only when it is necessary to preserve the value of the trust interest in the land.

Modifying a Permit

§ 166.136 How can Indian land be removed from an existing permit?

(a) We will remove Indian land from your permit if:

(1) The trust status of the Indian land terminates;

(2) The Indian landowners request removal, and we determine that the removal is beneficial to such interests;

(3) A tribe allocates grazing privileges for Indian land covered by your permit under § 166.117;

(4) The permittee requests removal and we determine that the removal is warranted; or

(5) We determine that removal is appropriate.

(b) We will revise the grazing capacity to reflect the removal of Indian land and show it on the permit.

§ 166.137 How will the BIA provide notice if Indian land is removed from an existing permit?

If the reason for removal is:

(a) *Termination of trust status.* We will notify the parties to the permit in writing within 30 days. The removal will be effective on the next anniversary date of the permit.

(b) *A request from Indian landowners or the permittee, or our determination.* We will notify the parties to the permit in writing within 30 days of such request. The removal will be effective immediately if all sureties, Indian landowners, and permittee agree. Otherwise, the removal will be effective upon the next anniversary date of the permit. If our written notice is within 180 days of the anniversary date of the permit, the removal of Indian land will be effective 180 days after the written notice.

(c) *Tribal allocation under § 166.117.* We will notify the parties to the permit in writing within 180 days of such action. The removal of tribal land will be effective on the next anniversary date of the permit. If our written notice is within 180 days of the anniversary date of the permit, the removal of Indian land will be effective 180 days after the written notice.

(d) *Request by the permittee.* We will notify the Indian landowner in writing within 30 days of such request.

§ 166.138 Other than to remove land, how can a permit be amended, modified, assigned, transferred, or subpermitted?

(a) We must approve an amendment, modification, assignment, transfer, or subpermit with the written consent of all parties to the permit and the sureties.

(b) Indian landowners may designate in writing one or more of their co-owners or representatives to negotiate and/or agree to amendments on their behalf.

(1) The designated landowner or representative may:

(i) Negotiate or agree to amendments; and

(ii) Consent to or approve other items as necessary.

(2) The designated landowner or representative may not:

(i) Negotiate or agree to amendments that reduce the grazing rental payments payable to the other Indian landowners; or

(ii) Terminate the permit or modify the term of the permit.

(c) We may approve a permit for tribal land to individual members of a tribe which contains a provision permitting the assignment of the permit by the permittee or the lender without our approval when:

(1) A lending institution or an agency of the United States:

(i) Accepts the interest in the permit (leasehold) as security for the loan; and

(ii) Obtains the interest in the permit (leasehold) through foreclosure or otherwise.

(d) We may approve a permit containing a provision which authorizes the permittee to subpermit the Indian land in whole or in part without further approval. Subpermits made under this provision do not relieve the original permittee (permittee of record) from any liability under the permit, nor will it diminish our authority.

(e) We will revise the grazing capacity and show it on your permit.

Subpart C—Land and Operations Management

§ 166.200 How is Indian agricultural land managed?

Tribes, individual Indian landowners, and the BIA will manage Indian agricultural land either directly or through contracts, compacts, cooperative agreements, or grants under the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638, as amended).

§ 166.201 How is Indian land for grazing purposes described?

Indian land for grazing purposes should be described by aliquot parts, metes and bounds, or other acceptable description.

§ 166.202 How is a range unit created?

We create a range unit after we consult with the Indian landowners of rangeland, by designating units of compatible size, availability, and location. Range units can be modified under §§ 166.136 through 166.138. A permit may cover more than one range unit.

§ 166.203 Can more than one tract of Indian land be combined into one permit?

Yes. A permit may include more than one tract of Indian land. Permits may include tribal land, individually owned Indian land, or government land, or any combination thereof.

§ 166.204 When is grazing capacity determined?

Before we grant, modify, or approve a permit, in consultation with the Indian landowners, we will establish the grazing capacity for each range unit and the season(s) of use on Indian lands. In consultation with the Indian landowners, we will review the grazing capacity on a continuing basis using the best evaluation method(s) relevant to the ecological region.

§ 166.205 Will grazing capacity be increased if I graze adjacent trust or non-trust rangelands not covered by the permit?

No. You will not receive an increase in grazing capacity if you graze trust or non-trust rangeland in common with the permitted land. Grazing capacity will be established only for tracts of land covered by your permit

§ 166.206 What livestock can I graze on permitted Indian land?

(a) Tribes may determine the class of livestock that may be grazed on range units composed entirely of tribal land or which include government land, subject to the grazing capacity prescribed by us under § 166.204.

(b) For permits on range units containing, in whole or part, individually owned Indian land, we will adopt the tribal determination in paragraph (a) of this section if it is consistent with the grazing capacity determination under § 166.204.

§ 166.207 What must a permittee do to protect livestock from exposure to disease?

Permittees must:

(a) Vaccinate livestock in accordance with applicable law.

(b) Treat all livestock exposed to or infected with contagious or infectious diseases in accordance with applicable law.

(c) Restrict the movement of exposed or infected livestock in accordance with applicable law.

Improvements

§ 166.208 Can improvements be constructed on permitted Indian land?

Improvements may be constructed on permitted Indian land if the permit contains a provision allowing improvements.

§ 166.209 What happens to improvements constructed on Indian lands when the permit has been terminated?

(a) If improvements are to be constructed on Indian land, the permit must contain a provision that improvements will either:

(1) Remain on the land upon termination of the permit, in a condition that is in compliance with applicable building, health and other codes, to become the property of the Indian landowner; or

(2) Be removed and the land restored within a time period specified in the permit. The land must be restored as close as possible to the original condition prior to construction of such improvements. At the request of the permittee we may, at our discretion, grant an extension of time for the removal of improvements and restoration of the land for circumstances beyond the control of the permittee.

(b) If the permittee fails to remove improvements within the time allowed in the permit, the permittee may forfeit the right to remove the improvements and the improvements may become the property of the Indian landowner.

Management Plans and Environmental Compliance

§ 166.210 Is an agricultural resource management plan required?

An agricultural resource management plan must be developed either by the tribe or by us in consultation with the affected tribe. This plan should be consistent with the tribe's integrated resource management plan. The agricultural resource management plan must:

(a) Determine available agricultural resources;

(b) Identify specific tribal agricultural resource goals and objectives;

(c) Establish management objectives for the resources;

(d) Define critical values of the tribe and its members and provide identified holistic management objectives;

(e) Identify actions to be taken to reach established objectives;

(f) Be developed through public meetings;

(g) Use the public meeting records, existing survey documents, reports, and other research from federal agencies, tribal community colleges, and land grant universities; and

(h) Be completed within three(3) years of the initiation of activity to establish the plan.

§ 166.211 Is a conservation plan required?

A conservation plan must be developed by the permittee for each permit and approved by us prior to the issuance of the permit. The conservation plan must be consistent with the tribe's agricultural resource management plan and integrated resource management plan, and must address the permittee's management objectives regarding animal husbandry and resource conservation. The conservation plan must cover the entire permit period.

§ 166.212 Is environmental compliance required?

Actions taken by the Secretary under the regulations in this part must comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*),

applicable regulations of the Council on Environmental Quality (40 CFR 1500.1 *et seq.*), and applicable tribal laws and regulations.

Subpart D—Tribal Policies and Laws Pertaining to Permits

§ 166.300 What tribal policies will we apply to permitting on Indian agricultural lands?

(a) When specifically authorized by an appropriate tribal resolution establishing a general policy for permitting of Indian agricultural lands, the Secretary will:

(1) Provide a preference to Indian permittees in issuing or renewing a permit, so long as the Indian landowner receives fair annual rental;

(2) Waive or modify the requirement that a permittee post a surety or performance bond;

(3) Provide for posting of other collateral or security in lieu of a bond; and

(4) Approve permits on tribal lands at rates determined by the tribal governing body.

(b) When specifically authorized by an appropriate tribal resolution establishing a general policy for leasing of Indian agricultural lands, and subject to paragraph (c) of this section, the Secretary may:

(1) Waive or modify any general notice requirement of federal law; and

(2) Grant or approve a permit on ''highly fractionated undivided heirship lands'' as defined by tribal law.

(c) The Secretary may take the action specified in paragraph (b) of this section only if:

(1) The tribe defines by resolution what constitutes ''highly fractionated undivided heirship lands';

(2) The tribe adopts an alternative plan for notifying Indian landowners; and

(3) The Secretary's action is necessary to prevent waste, reduce idle land acreage and ensure income.

§ 166.301 May individual Indian landowners exempt their land from tribal policies for permitting on Indian agricultural lands?

(a) The individual Indian landowner(s) of a tract of land or an undivided interest may exempt their land from our application of a tribal policy referred to under § 166.300 if:

(1) The Indian landowner(s) have at least 50% interest in such tract; and

(2) The Indian landowner(s) submit a written objection to us.

(b) The same procedure applies to withdrawing a request for exemption.

(c) Upon verification of the written objection we will notify the tribe of the Indian landowners' exemption from the specific tribal policy. If the individual Indian landowner withdraws a request for exemption, we will notify the tribe of the withdrawal.

§ 166.302 Do tribal laws apply to permits?

Tribal laws will apply to permits of Indian land under the jurisdiction of the tribe enacting such laws, unless those tribal laws are inconsistent with applicable federal law.

§ 166.303 What notifications are required that tribal laws apply to permits on Indian agricultural lands?

(a) Tribes must notify us of the content and effective dates of new tribal laws.

(b) We will then notify any persons or entities undertaking activities on Indian lands of the superseding or modifying effect of the tribal law. We will provide:

(1) Individual written notice to each permittee; or

(2) Public notice. This notice will be posted at the tribal community building, U.S. Post Office, and published in the local newspaper nearest to the Indian lands where activities are occurring.

§ 166.304 Who enforces tribal laws pertaining to Indian agricultural land?

(a) The tribe is responsible for enforcing tribal laws and ordinances pertaining to Indian agricultural lands.

(b) The Secretary will:

(1) Provide assistance in the enforcement of tribal laws; and

(2) Require appropriate federal officials to appear in tribal forums when requested by a tribe.

Subpart E—Grazing Rental Rates

Rental Rate Determination and Adjustment

§ 166.400 Who establishes grazing rental rates?

(a) For tribal lands, a tribe may establish a grazing rental rate that is less or more than the grazing rental rate established by us. We will assist a tribe to establish a grazing rental rate by providing the tribe with available information concerning the value of grazing on tribal lands.

(b) We will establish the grazing rental rate by determining the fair annual rental for:

(1) Individually owned Indian lands; and

(2) Tribes that have not established a rate under paragraph (a) of this section.

(c) Indian landowners may give us written authority to grant grazing privileges on their individually owned Indian land at a grazing rental rate that is:

(1) Above the grazing rental rate set by us; or

(2) Below the grazing rental rate set by us, subject to our approval, when the permittee is a member of the Indian landowner's immediate family as defined in this part.

§ 166.401 How does the Secretary establish grazing rental rates?

The Secretary establishes grazing rental rates by determining the fair annual rental through appraisal, advertisement, competitive bidding, negotiation, or any other appropriate method, in accordance with the Uniform Standards of Professional Appraisal Practices (USPAP).

§ 166.402 Why must the Secretary determine the fair annual rental of Indian land?

(a) The Secretary must determine the fair annual rental of Indian land to:

(1) Assist the Indian landowner in negotiating a permit with potential permittees; and

(2) Enable us to determine whether a permit is in the best interests of the Indian landowner.

§ 166.403 Will the Secretary ever grant or approve a permit at less than fair annual rental?

(a) We will grant a permit for grazing on individually owned Indian land at less than fair annual rental if, after advertising the permit, we determine that such action would be in the best interests of the individual Indian landowners.

(b) We may approve a permit for grazing on individually owned Indian land at less than fair annual rental if:

(1) The permit is for the Indian landowner's immediate family or co-owner; or

(2) We determine it is in the best interest of the Indian landowners.

(c) We may approve a permit for grazing on tribal land at less than fair annual rental if:

(1) The permittee is a tribal member or tribal entity; or

(2) We determine that it is in the best interest of the tribe.

§ 166.404 Whose grazing rental rate will be applicable for a permit on tribal land?

The following grazing rental rate schedule will apply for tribal land:

If you are * * *	And if * * *	Then you will pay * * *
(a) Grazing livestock on tribal land	The tribe established the grazing rental rate	The rate set by the tribe.
(b) Grazing livestock on tribal land	No tribal grazing rental rate has been established.	The rate set by the BIA.
(c) The successful bidder for use of any of these specific tracts of Indian land.		Your rental rate bid, but not less than the minimum bid rate advertised.

§ 166.405 Whose grazing rental rate will be applicable for a permit on individually owned Indian land?

The following grazing rental rate schedule will apply for individually owned Indian land:

If you are * * *	Then you will pay * * *
(a) Grazing livestock on Individually owned Indian land	The rate set by the BIA.
(b) The successful bidder for use of any of these specific tracts of Indian land.	Your rental rate bid, but not less than the minimum bid rate advertised.

§ 166.406 Whose grazing rental rate will be applicable for a permit on government land?

The following grazing rental rate schedule will apply for government land:

If you are * * *	And if * * *	Then you will pay * * *
(a) Grazing livestock on government land	The tribe has control over the land or the tribe has authority to set the rate.	The rate set by the tribe.
(b) Grazing livestock on government land	Government controls all use of the land	The rate set by the BIA.

§ 166.407 If a range unit consists of tribal and individually owned Indian lands, what is the grazing rental rate?

The grazing rental rate for tribal land will be the rate set by the tribe. The grazing rental rate for individually owned Indian land will be the grazing rental rate set by us.

§ 166.408 Can tribal members graze livestock that they do not own on tribal land at the grazing rental rate established for tribal members?

Yes. Tribal members may graze livestock that they do not own on tribal land at the rate set by the tribe.

§ 166.409 Is the grazing rental rate established by the BIA adjusted periodically?

Yes. To ensure that Indian landowners are receiving the fair annual return, we may adjust the grazing rental rate established by the BIA, based upon an appropriate valuation method, taking into account the value of improvements made under the permit, unless the permit provides otherwise, following the Uniform Standards of Professional Appraisal Practice.

(a) We will review the grazing rental rate prior to each anniversary date or when specified by the permit.

(b) We will provide you with written notice of any adjustment of the grazing rental rate 60 days prior to each anniversary date.

(c) The adjusted grazing rental rate may be less than the fair annual rental if we determine that such a rate is in the best interest of the Indian landowner.

(d) If adjusted, the grazing rental rate will become effective on the next anniversary date of the permit following the date of adjustment.

(e) These adjustments will be retroactive, if they are not made at the time specified in the permit.

(f) For permits granted by tribes, we will consult with the granting tribe to determine whether an adjustment of the grazing rental payment should be made. The permit must be modified to document the granting tribe's waiver of the adjustment.

Rental Payments

§ 166.410 How is my grazing rental payment determined?

The grazing rental payment is the total of the grazing rental rate multiplied by the number of AUMs or acres covered by the permit.

§ 166.411 When do I pay grazing rental payments?

All grazing rental payments are due and payable as specified in the permit. The BIA will not accept a grazing rental payment beyond the permit term, except in collection of unpaid grazing rental payments.

§ 166.412 When is a grazing rental payment late?

A grazing rental payment is late if it is not received within fifteen days of the payment date specified in the permit.

§ 166.413 Will a permittee be notified when a grazing rental payment is due?

Each permittee will receive written notice stating when grazing rental payments are due. In addition, each permit informs the permittee of the schedule of payments agreed to by the parties.

§ 166.414 If a permittee does not receive notice that a grazing rental payment is due must the scheduled payment still be made?

If a permittee does not receive notice that a grazing rental payment is due, the permittee remains responsible for making timely payment of all amounts due under the permit.

§ 166.415 What will the BIA do to collect grazing rental payments that are not made in accordance with the terms of a permit?

Failure to make grazing rental payments in accordance with the terms of a permit may be a permit violation. The Secretary will enforce permit violations under subpart H of this part.

§ 166.416 Will I have to pay a penalty for late grazing rental payments?

Yes. The permit will contain a provision that specifies the late grazing rental payment penalty that will be assessed and collected for late payments.

§ 166.417 What forms of grazing rental payments are acceptable?

Payments of money must be United States currency in one of the following forms:

(a) Postal money order;
(b) Bank money order;
(c) Cashier's check;
(d) Certified check; or
(e) Electronic funds transfer.

§ 166.418 To whom are grazing rental payments made?

All grazing rental payments must be submitted as provided in the permit. The permittee must make payments payable to the party identified in the permit in the amount due, including any late payment, penalties, interest, or other amount if applicable.

§ 166.419 May a permittee send a grazing rental payment directly to the Indian landowner?

Yes. A permittee may send grazing rental payments directly to the Indian landowner if the permit provides for direct payment.

§ 166.420 Does the BIA accept partial payment for a grazing rental payment due?

Yes, in special circumstances. Ordinarily, the total amount is due and payable by the payment date specified in the permit, and failure to make complete payment may constitute a violation of the permit. Exceptions are rarely granted and require a specific written request and the consent of the parties to the permit and our approval.

§ 166.421 May a permittee make a grazing rental payment in advance of the due date?

Rent may be paid no more than 30 days in advance of the due date as specified in the permit. The BIA will not accept a grazing rental payment more than 30 days prior to the beginning of the new permit term.

§ 166.422 May an individual Indian landowner modify the terms of the permit on a fractionated tract for advance grazing rental payment?

No. An individual Indian landowner of a fractionated tract may not modify a permit to allow a grazing rental payment in advance of the due date specified in the permit.

Compensation to Indian Landowners

§ 166.423 What does the BIA do with grazing rental payments received from permittees?

Rent will be distributed to the Indian landowners in accordance with the interest that each owns in the permitted land. The rent will be deposited to the appropriate account maintained by the Office of Trust Funds Management in accordance with 25 CFR part 115.

§ 166.424 How do Indian landowners receive grazing rental payments that the BIA has received from permittees?

Funds will be paid to the Indian landowners by the Office of Trust Funds Management in accordance with 25 CFR part 115.

§ 166.425 How will the rent be distributed if the permit covers more than one tract of land with different owners?

The rent will be prorated based upon the number and size of the tracts in relation to the total permit interest (leasehold), and distributed to each owner according to their fractional share of each tract.

Subpart F—Administrative and Tribal Fees

§ 166.500 Are there administrative fees for a permit?

Yes. We will charge an administrative fee before approving any permit, subpermit, assignment, encumbrance, modification, or other related document.

§ 166.501 How are administrative fees determined?

(a) Except as provided in subsection (b), we will charge administrative fees based on the annual grazing rental rate, according to the following table:

If the annual grazing rental rate is * * *	Then the administrative fee will be * * *
(1) Less than $500.00	3% of the annual rent.
(2) Between $500.00 and $5,000.00	2% of the annual rent.
(3) Greater than $5,000.00	1% of the annual rent.
(4) Percentage rental	Based on the minimum annual rental or an estimated percentage of rental.

(b) The minimum administrative fee is $10.00 and the maximum administrative fee is $500.00.

(c) If a tribe performs all or part of the administrative duties for this part under Pub. L. 93–638, the tribe may establish, collect, and use reasonable fees to cover its costs associated with the performance of administrative duties.

(d) The fees for subpermits, assignments, encumbrances, modifications, or other related documents will be in accordance with this table.

§ 166.502 Are administrative fees refundable?

No. We will not refund administrative fees.

§ 166.503 May the Secretary waive administrative fees?

Yes. We may waive the administrative fee for a justifiable reason.

§ 166.504 Are there any other administrative or tribal fees, taxes, or assessments that must be paid?

(a) The permittee may be required to pay additional fees, taxes, and/or assessments associated with the use of the land as determined by us or by the tribe.

(b) If the permitted land is within an Indian irrigation project or drainage district, the permittee must pay all charges that may accrue during the term of the permit. These may include charges for operation and maintenance of the irrigation project unless superseded by part 171 of this chapter. The permittee must pay the appropriate official in charge of the irrigation project or drainage district having jurisdiction.

Subpart G—Bonding and Insurance Requirements

§ 166.600 Must a permittee provide a bond for a permit?

Yes. A permittee, assignee or subpermittee must provide a bond for each permit interest acquired. Upon request by an Indian landowner, we may waive the bond requirement.

§ 166.601 How is the amount of the bond determined?

(a) The amount of the bond for each permit is based on the:

(1) Value of one year's grazing rental payment;

(2) Value of any improvements to be constructed;

(3) Cost of performance of any additional obligations such as irrigation charges; and

(4) Cost of performance of restoration and reclamation.

(b) Tribal policy made applicable by § 166.300 of this part may establish or waive specific bond requirements for permits.

(c) We may adjust security or bond requirements at anytime to reflect changing conditions.

§ 166.602 What form of bonds will the BIA accept?

(a) We will only accept bonds in the following forms:

(1) Cash;

(2) Negotiable Treasury securities that:

(i) Have a market value equal to the bond amount; and

(ii) Are accompanied by a statement granting full authority to the Secretary to sell such securities in case of a violation of the terms of the permit.

(3) Certificates of deposit that indicate on their face that Secretarial approval is required prior to redemption by any party;

(4) Irrevocable letters of credit (LOC) issued by federally-insured financial institutions authorized to do business in the United States. LOC's must:

(i) Contain a clause that grants the Secretary authority to demand immediate payment if the permittee defaults or fails to replace the LOC within 30 calendar days prior to its expiration date;

(ii) Be payable to the ''Department of the Interior, BIA'';

(iii) Be irrevocable during its term and have an initial expiration date of not less than one year following the date we receive it; and

(iv) Be automatically renewable for a period of not less than one year, unless the issuing financial institution provides the BIA with written notice at least 90 calendar days before the letter of credit's expiration date that it will not be renewed;

(5) Surety bond; or

(6) Any other form of highly liquid, non-volatile security subsequently approved by us that is easily convertible to cash by us and for which our approval is required prior to redemption by any party.

(b) For tribal permits, a tribe may negotiate a permit term that specifies the use of any of the bond forms described in paragraph (a) of this section.

§ 166.603 If cash is submitted as a bond, how is it administered?

If cash is submitted as a bond, we will establish an account in your name with the Office of Trust Funds Management to retain the funds.

§ 166.604 Is interest paid on a cash performance bond?

No. Interest will not be paid on a cash performance bond.

§ 166.605 Are cash performance bonds refunded?

If the cash performance bond has not been forfeited for cause, the principal amount deposited will be refunded to the depositor at the end of the permit period.

§ 166.606 Is insurance required for a permit?

When we determine it to be in the best interest of the Indian landowners, we will require a permittee to provide insurance. If insurance is required, it must:

(a) Be provided in an amount sufficient to:

(1) Protect any improvements on the permit premises;

(2) Cover losses such as personal injury or death; and

(3) Protect the interest of the Indian landowner.

(b) Identify the tribe, individual Indian landowners, and United States as insured parties.

§ 166.607 What types of insurance may be required?

We may require any or all of the following types of insurance depending upon the activity conducted under the permit: liability, casualty (such as for fire, hazard, or flood).

Subpart H—Permit Violations

§ 166.700 What permit violations are addressed by this subpart?

This subpart addresses violations of permit provisions other than trespass. Trespass is addressed under subpart I of this part.

§ 166.701 How will the Secretary enforce compliance with permit provisions?

When reasonable grounds exist, the Secretary may enter the permitted premises at any reasonable time with or without prior notice to determine whether there has been a violation of the permit provisions and to protect Indian trust assets and resources.

§ 166.702 What happens if a violation of a permit occurs?

If we determine that a violation of the permit has occurred based on facts known to us, as soon as practicable, we will provide written notice to the permittee and the sureties of the violation. This written notice will include an explanation of the violation.

§ 166.703 What will a written notice of a violation contain?

The written notice will provide the permittee with 10 days from the receipt of the written notice to:

(a) Cure the violation and notify us that the violation is cured.

(b) Explain why we should not cancel the permit; or

(c) Request in writing additional time to complete corrective actions. If additional time is granted, we may require that certain corrective actions be taken immediately.

§ 166.704 Can a determination of violation be contested?

In the written notice of violation, we will advise the permittee of the procedure to follow to contest our determination that a violation of the permit has occurred.

§ 166.705 What happens to a bond if a violation occurs?

We may apply the bond to remedy the violation, in which case we will require the permittee to submit a replacement bond of an appropriate amount.

§ 166.706 What happens if a permit violation is not cured?

(a) We will:

(1) Issue a written determination to cancel the permit if the violation is not cured. The decision letter will contain:

(i) An explanation why we are canceling the permit;

(ii) An order to vacate the property;

(iii) Notice of the right to appeal under 25 CFR part 2;

(iv) An order to pay delinquent rentals, damages, and other charges; and

(v) A requirement to post an appeal bond if applicable.

(2) Notify all interested parties, including the Indian landowners, by written notice as soon as practicable, of our determination to cancel a permit.

(b) We may require the permittee to post an appeal bond in an amount

determined by us. The amount of the appeal bond will be the amount of damages, and additional rentals expected to accrue during the settlement of the appeal.

§ 166.707 If a violation is not cured, what may an Indian landowner do?

(a) If a violation is not cured within the required time frame, the Indian landowner may exercise rights under the permit, including a right of entry, if any, or request that we cancel the permit.

(b) If a permit authorizes termination according to tribal or other law, or provides for the resolution of certain types of disputes through alternative dispute resolution methods, the permit provisions will govern in place of these regulations.

§ 166.708 Can the Secretary take emergency action without prior notice if the permitted premises are being damaged?

Yes. If the permittee causes or contributes to a severe harm to the premises, the Secretary may take appropriate emergency action, in consultation with the Indian landowner, by:

(a) Initiating action to cancel the permit;

(b) Requiring immediate cessation of the activity resulting in the harm;

(c) Ordering the permittee to vacate the premises immediately; and

(d) Taking formal legal action as may be appropriate, including seeking emergency judicial action.

§ 166.709 What rights does a permittee have if the Secretary takes emergency action under this subpart?

A permittee may:

(a) Agree to remedy the harm in a manner and time frame satisfactory to the Secretary and the Indian landowner;

(b) Seek to have the permit reinstated after the harm to the property has been cured; and

(c) Contest the Secretary's emergency actions under 25 CFR part 2.

Subpart I—Trespass

§ 166.800 What is trespass?

Under this part, trespass is any unauthorized occupancy, use of, or action on Indian agricultural and government lands assigned to the control of a tribe. The following are some examples of trespass:

(a) Cultivating or harvesting of irrigated or non-irrigated crops or the harvesting of native hay, forage, or seed;

(b) Erecting or damaging fencing, gates, or other structures;

(c) Developing water resources;

(d) Commercial filming or photography;

(e) Sale or barter of goods or services;

(f) Placing or storing of beehives;

(g) Cutting, damaging, taking, harvesting, or removing agricultural products for commercial purposes, including but not limited to: berries, nuts, flowers, seeds, moss, cones, leaves, mushrooms, cactus, yucca, and greenery;

(h) Recreation, hunting, trapping, or fishing;

(i) Disturbing soil, plants, or otherwise exposing or disturbing, damaging, or removing archaeological or paleontological resources;

(j) Littering or disposing of agricultural related products, hazardous waste, household or business waste, or garbage;

(k) Applying pesticides without proper certification or misusing pesticides;

(l) Aquaculture or the harvesting of fish raised for commercial sale or consumption;

(m) Unauthorized livestock activities, including:

(1) Driving livestock across Indian agricultural land without an approved crossing permit;

(2) Allowing livestock to drift and graze on Indian agricultural land without an approved permit;

(3) Grazing livestock within an area closed to grazing of that class of livestock; and

(4) Grazing livestock in an area withdrawn from use by the BIA when damage to the Indian agricultural land is occurring due to improper handling of livestock; and

(n) Other actions designated by tribes as acts of trespass on Indian agricultural lands.

§ 166.801 What is the BIA's trespass policy?

We will:

(a) Investigate accidental, and willful, or incidental trespass on Indian agricultural land.

(b) Respond to alleged trespass in a prompt, efficient manner.

(c) Assess trespass penalties for the value of products used or removed, cost of damage to the Indian agricultural land, and enforcement costs incurred as a consequence of the trespass.

(d) Ensure that damage to Indian agricultural lands resulting from trespass is rehabilitated and stabilized at the expense of the trespasser.

§ 166.802 Who can enforce this subpart?

(a) The BIA enforces the provisions of this subpart. If the tribe adopts the provisions of this subpart, the tribe will have concurrent jurisdiction to enforce this subpart. Additionally, if the tribe so requests, we will defer to tribal prosecution of trespass on Indian agricultural lands.

(b) The provisions in this subpart are exclusive of and in addition to any tribal action that may be taken under tribal law.

Notification

§ 166.803 How are trespassers notified of a trespass determination?

(a) Unless otherwise provided under tribal law, when we have reason to believe that a trespass on Indian agricultural land has occurred, we or the authorized tribal representative will provide written notice to the alleged trespasser, the possessor of trespass property, any known lien holder, and beneficial Indian landowner, as appropriate. The written notice will include the following:

(1) The basis for the trespass determination;

(2) A legal description of where the trespass occurred;

(3) A verification of brands in the State Brand Book for cases of livestock trespass;

(4) Corrective actions that must be taken;

(5) Time frames for taking the corrective actions; and

(6) Potential consequences and penalties for failure to take corrective action.

(b) If we determine that the alleged trespasser or possessor of trespass property is unknown or refuses delivery of the written notice, a public trespass notice will be posted at the tribal community building, U.S. Post Office, and published in the local newspaper nearest to the Indian agricultural lands where the trespass is occurring.

(c) Trespass notices under this subpart are not subject to appeal under 25 CFR part 2.

§ 166.804 What can I do if I receive a trespass notice?

If you receive a trespass notice, you may within the time frame specified in the notice:

(a) Comply with the ordered corrective actions; or

(b) Contact us in writing to explain why the trespass notice is in error. You may contact us by telephone but any explanation of trespass you wish to provide must be in writing. If we determine that we issued the trespass notice in error, we will withdraw the notice.

§ 166.805 Who else will the BIA notify?

We will notify anyone in possession of the Indian agricultural land on which the unauthorized livestock or other

property has been identified that such property could be Indian trust property and that no action to remove or otherwise dispose of the unauthorized livestock or other property may be taken unless authorized by us.

Actions

§ 166.806 What actions does the BIA take against trespassers?

If the trespasser fails to take the corrective action specified by us, we may take one or more of the following actions, as appropriate:

(a) Seize, impound, sell or dispose of unauthorized livestock or other property involved in the trespass. We may keep such property we seize for use as evidence.

(b) Assess penalties, damages, and costs, under § 166.812.

§ 166.807 When will we impound unauthorized livestock or other property?

We will impound unauthorized livestock or other property under the following conditions:

(a) Where there is imminent danger of severe injury to growing or harvestable crop or destruction of the range forage.

(b) When the known owner or his/her representative of the unauthorized livestock or other property refuses to accept delivery of a written notice of trespass and the unauthorized livestock or other property are not removed within the period prescribed in the written notice.

(c) Any time after five days of providing notice of impoundment if you failed to correct the trespass.

§ 166.808 How are trespassers notified if their unauthorized livestock or other property are to be impounded?

(a) If the trespass is not corrected in the time specified in the initial trespass notice, we will send written notice of our intent to impound unauthorized livestock or other property to the owner or his/her representative, and any known lien holder of the unauthorized livestock or other property.

(b) If we determine that the owner of the unauthorized livestock or other property or his/her representative is unknown or refuses delivery of the written notice, we will post a public notice of intent to impound at the tribal community building, U.S. Post Office, and published in the local newspaper nearest to the Indian agricultural lands where the trespass is occurring.

(c) After we have given notice as described above, we will impound unauthorized livestock or other property without any further notice.

§ 166.809 What happens after my unauthorized livestock or other property are impounded?

Following the impoundment of unauthorized livestock or other property, we will provide notice that we will sell the impounded property as follows:

(a) We will provide written notice of the sale to the owner, his/her representative, and any known lien holder. The written notice must include the procedure by which the impounded property may be redeemed prior to the sale.

(b) We will provide public notice of sale of impounded property by posting at the tribal community building, U.S. Post Office, and publishing in the local newspaper nearest to the Indian agricultural lands where the trespass is occurring. The public notice will include a description of the impounded property, and the date, time, and place of the public sale. The sale date must be at least five days after the publication and posting of notice.

§ 166.810 How do I redeem my impounded livestock or other property?

You may redeem impounded livestock or other property by submitting proof of ownership and paying all penalties, damages, and costs under § 166.812. and completing all corrective actions identified by us under § 166.803.

§ 166.811 How will the sale of impounded livestock or other property be conducted?

(a) Unless the owner or known lien holder of the impounded livestock or other property redeems the property prior to the time set by the sale, by submitting proof of ownership and settling all obligations under § 166.803 and § 166.811, the property will be sold by public sale to the highest bidder.

(b) If a satisfactory bid is not received, the livestock or property may be re-offered for sale, returned to the owner, condemned and destroyed, or otherwise disposed of.

(c) We will give the purchaser a bill of sale or other written receipt evidencing the sale.

Penalties, Damages, and Costs

§ 166.812 What are the penalties, damages, and costs payable by trespassers on Indian agricultural land?

Trespassers on Indian agricultural land must pay the following penalties and costs:

(a) The reasonable value of forage or crops consumed or destroyed;

(b) Expenses incurred in gathering, impounding, caring for, and disposal of livestock in cases which necessitate impoundment under § 166.807;

(c) The costs associated with any damage to Indian agricultural land;

(d) The value of the property illegally used or removed plus a penalty of double their values;

(e) The costs associated with enforcement of the regulations, including field examination and survey, damage appraisal, investigation assistance and reports, witness expenses, demand letters, court costs, and attorney fees; and

(g) All other penalties authorized by law.

§ 166.813 How will the BIA determine the value of forage or crops consumed or destroyed?

We will determine the value of forage or crops consumed or destroyed based upon the average rate received per month for comparable property or grazing privileges, or the estimated commercial value for such property or privileges.

§ 166.814 How will the BIA determine the value of the property illegally used or removed?

We will determine the value of the property illegally used or removed based upon a valuation of similar property.

§ 166.815 How will the BIA determine the amount of damages to Indian agricultural land?

We will determine the damages by considering the costs of rehabilitation and revegetation, loss of future revenue, loss of profits, loss of productivity, loss of market value, damage to other resources, and other factors.

§ 166.816 How will the BIA determine the costs associated with enforcement of the trespass?

Costs of enforcement may include detection and all actions taken by us through prosecution and collection of damages. This includes field examination and survey, damage appraisal, investigation assistance and report preparation, witness expenses, demand letters, court costs, attorney fees, and other costs.

§ 166.817 What happens if I do not pay the assessed penalties, damages and costs?

Unless otherwise provided by applicable tribal law:

(a) We will refuse to issue you a permit for use, development, or occupancy of Indian agricultural lands; and

(b) We will forward your case for appropriate legal action.

§ 166.818 How are the proceeds from trespass distributed?

Unless otherwise provided by tribal law:

(a) We will treat any amounts recovered under § 166.812 as proceeds from the sale of agricultural property from the Indian agricultural land upon which the trespass occurred.

(b) All amounts collected in excess of the amounts assessed under § 166.812 will be applied by us against costs associated with the enforcement of this subpart.

(c) If we seize and dispose of impounded livestock or other property of the trespasser, we will apply any cash or other proceeds to satisfy the penalties and costs of enforcement. If any money is left over, we will return it to the trespasser or, where we cannot identify the owner of the impounded property, we will deposit the net proceeds of the sale into the accounts of the landowners where the trespass occurred.

§ 166.819 What happens if the BIA does not collect enough money to satisfy the penalty?

If we do not collect enough money from the trespasser, we will distribute collected penalties as follows:

(a) All amounts collected up to and including the amount assessed under §§ 166.810 through 166.811 will be distributed equally:

(1) Between the beneficial Indian landowner; and

(2) Towards the cost of restoring the Indian agricultural land.

(b) We will send written notice to the trespasser and any known lien holders demanding immediate settlement and advising the trespasser that unless settlement is received within five working days from the date of receipt, we will forward the case for appropriate legal action.

Subpart J—Appeals

§ 166.900 Can decisions by the BIA be appealed?

Except as otherwise provided in this part, appeals from decisions of the BIA under this part may be taken pursuant to 25 CFR part 2.

Subpart K—Records

§ 166.1000 Who owns records associated with this part?

Any records generated in the fulfillment of this part are the property of the United States, and must be maintained in accordance with approved records retention procedures under the Federal Records Act, 44 U.S.C. 3101, *et seq.*

Subpart L—Agriculture Education, Education Assistance, Recruitment, and Training

§ 166.1100 How are the Indian agriculture education programs operated?

(a) The purpose of the Indian agriculture education programs is to recruit and develop promising Indian and Alaska Natives who are enrolled in secondary schools, tribal or Alaska Native community colleges, and other post-secondary schools for employment as professional resource managers and other agriculture-related professionals by approved organizations.

(b) We will operate the student educational employment program as part of our Indian agriculture education programs in accordance with the provisions of 5 CFR 213.3202(a) and (b).

(c) We will establish an education committee to coordinate and carry out the agriculture education assistance programs and to select participants for all agriculture education assistance programs. The committee will include at least one Indian professional educator in the field of natural resources or agriculture, a personnel specialist, a representative of the Intertribal Agriculture Council, and a natural resources or agriculture professional from the BIA and a representative from American Indian Higher Education Consortium. The committee's duties will include the writing of a manual for the Indian and Alaska Native Agriculture Education and Assistance Programs.

(d) We will monitor and evaluate the agriculture education assistance programs to ensure that there are adequate Indian and Alaska Native natural resources and agriculture-related professionals to manage Indian natural resources and agriculture programs by or for tribes and Alaska Native Corporations. We will identify the number of participants in the intern, student educational employment program, scholarship, and outreach programs; the number of participants who completed the requirements to become a natural resources or agriculture-related professional; and the number of participants completing advanced degree requirements.

§ 166.1101 How will the BIA select an agriculture intern?

(a) The purpose of the agriculture intern program is to ensure the future participation of trained, professional Indians and Alaska Natives in the management of Indian and Alaska Native agricultural land. In keeping with this purpose, we will work with tribes and Alaska Natives:

(1) To obtain the maximum degree of participation from Indians and Alaska Natives in the agriculture intern program;

(2) To encourage agriculture interns to complete an undergraduate degree program in natural resources or agriculture-related field; and

(3) To create an opportunity for the advancement of natural resources and agriculture-related technicians to professional resource management positions with the BIA, other federal agencies providing an agriculture service to their respective tribe, a tribe, or tribal agriculture enterprise.

(b) Subject to restrictions imposed by agency budgets, we will establish and maintain in the BIA at least 20 positions for the agriculture intern program. All Indians and Alaska Natives who satisfy the qualification criteria may compete for positions.

(c) Applicants for intern positions must meet the following criteria:

(1) Be eligible for Indian preference as defined in 25 CFR part 5;

(2) Possess a high school diploma or its recognized equivalent;

(3) Be able to successfully complete the intern program within a 3-year period; and

(4) Possess a letter of acceptance to an accredited post-secondary school or demonstrate that one will be sent within 90 days.

(d) We will advertise vacancies for agriculture intern positions semi-annually, no later than the first day of April and October, to accommodate entry into school.

(e) In selecting agriculture interns, we will seek to identify candidates who:

(1) Have the greatest potential for success in the program;

(2) Will take the shortest time period to complete the intern program; and

(3) Provide the letter of acceptance required by paragraph (c)(4) of this section.

(f) Agriculture interns must:

(1) Maintain full-time status in an agriculture-related curriculum at an accredited post secondary school;

(2) Maintain good academic standing;

(3) Enter into an obligated service agreement to serve as a professional resource manager or agriculture-related professional with an approved organization for two years in exchange for each year in the program; and

(4) Report for service with the approved organization during any break in attendance at school of more than three weeks.

(g) The education committee will evaluate annually the performance of the agriculture intern program participants against requirements to

ensure that they are satisfactorily progressing toward completion of program requirements.

(h) We will pay all costs for tuition, books, fees, and living expenses incurred by an agriculture intern while attending an accredited post secondary school.

§ 166.1102 How can I become an agriculture educational employment student?

(a) To be considered for selection, applicants for the student educational employment program must:

(1) Meet the eligibility requirements in 5 CFR part 308; and

(2) Be accepted into or enrolled in a course of study at an accredited post secondary institution which grants degrees in natural resources or agriculture-related curricula.

(b) Student educational employment steering committees established at the field level will select program participants based on eligibility requirements without regard to applicants' financial needs.

(c) A recipient of assistance under the student educational employment program will be required to enter into an obligated service agreement to serve as a natural resources or agriculture-related professional with an approved organization for one year in exchange for each year in the program.

(d) We will pay all costs of tuition, books, fees, and transportation to and from the job site to school, for an Indian or Alaska Native student who is selected for the cooperative education program.

§ 166.1103 How can I get an agriculture scholarship?

(a) We may grant agriculture scholarships to Indians and Alaska Natives enrolled as full time students in accredited post-secondary and graduate programs of study in natural resources and agriculture-related curricula.

(b) The education committee established in § 166.1100(a) will select program participants based on eligibility requirements stipulated in paragraphs (e) through (g) of this section without regard to applicants' financial needs or past scholastic achievements.

(c) Recipients of scholarships must reapply annually to continue to receive funding beyond the initial award period. Students who have received scholarships in past years, are in good academic standing, and have been recommended for continuation by their academic institution will be given priority over new applicants for scholarship assistance.

(d) The amount of scholarship funds an individual is awarded each year will be contingent upon the availability of funds appropriated each fiscal year and is subject to yearly change.

(e) Preparatory scholarships may be available for a maximum of 3 academic years of general, undergraduate course work leading to a degree in natural resources or agriculture-related curricula and may be awarded to individuals who:

(1) Possess a high school diploma or its recognized equivalent; and

(2) Are enrolled and in good academic standing at an acceptable post secondary school.

(f) Undergraduate scholarships are available for a maximum of three academic years and may be awarded to individuals who:

(1) Have completed a minimum of 55 semester hours toward a bachelor's degree in a natural resources or agriculture-related curriculum; and

(2) Have been accepted into a natural resource or agriculture-related degree-granting program at an accredited college or university.

(g) Graduate scholarships are available for a maximum of five academic years for individuals selected into the graduate program of an accredited college or university that grants advanced degrees in natural resources or agriculture-related fields.

(h) A recipient of assistance under the scholarship program must enter into an obligated service agreement to serve as a natural resources or agriculture-related professional with the BIA, other federal agency providing assistance to their respective tribe, a tribe, tribal agriculture enterprise, or an ANCSA Corporation for one year for each year in the program.

(i) We will pay all scholarships approved by the education committee established in § 166.1100(d)(a) for which funding is available.

§ 166.1104 What is agriculture education outreach?

(a) We will establish and maintain an agriculture education outreach program for Indian and Alaska Native youth that will:

(1) Encourage students to acquire academic skills needed to succeed in post secondary mathematics and science courses;

(2) Promote agriculture career awareness;

(3) Involve students in projects and activities oriented to agriculture related professions early so students realize the need to complete required pre college courses; and

(4) Integrate Indian and Alaska Native agriculture program activities into the education of Indian and Alaska Native students.

(b) We will develop and carry out the program in consultation with appropriate community education organizations, tribes, ANCSA Corporations, Alaska Native organizations, and other federal agencies providing agriculture services to Indians.

(c) The education committee established under § 166.1100(a) will coordinate and implement the program nationally.

§ 166.1105 Who can get assistance for postgraduate studies?

(a) The purpose of the postgraduate studies program is to enhance the professional and technical knowledge of Indian and Alaska Native natural resource and agriculture-related professionals working for an approved organization so that the best possible service is provided to Indian and Alaska Natives.

(b) We may pay the cost of tuition, fees, books, and salary of Alaska Natives and Indians who are employed by an approved organization and who wish to pursue advanced levels of education in natural resource or agriculture-related fields.

(c) The goal of the advanced study program is to encourage participants to obtain additional academic credentials such as a degree or diploma in a natural resources or agriculture-related field. Requirements of the postgraduate study program are:

(1) The duration of course work cannot be less than one semester or more than three years; and

(2) Students in the postgraduate studies program must meet performance standards as required by the graduate school offering the study program.

(d) Program applicants must submit application packages to the education committee. At a minimum, such packages must contain a resume and an endorsement signed by the applicant's supervisor clearly stating the need for and benefits of the desired training.

(e) The education committee must use the following criteria to select participants:

(1) Need for the expertise sought at both the local and national levels;

(2) Expected benefits, both locally and nationally; and

(3) Years of experience and the service record of the employee.

(f) Program participants will enter into an obligated service agreement to serve as a natural resources or agriculture-related professional with an approved organization for two years for each year in the program. We may reduce the obligated service requirement if the employee receives

supplemental funding such as research grants, scholarships, or graduate stipends and, as a result, reduces the need for financial assistance under this part. If the obligated service agreement is breached, we will collect the amount owed us in accordance with § 166.1110.

§ 166.1106 What can happen if we recruit you after graduation?

(a) The purpose of the post graduation recruitment program is to recruit Indian and Alaska Native natural resource and trained agriculture technicians into the agriculture programs of approved organizations.

(b) We may assume outstanding student loans from established lending institutions of Indian and Alaska Native natural resources and agriculture technicians who have successfully completed a post-secondary natural resources or agriculture-related curriculum at an accredited institution.

(c) Indian and Alaska Natives receiving benefits under this program will enter into an obligated service agreement in accordance with § 166.1110. Obligated service required under this program will be one year for every $5,000 of student loan debt repaid.

(d) If the obligated service agreement is breached, we will collect student loan(s) in accordance with § 166.1110.

§ 166.1107 Who can be an intern?

(a) Natural resources or agriculture personnel working for an approved organization may apply for an internship within agriculture-related programs of agencies of the Department of the Interior or other federal agencies providing an agriculture service to their respective reservations.

(b) Natural resources or agriculture-related personnel from other Department of the Interior agencies may apply through proper channels for ''internships'' within the BIA's agriculture programs. With the consent of a tribe or Alaska Native organization, the BIA can arrange for an Intergovernmental Personnel Act assignment in tribal or Alaska Native agriculture programs.

(c) Natural resources and agriculture personnel from agencies not within the Department of the Interior may apply, through proper agency channels and pursuant to an interagency agreement, for an ''internship'' within the BIA and, with the consent of a tribe or Alaska Native organization, we can facilitate an Intergovernmental Personnel Act assignment in a tribe, tribal agriculture enterprise, or Alaska Native Corporation.

(d) Natural resources or agriculture personnel from a tribe, tribal agriculture enterprise, or Alaska Native Corporation may apply, through proper channels and pursuant to a cooperative agreement, for an internship within another tribe, tribal forest enterprise, or ANCSA Corporation agriculture program.

(e) The employing agency of participating federal employees will provide for the continuation of salary and benefits.

(f) The host agency for participating tribal, tribal agriculture enterprise, or Alaska Native Corporation agriculture employees will provide for salaries and benefits.

(g) A bonus pay incentive, up to 25 percent (%) of the intern's base salary, may be provided to intergovernmental interns at the conclusion of the internship period. Bonus pay incentives will be at the discretion of and funded by the host organization and must be conditioned upon the host agency's documentation of the intern's superior performance, in accordance with the agency's performance standards, during the internship period.

§ 166.1108 Who can participate in continuing education and training?

(a) The purpose of continuing education and training is to establish a program to provide for the ongoing education and training of natural resources and agriculture personnel employed by approved organizations. This program will emphasize continuing education and training in three areas:

(1) Orientation training including tribal-federal relations and responsibilities;

(2) Technical agriculture education; and

(3) Developmental training in agriculture-based enterprises and marketing.

(b) We will maintain an orientation program to increase awareness and understanding of Indian culture and its effect on natural resources management and agriculture practices and on federal laws that effect natural resources management and agriculture operations and administration in the Indian agriculture program.

(c) We will maintain a continuing technical natural resources and agriculture education program to assist natural resources managers and agriculture-related professionals to perform natural resources and agriculture management on Indian land.

(d) We will maintain an agriculture land-based enterprise and marketing training program to assist with the development and use of Indian and Alaska Native agriculture resources.

§ 166.1109 What are my obligations to the BIA after I participate in an agriculture education program?

(a) Individuals completing agriculture education programs with an obligated service requirement may be offered full time permanent employment with an approved organization to fulfill their obligated service within 90 days of the date all program education requirements have been completed. If employment is not offered within the 90 day period, the student will be relieved of obligated service requirements. Not less than 30 days before to the start of employment, the employer must notify the participant of the work assignment, its location and the date work must begin. If the employer is other than the BIA, the employer must also notify us.

(b) Employment time that can be credited toward obligated service requirement will begin the day after all program education requirements have been completed, with the exception of the agriculture intern program which includes the special provisions outlined in § 166.1101(f)(4). The minimum service obligation period will be one year of full time employment.

(c) The employer has the right to designate the location of employment for fulfilling the service obligation.

(d) A participant in any of the agriculture education programs with an obligated service requirement may, within 30 days of completing all program education requirements, request a deferment of obligated service to pursue postgraduate or post-doctoral studies. In such cases, we will issue a decision within 30 days of receipt of the request for deferral. We may grant such a request; however, deferments granted in no way waive or otherwise affect obligated service requirements.

(e) A participant in any of the agriculture education programs with an obligated service requirement may, within 30 days of completing all program education requirements, request a waiver of obligated service based on personal or family hardship. We may grant a full or partial waiver or deny the request for waiver. In such cases, we will issue a decision within 30 days of receiving the request for waiver.

§ 166.1110 What happens if I do not fulfill my obligation to the BIA?

(a) Any individual who accepts financial support under agriculture education programs with an obligated service requirement, and who does not accept employment or unreasonably terminates employment must repay us in accordance with the following table:

If you are * * *	Then the costs that you must repay are * * *	And then the costs that you do not need to repay are * * *
(1) Agriculture intern	Living allowance, tuition, books, and fees received while occupying position plus interest.	Salary paid during school breaks or when recipient was employed by an approved organization
(2) Cooperative education	Tuition, books, and fees plus interest	
(3) Scholarship	Costs of scholarship plus interest	
(4) Post graduation recruitment	All student loans assumed by us under the program plus interest.	
(5) Postgraduate studies	Living allowance, tuition, books, and fees received while in the program plus interest.	Salary paid during school breaks or when recipient was employed by an approved organization.

(b) For agriculture education programs with an obligated service requirement, we will adjust the amount required for repayment by crediting toward the final amount of debt any obligated service performed before breach of contract.

Dated: June 22, 2000.

Kevin Gover,

Assistant Secretary-Indian Affairs.

[FR Doc. 00–17195 Filed 7–13–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

25 CFR Part 84

RIN 1076–AE03

Encumbrances of Tribal Land—Contract Approvals

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: We are issuing a proposed rule stating which types of contracts or agreements encumbering tribal land are not subject to approval by the Secretary of the Interior under the Indian Tribal Economic Development and Contract Encouragement Act of 2000, Public Law 106–179. The proposed rule also provides, in accordance with the Act, that Secretarial approval is not required (and will not be granted) for any contract or agreement that the Secretary determines is not covered by the Act. Finally, for contracts and agreements that are covered by the Act, the proposed rule sets out mandatory conditions for the Secretary's approval.

DATES: You must submit any written comments no later than October 12, 2000.

ADDRESSES: Comments (2 copies) should be addressed to: U.S. Forest Service (CAET), 200 E. Broadway, Missoula, MT 59807 Attn: Trust Rule.

FOR FURTHER INFORMATION CONTACT: Art Gary, Bureau of Indian Affairs, Trust Policies and Procedures Project, 202–208–6422.

SUPPLEMENTARY INFORMATION:

I. Background

In 1871, Congress enacted Section 2103 of the Revised Statutes, codified at 25 U.S.C. 81 (Section 81). It placed several restrictions, including a requirement for approval by the Secretary of the Interior, on contracts between any person and any Indian tribe or individual Indians for

> the payment or delivery of any money or other thing of value, in present or in prospective, or for the granting or procuring any privilege to him, or any other person in consideration of services for said Indians relative to their lands, or to any claims growing out of, or in reference to, annuities, installments, or other moneys, claims, demands, or thing, under laws or treaties with the United States, or official acts of any officers thereof, or in any way connected with or due from the United States.

Section 81 reflected Congressional concern that Indian tribes and individual Indians were incapable of protecting themselves from fraud in their financial affairs. To that end, it also required that the Secretary approve any contracts for legal services between an Indian tribe and an attorney, and provided that any person could bring an action in the name of the United States to enforce the Section's requirements (the ''qui tam'' provision).

Over the years, administration of this statute became difficult. Although it was interpreted early on not to apply to leases of Indian land (see *Lease of Indian Lands for Grazing Purposes,* 18 Op. Atty. Gen. 235 (1885)), parties opposed to such leases still asked courts to invalidate them based on alleged non-compliance with Section 81. See, *e.g., United States ex rel. Harlon* v. *Bacon,* 21 F.3d 209 (8th Cir. 1994) (a suit under the qui tam provision). As time went on, there was confusion over exactly what contracts Section 81 did or did not cover. The Bureau of Indian Affairs (BIA) began to issue ''accommodation approvals'' for contracts that did not require the Secretary's approval, but where the relevant Indian tribe requested that they be approved anyway to avoid casting any doubt upon the tribe's authority to enter into the contract. To accommodate the tribe's request, the BIA would ''approve'' the contract, even though such ''approval'' was not required under Section 81.

In addition to administrative problems, Section 81 became outdated. It was a relic of a paternalistic policy towards Indian tribes prevalent at the end of the nineteenth century. As noted by the Senate Committee on Indian Affairs in its report on Pub. L. 106–179 (the Senate Report), ''Indian tribes, their corporate partners, courts, and the BIA have struggled for decades with how to apply Section 81 in an era that emphasizes tribal self-determination, autonomy, and reservation economic development.'' Congress attempted to address some of these concerns through enactment of later statutes such as the Indian Reorganization Act (IRA) of 1934, 48 Stat. 984; the Indian Self-Determination and Education Assistance Act of 1975, Pub. L. 93–638; and the Indian Mineral Development Act of 1982, Pub. L. 97–382. Since, however, Congress did not change the provisions of Section 81 (except for a minor amendment in 1958), the uncertainty in its application continued.

To address this uncertainty, Congress enacted the Indian Tribal Economic Development and Contract Encouragement Act of 2000 (the Act), Pub. L. 106–179, in March 2000. Section 2 of the Act replaces the text of Section 81 with six subsections. Subsection (a) supplies definitions, which are incorporated into the proposed regulations. Subsection (b) provides that agreements or contracts with Indian tribes that encumber Indian lands for a period of seven or more years are not valid unless they bear the approval of the Secretary of the Interior or a designee of the Secretary. By making this change, Section 81 no longer applies to a broad range of commercial transactions. Instead, as noted in the Senate Report, Section 81 will apply only to those transactions where the contract between the tribe and a third

party could allow that party to exercise exclusive or nearly exclusive proprietary control over the Indian lands. The intent is to protect the tribe from loss of proprietary control of its lands and to provide the measure of certainty in the application of Section 81 that was lacking in the prior law.

Subsection (c) provides that a determination by the Secretary that an agreement is not covered by Section 81 has the effect of making the section inapplicable. The Senate Report notes that ''it would contradict the law's intent if parties made a practice of submitting agreements where Section 81 is patently inapplicable, simply to obtain an official endorsement of this conclusion.'' Thus, with the removal of the uncertainty regarding the validity of such agreements, the BIA will no longer issue ''accommodation approvals.'' Also, and most importantly for purposes of this proposed rule, this subsection is meant to work in conjunction with subsection (e) that requires that the Secretary enact regulations within 180 days from the law's enactment establishing which types of agreements are not covered by Section 81.

Subsection (d) requires the Secretary to disapprove any agreement otherwise covered by the law, if it is in violation of federal law. The Secretary must disapprove, also, if the contract or agreement fails to address sovereign immunity in one or more of the three ways specified, specifically a provision that: provides remedies to address a breach of the agreement; provides a reference to applicable law (found in tribal code, ordinance, or competent court ruling) that discloses the tribe's right to assert immunity; or waives immunity in some manner. As noted in the Senate Report, ''consistent with the principles of tribal self-determination, this bill does not direct the BIA to substitute its business judgment over that of a tribal government.'' These are, therefore, the only criteria in the Act for approval or disapproval of contracts or agreements that are subject to the Act.

Subsection (f) removes the statutory requirement that attorney contracts must be approved by the Secretary. It also makes clear that the Act is not intended to make any changes to provisions of the Indian Gaming Regulatory Act of 1988, Pub. L. 100–497, which require federal approval. Finally, consistent with the long-standing principle that the federal trust obligation may not be unilaterally terminated, the Act does not alter those tribal constitutions that require federal approvals for specific tribal actions, such as attorney contracts. Thus, the Secretary must still approve or disapprove attorney contracts if a tribal constitution so requires. The criteria, if any, for approval of such contracts will be those in the tribal constitution.

Those tribes with corporate charters under Section 17 of the IRA, 25 U.S.C. 477 are exempt from the requirements of the Act.

II. Section-by-Section Analysis of the Proposed Rule

Section 84.001 states the purpose of the proposed rule as being the implementation of the Indian Economic Development and Contract Encouragement Act of 2000, Pub. L. 106–179.

Section 84.002 contains terms necessary for understanding the proposed rule. The term ''encumber,'' which Congress did not define in the Act, refers, consistent with the Senate Report, to the possibility that a third party could gain exclusive or nearly exclusive proprietary control over tribal land. We have defined ''Indian tribe'' as it is defined in the Act. The definition of ''tribal lands'' in the proposed rule is the same as the definition of ''Indian lands'' in the Act. We have used ''tribal lands'' to make it clear that the provisions of the Act and this proposed rule do not apply to individually owned lands.

Section 84.003 indicates that, unless otherwise exempted, those contracts and agreements that encumber tribal lands for a period of seven or more years require Secretarial approval under this proposed rule. The Senate Report uses the following examples:

> For example, a lender may finance a transaction on an Indian reservation and receive an interest in tribal lands as part of that transaction, If, for example, one of the remedies for default would allow this interest to ripen into authority to operate the facility, this would constitute an adequate encumbrance to bring the contract within Section 81. By contrast, if the transaction concerned ''limited recourse financing'' and the lender merely acquired the first right to all of the revenue derived from specified lands for a period of years, this would not constitute a sufficient encumbrance to bring the transaction within Section 81.

Section 84.004 indicates that the following types of contracts or agreements are not subject to this proposed rule:

- Contracts or agreements otherwise reviewed and approved by the Secretary under this title or other federal law or regulation. Congress did not repeal any other requirement for Secretarial approval of encumbrances, nor did it state that the Act imposed an additional approval process. This exemption is also consistent with previous opinions of both the Department of the Interior and the Department of Justice, judicial decisions, and legislative history of the Indian Mineral Development Act, all of which consistently state that the requirements of Section 81 do not apply to leases, rights-of-way, and other documents that convey a present interest in tribal land. Note, however, that contracts and agreements that are similar to those approved under other federal law or regulation, but are not subject to that approval, such as a contract between a tribe and another party to enter into a lease, may be subject to approval under this Part.
- Leases of tribal land that are exempt from approval by the Secretary under 25 U.S.C. 415. Currently, this exemption only applies to certain leases by the Tulalip tribes.
- Subleases and assignments of leases of tribal land that do not require approval by the Secretary under part 162 of this title. We have waived approval of these instruments either in a master lease approved by us or by regulation.
- Contracts or agreements that convey any use rights assigned by tribes, in the exercise of their jurisdiction over tribal lands, to tribal members. Such assignments are internal tribal matters. We would approve any further encumbrances of the assigned tribal land under this part or another relevant regulation (*e.g.,* 25 CFR part 162).

Contracts or agreements that do not convey exclusive or nearly exclusive proprietary control over tribal lands for a period of seven years or more. By definition, such contracts or agreements do not encumber the land under the Act. Such contracts or agreements may include contracts for personal services; construction contracts; contracts for services performed for tribes on tribal lands; and bonds, loans, security interests in personal property, or other financial arrangements that do not and could not involve interests in land.

- Contracts that are entered into by tribal corporations chartered under 25 U.S.C. 477. As noted above, the Act specifically does not apply to such tribes.
- Tribal attorney contracts. However, as noted above, although the Act repealed the federal statutory requirements for approval of attorney contracts, the BIA must still do so if required under a tribal constitution.
- Attorney and other professional contracts by Indian tribal governments identified as Self-Governance Tribes under 25 U.S.C. 450, as amended. This is to conform to the exemption of these contracts from approval by the Secretary under 25 U.S.C. 458cc(h)(2).

• Contracts or agreements that are subject to approval by the National Indian Gaming Commission. The Act specifically exempts these contracts and agreements from its provisions, and the National Indian Gaming Commission will continue to review and approve contracts that provide for management of a tribal gaming activity.

• Contracts or agreements under the Federal Power Act (FPA) relating to the use of tribal lands that meet the definition of a ''reservation'' under the FPA, with certain conditions. The provisions of the FPA cited in the conditions already provide for review of such contracts or agreements by the Secretary.

Section 84.005 makes it clear that the Secretary will return to the submitting tribes those contracts and agreements that do not require his approval. Therefore, we will no longer issue ''accommodation approvals.''

Section 84.006 establishes the criteria for disapproval of a contract or agreement under this proposed rule. Specifically, the Secretary must disapprove those contracts or agreements that would violate federal law or those that do not contain provision(s) regarding the exercise of tribal sovereign immunity. As noted above, consistent with the legislative history of the Act, these are the only criteria for Secretarial review under this proposed rule.

Section 84.007 states, consistent with Section 2(b) of the Act, that the effect of disapproval of a contract or agreement under this part (as opposed to return of a contract or agreement under § 84.005 of this proposed rule) is that the contract or agreement is invalid.

III. Public Comments

The addition of a new part 84 to 25 CFR is necessitated by the enactment of the Indian Tribal Economic Development and Contract Encouragement Act of 2000, Public Law 106–179. The Department is responding to the statutory requirement that regulations to implement the law be developed within 180 days of the enactment of Pub. L. 106–179. The public is invited to make substantive comments on the Department's proposed promulgation of this new part. Two copies of written comments should be submitted to the address indicated in the **ADDRESSES** section of this notice. All comments will be available for public inspection at the Department of the Interior, Office of the Secretary, MS 7214 MIB, Washington, DC 20240. Comments may also be telefaxed to the following number: 406/329–3021. Email comments will be accepted at: mailroom__wo__caet@fs.fed.us All written comments received by the date indicated in the **DATES** section of this notice and all other relevant information in the record will be carefully assessed and fully considered prior to publication of a final rule.

Our practice is to make comments, including the names and addresses of persons commenting, available for public review during regular business hours. Persons commenting as private individuals may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There may also be circumstances in which we would withhold from the rulemaking record a commenter's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will not consider anonymous comments. Comments from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

IV. Procedural Requirements

A. Review Under Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the BIA must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this proposed rule is not a ''significant regulatory action'' from an economic or policy standpoint. This proposed rule is pursuant to a statutory mandate and is consistent with the Department's policy of encouraging tribal self-determination and economic development. The proposed rule reduces the number of contracts the Department has to review each year. Prior to the amendments enacted under Pub. L. 106–179, tribes had to submit certain contracts for approval by the Secretary of the Interior for which Secretarial approval has now (through enactment of Pub. L. 106–179) been deemed unnecessary. Those tribes having contracts or agreements covered under the new law, however, must include a statement regarding their sovereign immunity. This is an intergovernmental mandate; however, it would not affect the rights of either party under such contracts and agreements, but would only require that these rights be explicitly stated. The cost burden on the tribes for including this provision would be minimal. Otherwise, the proposed rule has no direct or indirect impact on any other agency, does not materially alter the budgetary impact of financial programs, or raise novel legal or policy issues.

B. Review Under Executive Order 12988

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

C. Review Under the Regulatory Flexibility Act

A Regulatory Flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is not required for this proposed rule because it applies only to tribal governments, not State and local governments.

D. Review Under the Small Business Regulatory Enforcement Act of 1996 (SBREFA)

This proposed rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This proposed rule will not result in an annual effect on the economy of $100 million or more. This proposed rule will not result in a major increase in costs or prices. In fact, it is estimated that the Department will save time and resources through the proposed rule because the number of contracts submitted for Secretarial approval will be reduced. Therefore, no increases in costs for administration will be realized and no prices would be impacted through the streamlining of the contract approval process within the Department and the BIA. The effect of the proposed rule is to encourage and foster tribal contracting and, consequently, strengthen tribal self-determination and economic development. This proposed rule will not result in any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets. The impact of the proposed rule will be realized by tribal governments in the economy of administration accorded contract negotiation between tribes and third parties. Unless the contracts contemplate an encumbrance of Indian lands or could otherwise lead to the loss of tribal proprietary control over such lands, the Department would not require such contracts and agreements to be submitted to the BIA for approval. The Department anticipates, therefore, that the impacts to small business or enterprises and the tribes themselves will be positive and, indeed, allow for greater flexibility in contracting for certain services on Indian lands.

E. Review Under the Paperwork Reduction Act

No information or recordkeeping requirements are imposed by this proposed rule. Accordingly, no OMB clearance is required under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

F. Review Under Executive Order 13132 Federalism

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

G. Review Under the National Environmental Policy Act of 1969

This proposed rule is categorically excluded from the preparation of an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*, because its environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and the Federal actions under this proposed rule (*i.e.,* approval or disapproval of contracts or agreements that could encumber Tribal lands for a period of seven years or more) will be subject at the time of the action itself to the National Environmental Policy Act process, either collectively or case-by-case. Further, no extraordinary circumstances exist to require preparation of an environmental assessment or environmental impact statement.

H. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the Act, the Department generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. This proposed rule will not result in the expenditure by the state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. The Department does take notice, however, that the proposed rule (in response to Pub. L. 106–179) requires that a tribe entering into a covered contract include a specific statement regarding its sovereign immunity. This is an additional enforceable duty imposed on the tribes, and so would constitute an intergovernmental mandate under the Unfunded Mandates Reform Act. However, the cost of this mandate would be minimal.

I. Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of May 14, 1998, ''Consultation and Coordination with Indian Tribal Governments'' (63 FR 27655) and 512 DM 2, we have evaluated any potential effects upon Federally recognized Indian tribes and have determined that there are no potential adverse effects. No action is taken under this proposed rule unless a tribe voluntarily enters into a contract or agreement that could encumber tribal land for seven years or more. Tribes will be asked for comments prior to publication as a final regulation of this proposed rule and their comments will be considered prior to publication.

List of Subjects in 25 CFR Part 84

Administrative practice and procedure, Indians—lands.

For the reasons stated in the preamble, the Department of the Interior, Bureau of Indian Affairs, proposes to amend 25 CFR chapter I by adding part 84 to read as follows:

PART 84—ENCUMBRANCES OF TRIBAL LAND

Sec.

84.001 What is the purpose of this part?
84.002 What terms must I know?
84.003 What types of contracts and agreements require Secretarial approval under this part?
84.004 Are there types of contracts and agreements that do not require Secretarial approval under this part?
84.005 Will the Secretary approve contracts or agreements even where such approval is not required under this part?
84.006 When will the Secretary disapprove a contract or agreement that requires Secretarial approval under this part?
84.007 What is the effect of the Secretary's disapproval of a contract or agreement that requires Secretarial approval under this part?

Authority: 25 U.S.C. 81, Pub. L. 106–179.

§ 84.001 What is the purpose of this part?

The purpose of this part is to implement the provisions of the Indian Tribal Economic Development and Contract Encouragement Act of 2000, Public Law 106–179, which amends Section 2103 of the Revised Statutes, found at 25 U.S.C. 81.

§ 84.002 What terms must I know?

The Act means the Indian Tribal Economic Development and Contract Encouragement Act of 2000, Public Law 106–179, which amends Section 2103 of the Revised Statutes, found at 25 U.S.C. 81.

Encumber means to attach a claim, lien, charge, right of entry or liability to real property (referred to generally as encumbrances). Encumbrances covered by this part may include leasehold mortgages, easements, and other contracts or agreements that could give to a third party exclusive or nearly exclusive proprietary control over tribal land.

Indian tribe means any Indian tribe, nation, band, pueblo, rancheria, colony, or community, including any Alaska Native Village or regional or village corporation as defined or established under the Alaska Native Claims Settlement Act, which is federally-recognized by the United States government for special programs and services provided by the Secretary to Indians because of their status as Indians.

Secretary means the Secretary of the Interior or his or her designated representative.

Tribal lands means those lands held by the United States in trust for a tribe or those lands owned by a tribe subject to federal restrictions against alienation, as referred to in Public Law 106–179 as ''Indian lands.''

§ 84.003 What types of contracts and agreements require Secretarial approval under this part?

Unless otherwise provided in this part, contracts and agreements entered into by an Indian tribe that encumber tribal lands for a period of seven or more years require Secretarial approval under this part.

§ 84.004 Are there types of contracts and agreements that do not require Secretarial approval under this part?

Yes. The following types of contracts or agreements do not require Secretarial approval:

(a) Contracts or agreements otherwise reviewed and approved by the Secretary under this title or other federal law or regulation. See, for example, 25 CFR parts 152, 162, 163, 166, 169, 200, 211, 216, and 255;

(b) Leases of tribal land that are exempt from approval by the Secretary under 25 U.S.C. 415;

(c) Subleases and assignments of leases of tribal land that do not require approval by the Secretary under part 162 of this chapter;

(d) Contracts or agreements that convey any use rights assigned by tribes, in the exercise of their jurisdiction over tribal lands, to tribal members.

(e) Contracts or agreements that do not convey exclusive or nearly exclusive proprietary control over tribal lands for a period of seven years or more;

(f) Contracts or agreements that are entered into by tribal corporations chartered under 25 U.S.C. 477;

(g) Tribal attorney contracts;

(h) Attorney and other professional contracts by Indian tribal governments identified as Self-Governance Tribes under 25 U.S.C. 450, as amended, for the period that a Self-Governance agreement is in effect;

(i) Contracts or agreements that are subject to approval by the National Indian Gaming Commission under the Indian Gaming Regulatory Act, 25 U.S.C. 2701 *et seq.*, and the Commission's regulations; or

(j) Contracts or agreements relating to the use of tribal lands that meet the definition of a ''reservation'' under the Federal Power Act (FPA), provided that:

(1) the Federal Energy Regulatory Commission (FERC) has issued a license or an exemption;

(2) FERC has made the finding under Section 4(e) of the FPA (16 U.S.C. 797(e)) that the license or exemption will not interfere or be inconsistent with the purpose for which such reservation was created or acquired; and

(3) the FERC license or exemption includes the Secretary's conditions for protection and utilization of the reservation under Section 4(e) and payment of annual use charges to the tribe under Section 10(e) of the FPA (16 U.S.C. 803(e)).

§ 84.005 Will the Secretary approve contracts or agreements even where such approval is not required under this part?

No. The Secretary will not approve contracts or agreements that do not encumber tribal lands for a period of seven or more years. The Secretary will return such contracts and agreements with a statement explaining why Secretarial approval is not required. The provisions of the Act will not apply to those contracts or agreements the Secretary determines are not covered by the Act.

§ 84.006 When will the Secretary disapprove a contract or agreement that requires Secretarial approval under this part?

The Secretary will disapprove a contract or agreement that requires Secretarial approval under this part if the Secretary determines that such contract or agreement:

(a) Violates federal law; or

(b) Does not contain at least one of the following:

(1) A provision that provides for remedies in the event the contract or agreement is breached;

(2) A provision that references a tribal code, ordinance or ruling of a court of competent jurisdiction that discloses the right of the tribe to assert sovereign immunity as a defense in an action brought against the tribe; or

(3) A provision that includes an express waiver of the right of the tribe to assert sovereign immunity as a defense in any action brought against the tribe, including a waiver that limits the nature of relief that may be provided or the jurisdiction of a court with respect to such an action.

§ 84.007 What is the effect of the Secretary's disapproval of a contract or agreement that requires Secretarial approval under this part?

If the Secretary disapproves a contract or agreement that requires Secretarial approval under this part, the contract or agreement is invalid as a matter of law.

Dated: July 5, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–17562 Filed 7–13–00; 8:45 am]

BILLING CODE 4310–02–P

Federal Register

Friday,
July 14, 2000

Part IV

Department of Education

Office of Educational Research and Improvement: Field-Initiated Studies Education Research Grant Program; Inviting Applications for New Awards for Fiscal Year 2001; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.305T]

Office of Educational Research and Improvement: Field-Initiated Studies (FIS) Education Research Grant Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2001

Purpose of Program: The Field-Initiated Studies (FIS) Education Research Grant Program awards grants to conduct education research in which topics and methods of study are generated by investigators.

Eligible Applicants: Institutions of higher education; State and local education agencies; public and private organizations, institutions, and agencies; and individuals.

Applications Available: July 21, 2000.

Application packages will be available by mail and electronically on the World Wide Web at the following sites:

http://www.ed.gov/offices/OERI/FIS/
www.ed.gov/GrantApps/

Deadline for Transmittal of Applications: September 15, 2000.

Deadline for Receipt of Letters of Intent: August 18, 2000.

Note: A Letter of Intent is optional, but encouraged, for each application. The Letter of Intent is for OERI planning purposes and will not be used in the evaluation of the application. Instructions for the Letter of Intent will be in the application package.

Tentative Award Date: December 15, 2000.

Estimated Available Funds: $15 million for two FY 2001 FIS cycles.

The estimated amount of funds available for new awards is based on the Administration's request for this program for FY 2001. The actual level of funding, if any, depends on final congressional action. We are inviting applications before an appropriation for FY 2001 in order to allow enough time to consider holding two grant competition cycles in FY 2001.

Estimated Range of Awards: The size of the awards will be commensurate with the nature and scope of the work proposed. In the most recent FIS competition, the grant awards ranged from approximately $270,000 (for 18 months) to about $1,740,000 (for 36 months).

Budget Period: 12-month period.

Project Period: 12 to 36 months.

Note: The Department is not bound by any estimates in this notice.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, 86 (part 86 applies to IHEs only), 97, 98, and 99. (b) The regulations in 34 CFR part 700.

SUPPLEMENTARY INFORMATION: The FIS Education Research Grant Program is highly competitive. Strong applications for FIS grants clearly address each of the applicable selection criteria. They make a well-reasoned and compelling case for the national significance of the problems or issues that will be the subject of the proposed research, and present a research design that is complete, clearly delineated, and incorporates sound research methods. In addition, the personnel descriptions included in strong applications make it apparent that the project director, principal investigator, and other key personnel possess training and experience commensurate with their duties.

The project period of the grant may be from one to three years. In the application, the project period should be divided into 12-month budget periods. Each 12-month budget should be clearly delineated and justified in terms of the proposed activities.

Collaboration: We encourage collaboration in the conduct of research. For example, major research universities and institutions may collaborate with historically underrepresented institutions, such as Historically Black Colleges and Universities, Hispanic-Serving Institutions, and Tribal Colleges and Universities.

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its web site: http://www.ed.gov/pubs/edpubs.html

Or you may contact ED Pubs at its E-mail address:

Edpubs@inet.ed.gov

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA Number 84.305T.

FOR FURTHER INFORMATION CONTACT: Seresa Simpson, Field-Initiated Studies Education Research Grants Program, Office of Educational Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue, NW., room 606c, Washington, DC 20208–5510. Telephone: (202) 219–1591. E-Mail: seresa_simpson@ed.gov.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting that person. However, the Department is not able to reproduce in an alternative format the standard forms included in the application.

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Program Authority: 20 U.S.C. 6031(c)(2)(B).

Dated: July 11, 2000.

C. Kent McGuire,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 00–17925 Filed 7–13–00; 8:45 am]

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Federal Register

Friday,
July 14, 2000

Part V

Department of Education

Office of Educational Research and Improvement Comprehensive School Reform Research Grant Program: Application Review Procedures for New Awards for Fiscal Year 2000; Notice

DEPARTMENT OF EDUCATION

[CFDA No: 84.306S]

Office of Educational Research and Improvement (OERI) Comprehensive School Reform Research Grant Program: Notice of Application Review Procedures for New Awards for Fiscal Year (FY) 2000

SUMMARY: On April 20, 2000, we published in the **Federal Register** (65 FR 21284) a notice inviting applications for new awards for FY 2000 for the Comprehensive School Reform Research Grant Program. This notice explains the procedures that we will use to review your application.

SUPPLEMENTARY INFORMATION:

Application Review Procedure

We will use a two-tier review process for the new Comprehensive School Reform Research Grant competition for FY 2000. All reviewers will meet the qualifications for reviewers established in the regulations at 34 CFR 700.11. This two-tier process and scoring system are authorized by and in accordance with OERI program regulations in 34 CFR part 700, particularly §§ 700.21 and 700.30.

Tier I. At the Tier I level, your application will be assigned to at least three reviewers, or subpanel members, from the full panel of 12–15 members. Reviewers from each subpanel will evaluate and score applications in accordance with the four selection criteria in the application package:

(1) National Significance. (30 points)

(2) Quality of the Project Design. (35 points)

(3) Quality and Potential Contributions of Personnel. (20 points)

(4) Quality of the Management Plan and Adequacy of Resources. (15 points)

For each application, reviewers will review 50-page narratives, 5-page management plans, 3-page-per-individual biographical sketches, and budget information. In accordance with page limits as described in the closing date notice and application package, all pages in excess of the maximum will be removed unread.

The Tier I reviewers will meet in the Washington, DC metropolitan area, and subpanel members will discuss their assigned applications and their numerical ratings. Following discussion and any re-evaluation and re-rating, reviewers in each subpanel will independently place each application in one of three categories, either ''highly recommended,'' ''recommended'' or ''not recommended.''

OERI will then calculate the Tier I score for each application by averaging the scores assigned by subpanel members. OERI numerically ranks all applications according to their average score and establishes a cut-off point to determine which applications advance to Tier II. Only those applications with a Tier I score higher than the established cut-off point will advance to Tier II review, with the following exception. All applications that receive a ''highly recommended'' rating from a majority of subpanel members will advance to Tier II regardless of their average score.

In determining the cut-off point, OERI will consider the following two factors: clear distinctions between clusters of scores as evidenced by gaps in the ranking, and the number of proposals required to ensure a competitive Tier II evaluation.

Tier II. If your application advances to the Tier II level, it will be read, rated, and commented on by all members of the full panel. Each reviewer will independently apply the same selection criteria and scoring system that were used in the Tier I review. After a common discussion of all applications, reviewers will give final numerical ratings and comments. OERI will rank the applications to form the recommended slate. Should there be a number of applications at the cut-off point, then the competitive priority would be applied. In the event of a tie, the Assistant Secretary would determine which application or applications from that group fill the most critical gaps in comprehensive school reform research.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Department to offer interested parties the opportunity to comment on proposed regulations. Section 437(d)(1) of the General Education Provision Act (GEPA), 20 U.S.C. 1232 (d)(1), however, exempts rules that apply to the first competition under a new or substantially revised program from the requirements. Therefore, the Assistant Secretary of OERI, in accordance with section 437 (d)(1) of GEPA, to ensure timely awards, has decided to forego public comment with respect to these procedures. These procedures will apply only to the FY 2000 grant competition.

(The valid OMB control number for this collection of information is 1850–0763.)

FOR FURTHER INFORMATION CONTACT: Debra Hollinger Martinez, Office of Educational Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue, NW, Room 615A, Washington, DC 20208–5521. Telephone: (202) 219–2239. (E-mail: Debra_Hollinger_Martinez@ed.gov). If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

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Program Authority: 20 U.S.C. 6031.

Dated: July 11, 2000.

C. Kent McGuire,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 00–17926 Filed 7–13–00; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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LIST OF PUBLIC LAWS

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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. 3051/P.L. 106–243

To direct the Secretary of the Interior, the Bureau of Reclamation, to conduct a feasibility study on the Jicarilla Apache Reservation in the State of New Mexico, and for other purposes. (July 10, 2000; 114 Stat. 497)

S. 1309/P.L. 106–244
To amend title I of the Employee Retirement Income Security Act of 1974 to provide for the preemption of State law in certain cases relating to certain church plans. (July 10, 2000; 114 Stat. 499)

S. 1515/P.L. 106–245
Radiation Exposure Compensation Act Amendments of 2000 (July 10, 2000; 114 Stat. 501)

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