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

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

DEPARTMENT OF AGRICULTURE

5 CFR Part 8301

RIN 3209–AA15

Supplemental Standards of Ethical Conduct for Employees of the Department of Agriculture

AGENCY: Department of Agriculture (Department or USDA).

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department or USDA), with the concurrence of the Office of Government Ethics (OGE), is issuing final regulations for Department employees that supplement the Standards of Ethical Conduct for Employees of the Executive Branch (Standards), as issued by OGE. The final rule, effective upon publication, sets forth as final both a general requirement for certain Department employees to obtain prior approval before engaging in outside employment and separate, more-extensive prior approval requirements for employees of the USDA Farm Service Agency (FSA), Food Safety and Inspection Service (FSIS), Office of the General Counsel (OGC), and Office of Inspector General (OIG). The final rule also contains certain restrictions on financial interests applicable to FSA employees.

EFFECTIVE DATE: These regulations are effective October 2, 2000.

FOR FURTHER INFORMATION CONTACT: John C. Surina, Director, Office of Ethics, U.S. Department of Agriculture, Room 348–W—Stop 0122, 1400 Independence Avenue, S.W., Washington, D.C. 20250–0122, telephone (202) 720–2251.

SUPPLEMENTARY INFORMATION:

I. Background

On March 24, 2000, with the concurrence and co-signature of OGE, USDA published for comment an interim final rule, with a request for comments, establishing supplemental standards of ethical conduct for employees of USDA (65 FR 15825–15830). The interim rule was issued to supplement the Standards of Ethical Conduct for Employees of the Executive branch published by OGE on August 7, 1992, and effective on February 3, 1993 (57 FR 35006–35067, as corrected at 57 FR 48557 and 57 FR 52583). The Standards, as corrected and amended, are codified at 5 CFR part 2635. On October 3, 1997, the Department's Employee Conduct and Responsibilities regulations were removed. *See* 62 FR 51759–51760.

The interim rule was issued pursuant to 5 CFR 2635.105, which authorizes agencies, with the concurrence of OGE, to publish agency-specific supplemental regulations that are necessary to implement their respective ethics programs. The Department, with OGE concurrence, determined that the supplemental rules for codification in new chapter LXXII of 5 CFR, consisting of part 8301, were necessary to the success of its ethics program.

The interim rule prescribed a 30-day comment period and invited comments from all interested parties. USDA received ten timely comments and one late comment and, after careful consideration of each comment, has made appropriate modifications to the rule. The Department, with OGE's concurrence, is now publishing as a final rule the Supplemental Standards of Ethical Conduct for Employees of the Department of Agriculture, for codification in part 8301 title 5 of the Code of Federal Regulations.

II. Summary of the Comments

As noted, the Department received a total of eleven comments (ten were timely; one was late), all by electronic mail. Seven comments were received from employees of the Office of the General Counsel (OGC), USDA; one from an employee of Departmental Administration, USDA; one from an employee of the Farm Service Agency (FSA), USDA; one from a non-employee farmer; and one from a person whose affiliation, if any, could not be determined. Except for the comments of the farmer and the FSA employee, all comments concerned either the general requirement for prior approval for outside employment or the additional requirement for prior approval by OGC of outside practice of law by OGC attorneys not already covered under the general requirement. The FSA employee was complimentary in assessing the interim rule and wanted to expand the coverage of prohibited transactions with regard to FSA employees. The non-employee farmer inquired as to the rationale for limiting the prohibited transactions provisions only to FSA Federal employees, rather than also including FSA county employees.

III. Analysis of the Comments

Section 8301.102 General prior approval requirement for outside employment

All but one of the comments concerning the requirement to obtain approval before engaging in outside employment came from OGC attorneys and most of those comments addressed, concurrently, both the general requirement applicable to financial disclosure report filers and the special requirement for non filing attorneys within OGC found in § 8301.105. Accordingly, to the extent that these comments relate to both sections, they will be addressed in connection with the general requirement.

Four comments were received which asserted that the requirement for seeking prior approval for outside employment was unnecessary. Three commenters believed themselves capable of independently judging whether an outside activity would be in conflict with their official responsibilities. Two other commenters were inclined in that direction, adding that the presupposed ethical dangers that justify the requirement could be addressed more effectively through law enforcement and more ethics training to help employees identify conflicts. Two other commenters pointed to the fact that the interim language does not attempt to identify the potential conflicts that are of concern and went on to state that since the conflicts of concern were already prohibited, there was no need for the prior approval requirement. One commenter criticized the requirement on the basis that it presumes that USDA employees are engaged in unethical behavior. Finally, one commenter noted that the same goal already was achieved by way of confidential financial disclosure.

Notwithstanding the concerns of the commenters, the Department still sees a

clear need for requiring prior approval for outside employment by persons occupying sensitive positions. The Department has therefore determined that such prior approval of outside employment for persons covered by § 8301.102, and the additional prior approval requirements articulated in §§ 8301.103 through 8301.106, are essential to the missions of the Department and its agencies. The most obvious purpose for having a prior approval requirement is to help Federal officers and employees avoid entering into actual or apparent conflict situations, rather than limiting agencies to reliance upon after-the-fact responses, such as through prosecution or disciplinary action. Accordingly, the Department believes that requiring prior approval for outside employment by persons occupying sensitive positions is necessary and that the benefits accruing from this requirement, in terms of protecting not only its officers and employees but also the integrity of its programs and operations, outweigh the limited imposition and burden posed to individual officers and employees.

The Department believes that the general prior approval requirement is not overly burdensome or unnecessarily intrusive. First, persons not obliged to file financial disclosure reports are exempt from this requirement. Moreover, paragraph (e) of § 8301.102 provides agencies and components with the authority, through internal agency procedures, to specify broad categories of outside employment that presumptively present no conflict of interest concerns. Leaving the determination of exempt categories of employment to the individual agencies and components accords those entities greater flexibility in developing and modifying lists of exempted occupational categories since they are not subject to a cumbersome rulemaking process.

Three comments viewed the regulation as possibly constituting a prior restraint on First Amendment rights. One commenter expressed this point in terms of the outside practice of law; a second commenter in terms of uncompensated teaching, speaking, or writing that relates to one's official duties. The Department is not insensitive to the intrusiveness of any conflict of interest regulations as they necessarily cover personal financial holdings and activities away from one's job. On the other hand, the courts have acknowledged the justification for narrowly tailored prophylactic measures to protect the public interest from the reality and appearance of the corrosive impact of conflicting private interests. In this respect, it must be pointed out that the prior approval requirement does not prohibit any form of expression or association. In *Williams* v. *Internal Revenue Service,* 919 F.2d 745 (D.C. Cir. 1990), the court held that an agency regulation that required employees to obtain permission from the agency before engaging in outside employment, and that was tailored to the Government's interest in efficiency and avoiding the appearance of impropriety, did not violate employees' First Amendment rights. Therefore, the Department does not agree with the commenter's argument that the requirement for obtaining prior approval for outside employment generally violates First Amendment rights.

At the same time, one commenter pointed to the recent ruling in *Sanjour* v. *EPA,* 56 F.3d 85 (D.C. Cir. 1995), *on remand,* 7 F. Supp. 2d 14 (D.D.C. 1998), as a basis for attacking the regulation on First Amendment grounds. The Department disagrees with the commenter in terms of the legal impact of *Sanjour* on this regulation. Nonetheless, the Department amends this section by: (1) deleting the requirement in paragraph (b)(2) to obtain prior approval for *uncompensated* teaching, speaking, writing, and editing; and (2) redesignating paragraph (b)(3) as paragraph (b)(2).

One commenter asserted that the definition of ''employment,'' in paragraph (b), is overly broad in that it would include providing uncompensated personal services in managing an educational trust for one's children, or in serving as a trustee or agent for a family estate, or serving as executor of a will. Conversely, the commenter points out that, under paragraph (b)(3)(i), an employee could manage a religious endowment fund, social investment club, fraternal organization, or the assets of a recreational group.

The Department finds the comment to be valid in cases where the fiduciary duties (guardian, executor, administrator, trustee, or personal fiduciary) relate solely to services provided to, or in conjunction with, individuals. From a practical standpoint, requiring prior approval to perform these family tasks on behalf of individuals is an unnecessary burden. On the other hand, the Department does not concur in the comment to the extent that such services are provided to, or in conjunction with, a for-profit entity. In the estimation of USDA, there is a significantly greater likelihood that outside employment with for-profit entities may raise conflict of interest and ethical concerns than in the case of fiduciary services provided to individuals. Accordingly, the Department sees justification for requiring prior approval for such services. Therefore, the Department amends redesignated paragraph (b)(2) of the interim rule by inserting prior to the word ''entity'', comma following by ''for-profit.''

One commenter questioned both the necessity of requiring the employee to provide the estimated total time to be devoted to outside employment [paragraph (c)(5)] and a statement as to whether the work can be performed entirely outside of the employee's regular duty hours [paragraph (c)(6)]. The Department has amended the interim rule by: (1) Deleting paragraphs (c)(5) and (c)(6); and (2) redesignating paragraphs (c)(7) through (c)(10) as paragraphs (c)(5) through (c)(8).

Several comments sought greater clarification and specificity on both the standards to be employed in evaluating outside employment requests and on the procedures to be employed. Specifically, three commenters expressed a wish to see a set time from by which management must act on a request, so that failure to act on the request within the required time frame would constitute de facto approval of the request. Three commenters suggested that the regulation contain some avenue of appeal from a negative determination. Two commenters wanted specificity as to how often their approved requests needed to be updated. Two other commenters wanted greater specificity as to the specific standards employed by USDA to gauge whether a given outside activity presents an unacceptable conflict. One commenter wanted greater clarification of what was meant by the term ''reasonable time'' in paragraph (c). Finally, another commenter wanted a requirement for the agency to provide written notification of its determination.

While the Department sees that such process considerations are valid, the regulations accord each specific USDA agency and component broad authority to fashion a prior approval policy that best fits its particular needs. Thus, the Department does not adopt these comments; rather they are left to be addressed through the implementing procedures within each agency and component. As to the standards employed to gauge whether a given outside activity presents an unacceptable conflict, the Department believes that sufficient specificity is provided in this regulation through reference to the relevant part of the Code of Federal Regulations. Greater

specificity may be provided through implementing procedures within each agency and component.

The Department, in conforming to its intent to provide broad authority to its separate agencies and components to fashion prior approval requirement procedures specifically tailored to their needs, is amending the interim rule by: (1) Deleting the words ''[T]he DAEO or, with the concurrence of the DAEO,'' in paragraph (e), and replacing those words with ''The agency designee for;'' and (2) deleting from paragraph (d) the words ''(or the DAEO, when there is not an agency designee).''

Section 8301.103 Additional rules for employees of the Farm Service Agency

As stated, the Department received two comments related to the provision prohibiting certain financial transactions involving Farm Service Agency (FSA) employees. The FSA employee wanted the Department to apply the prohibitions to ''members of the employees [sic] household,'' rather than to ''employee, spouse, or minor child,'' as was used in the regulation. The commenter questioned the justification in the interim rule for acting to address abuses and conflicts involving the financial interests of employees, spouses, and minor children, while leaving unaddressed the similar abuses and conflicts involving the financial interests of cohabitation partners and children who have reached majority. While the commenters' concerns are appreciated, the provisions of subpart D of the branchwide Standards do not extend beyond the limitations contained in the basic financial conflict of interest statute, 18 U.S.C. 208. That statute prohibits a Federal officer or employee from participating officially in any particular matter in which the officer or employee has a financial interest. For purposes of that statute, financial interests owned by the employee's spouse or minor child are deemed to be the financial interests of the employee. Accordingly, the Department did not have the authority to extend this prohibition beyond the bounds of that statute.

The non-employee commenter questioned why the interim rule did not apply to FSA county employees and why employees were still eligible to obtain guaranteed loans. The conflict of interest statutes and the Standards are limited in their application to Federal employees. FSA County committee personnel and county office employees are not Federal employees for purposes of these statutes. *See* 65 FR 15826. As a result, this supplement must be limited to Federal employees. However, the Department may publish under different authority similar rules concerning FSA county employees. Farm Service Agency guaranteed loans were not included in this prohibition because those loans involve commercial monies, rather than the very limited pot of Federal monies available through FSA direct loans. Moreover, FSA direct loans are the vehicle by which USDA serves as the ''lender of last resort'' to farmers on the financial brink; those loan monies must be reserved for those persons.

Section 8301.105 Additional rules for employees of the Office of the General Counsel

Two of the comments contended that both the general promulgation of the rules, as well as imposition of the additional prior approval requirement under § 8301.105, were subject to negotiations under the collective bargaining process. The Department disagrees with the notion that the promulgation and enforcement of regulations are subject to collective bargaining negotiations under the Federal Service Labor-Management Relations Act. The promulgation of regulations is fully within the broad authorities accorded to Federal agencies. More specifically, however, not only does this regulation implement a Govermentwide regulation (5 CFR part 2635), but the Department also has established a compelling need for its agency-specific rules and has made a determination that they are essential to the missions of the USDA agencies for which they have been adopted.

Two commenters addressed the fact that almost all State bars have rules proscribing conflicts of interest by attorneys. This, they contended, made the prior approval requirement redundant in terms of limiting outside practice or law. One of the two asserted that, generally, standards imposed by the bars were more stringent and more easily enforced than the regime set out in the supplement. The other commenter proposed that, should a dispute arise between an attorney and his or her supervisor over whether an outside activity conflicted with his or her official duties, the issue could be presented for resolution to the bar to which the attorney belongs. If the bar sided with the Government, but the employee proceeded with the outside activity nonetheless, then the Government could file a bar complaint. (Presumably, if the bar sided with the employee, the Government would be powerless to take action against the employee.)

The subject matter at issue is not proper for determination or interpretation by State bar associations. The Federal Government cannot abdicate a core management function, such as staff supervision, to an outside party. At the same time, the suggestion misses the entire point of requiring prior approval for certain types of outside employment, which is to prevent an employee from violating a Federal criminal statute or ethical conduct rule, rather than having to take disciplinary action after the fact.

Sections 8301.103(f), and 8301.104 Through 8301.106 Additional Prior Approval Requirements

One commenter noted, in reference to § 8301.105, that the additional requirements for requesting prior approval for outside employment provide that requests are processed in accordance with the procedures in paragraph (c) of § 8301.102, but do not specify whether such requests will be determined on the standard for approval set forth in paragraph (d) of § 8301.102. The Department agrees with this comment. Accordingly, the Department will specify in all additional prior approval requirements, that the request shall be determined based on the standard for approval set forth in paragraph (d) of § 8301.102.

IV. Matters of Regulatory Procedure

Congressional Review

The Department has found that this rulemaking is not a rule as defined in 5 U.S.C. 804, and, thus, does not require review by Congress. This rulemaking is related to Department personnel.

Executive Orders Nos. 12866 and 12988

Since this rule relates to Department personnel, it is exempt from the provisions of Executive Orders Nos. 12866 and 12988.

Regulatory Flexibility Act

The Department has determined under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only Department employees.

Paperwork Reduction Act

The Department has determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget.

Environmental Impact

This decision will not have a significant impact upon the quality of the human environment or the conservation of energy resources.

List of Subjects in 5 CFR Part 8301

Conflict of interests, Executive branch standards of conduct, Government employees.

Dated: September 25, 2000.

Dan Glickman,

Secretary of Agriculture.

Approved: September 26, 2000.

F. Gary Davis,

Acting Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Department of Agriculture, with the concurrence of the Office of Government Ethics, is revising 5 CFR part 8301 to read as follows:

PART 8301—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF AGRICULTURE

Sec.
8301.101 General.
8301.102 Prior approval for outside employment.
8301.103 Additional rules for employees of the Farm Service Agency.
8301.104 Additional rules for employees of the Food Safety and Inspection Service.
8301.105 Additional rules for employees of the Office of the General Counsel.
8301.106 Additional rules for employees of the Office of Inspector General.

Authority: 5 U.S.C. 301, 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.403(a), 2635.803.

§ 8301.101 General.

(a) In accordance with 5 CFR 2635.105, the regulations in this part apply to employees of the Department of Agriculture (Department or USDA) and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635.

(b) In addition to 5 CFR part 2635 and this part, employees also are required to comply with the executive branch financial disclosure regulations at 5 CFR part 2634, the regulations on responsibilities and conduct contained in 5 CFR part 735, and Department guidance and procedures established pursuant to paragraph (c) of this section.

(c) With the concurrence of the Designated Agency Ethics Official (DAEO), agencies and components of the Department may, in accordance with 5 CFR 2635.105(c), issue explanatory guidance for their employees and establish procedures necessary to implement this part and part 2635 of this title. The Deputy Ethics Official for each agency or component shall retain copies of all such guidance issued by that agency or component.

§ 8301.102 Prior approval for outside employment.

(a) *Prior approval requirement.* An employee, other than a special Government employee, who is required to file either a public or confidential financial disclosure report (SF 278 or OGE Form 450), or an alternative form of reporting approved by the Office of Government Ethics, shall, before engaging in outside employment, obtain written approval in accordance with the procedures set forth in paragraph (c) of this section.

(b) *Definition of employment.* For purposes of this section, ''employment'' means any form of non-Federal employment or business relationship or activity involving the provision of personal services by the employee for direct, indirect, or deferred compensation other than reimbursement of actual and necessary expenses. It also includes, irrespective of compensation, the following outside activities.

(1) Providing personal services as a consultant or professional, including service as an expert witness or as an attorney; and

(2) Providing personal services to a for-profit entity as an officer, director, employee, agent, attorney, consultant, contractor, general partner, or trustee, which involves decision making or policymaking for the non-Federal entity, or the provision of advice or counsel.

(c) *Submission of requests for approval.* An employee seeking to engage in employment for which advance approval is required shall submit a written request for approval to the employee's supervisor a reasonable time before the employee proposes to begin the employment. Upon a significant change in the nature of the outside employment or in the employee's official position, the employee shall submit a revised request for approval. The supervisor will forward written requests for approval to the agency designee, through normal supervisory channels. All requests for prior approval shall include the following information:

(1) The employee's name, organizational location, occupational title, grade, and salary;

(2) The nature of the proposed outside employment, including a full description of the specific duties or services to be performed;

(3) A description of the employee's official duties that relate in any way to the proposed employment;

(4) The name and address of the person or organization for whom or with which the employee is to be employed, including the location where the services will be performed;

(5) The method or basis of any compensation (*e.g.*, fee, per diem, honorarium, royalties, stock options, travel and expenses, or other);

(6) A statement as to whether the compensation is derived from a USDA grant, contract, cooperative agreement, or other source of USDA funding;

(7) For employment involving the provision of consultative or professional services, a statement indicating whether the client, employer, or other person on whose behalf the services are performed is receiving, or intends to seek, a USDA grant, contract, cooperative agreement, or other funding relationship; and

(8) For employment involving teaching, speaking, writing or editing, the proposed text of any disclaimer required by 5 CFR 2635.807(b).

(d) *Standard for approval.* Approval shall be granted by the agency designee unless it is determined that the outside employment is expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635.

(e) *Responsibilities of the component agencies.* (1) The agency designee for each separate agency or component of USDA may issue an instruction or manual issuance exempting categories of employment from a requirement of prior written approval based on a determination that employment within those categories would generally be approved and is not likely to involve conduct prohibited by Federal statutes or regulations, including 5 CFR part 2635 and this part.

(2) Department components may specify internal procedures governing the submission of prior approval requests, including but not limited to: timely submission requirements; determination deadlines; appeals or reviews; and requirements for updating requests. Internal procedures also should designate appropriate officials to act on such requests. The instructions or manual issuances may include examples of outside employment that are permissible or impermissible consistent with 5 CFR part 2635 and this part. With respect to employment involving teaching, speaking or writing, the instructions or manual issuances may specify pre-clearance procedures and/or require disclaimers indicating that the views expressed do not necessarily represent the views of the agency, USDA or the United States.

(3) The officials within the respective USDA agencies or components responsible for the administrative aspects of these regulations and the maintenance of records shall make provisions for the filing and retention of requests for approval of outside employment and copies of the notification of approval or disapproval.

§ 8301.103 Additional rules for employees of the Farm Service Agency.

(a) *Application.* This section applies only to Farm Service Agency (FSA) personnel who are Federal employees within the meaning of 5 U.S.C. 2105. This section does not apply to FSA community committee members, county committee members, and county office personnel, who are either elected to their positions or are employees of community or county committees established under 16 U.S.C. 590h. For rules applicable to FSA community committee members, county committee members, and county office personnel, see 7 CFR part 7.

(b) *Definition of FSA program participant.* For purposes of this section, the phrase ''FSA program participant,'' includes any person who is, or is an applicant to become, an FSA borrower, FSA grantee, or recipient of any other form of FSA financial assistance available under any farm credit, payment or other program administered by FSA.

(c) *Prohibited borrowing.* (1) No FSA employee, or spouse or minor child of an FSA employee, may directly or indirectly seek or obtain a ''direct loan'' under paragraph (a)(9) of section 343 of the Consolidated Farm and Rural Development Act, 7 U.S.C. 1991(a)(9).

(2) Nothing in this section bars an FSA employee, or spouse or minor child of an FSA employee, from retaining a direct loan secured prior to March 24, 2000, or, if subsequent to March 24, 2000, such direct loan is secured prior to the FSA employee being appointed to, or nominated for, appointment to an FSA position. Any FSA employee who either personally has such a pre-existing loan, or whose spouse or minor child has such a pre-existing loan, must submit a written disqualification from taking any official action on any such loan. Other than through the application of normal FSA loan servicing options set forth under FSA regulations, the terms of any such pre-existing loans shall remain fixed and shall not be subject to renegotiation or renewal unless pursuant to policy decision(s) made by the USDA Secretary or the FSA Administrator.

(3) *Waiver for FSA State Committee members.* A request for an exception to the general prohibition of paragraph (c)(1) of this section may be submitted by an FSA State Committee member (whether on his or her own behalf, or on behalf of the FSA State Committee member's spouse or minor child), to the FSA Deputy Administrator for Farm Loans. The Deputy Administrator for Farm Loans may grant a written waiver from this prohibition based on a determination made with the concurrence of the DAEO and the FSA headquarters ethics adviser that:

(i) The applicant is a current FSA State Committee member or the spouse or minor child of a current FSA State Committee member;

(ii) The applicant meets the statutory qualification requirements for obtaining direct loan; and

(iii) A waiver is not inconsistent with part 2635 of this title nor 7 U.S.C. 1986 nor otherwise prohibited by law, and that, under the particular circumstances, application of the prohibition is not necessary to avoid the appearance of misuse of position, including the appearance of misuse of non public information, or loss of impartiality, or otherwise to ensure confidence in the impartiality and objectivity with which agency programs are administered.

(d) *Prohibited real estate purchases.* (1) No FSA employee, or spouse or minor child of an FSA employee, may directly or indirectly purchase real estate held in the FSA inventory, for sale under forfeiture to FSA, or from an FSA program participant.

(2) *Waiver.* A request for an exception to the prohibition found in paragraph (d)(1) of this section may be submitted jointly by the FSA program participant and FSA employee (whether on his or her own behalf, or on behalf the employee's spouse or minor child), to the FSA State Executive Director. The FSA State Executive Director may grant a written waiver from this prohibition based on a determination made with the advice and clearance of the DAEO and the FSA headquarters ethics advisor that the waiver is not inconsistent with part 2635 of this title nor 7 U.S.C. 1986 nor otherwise prohibited by law and that, under the particular circumstances, application of the prohibition is not necessary to avoid the appearance of misuse of position or loss of impartiality or otherwise to ensure confidence in the impartiality and objectivity with which agency programs are administered. A waiver under this paragraph may impose appropriate conditions, such as requiring execution of a written disqualification.

(e) *Prohibited transactions with FSA program participants.* (1) Except as provided in paragraph (e)(2) of this section, no FSA employee or spouse or minor child of an FSA employee may directly or indirectly: sell real property to; lease real property to or from; sell to, lease to or from, or purchase personal property from; or employ for compensation a person whom the FSA employee knows or reasonably should know is an FSA program participant directly affected by decisions of the particular FSA office in which the FSA employee serves.

(2) *Exceptions.* Paragraph (e)(1) of this section does not apply to:

(i) A sale, lease, or purchase of personal property, if it involves:

(A) Goods available to the general public at posted prices that are customary and usual within the community; or

(B) Property obtained pursuant to public auction; or

(ii) Transactions listed in (e)(1) of this section determined in advance by the appropriate FSA State Executive Director, after consulting with the FSA Headquarters ethics advisor, to be consistent with part 2635 of this title and otherwise not prohibited by law.

(f) *Additional prior approval requirements for outside employment.* Any FSA employee not otherwise required to obtain approval for outside employment under § 8301.102 shall obtain written approval in accordance with the procedures and standards set forth in paragraphs (c) and (d) of § 8301.102 before engaging in outside employment, as that term is defined by paragraph (b) of § 8301.102, with or for a person:

(1) Whom the FSA employee knows, or reasonably should know, is an FSA program participant; and

(2) Who is directly affected by decisions made by the particular FSA office in which the FSA employee serves.

§ 8301.104 Additional rules for employees of the Food Safety and Inspection Service.

Any employee of the Food Safety and Inspection Service not otherwise required to obtain approval for outside employment under § 8301.102, shall, before engaging in any form of outside employment, obtain written approval in accordance with the procedures and standards set forth in paragraphs (c) and (d) of § 8301.102

§ 8301.105 Additional rules for employees of the Office of the General Counsel.

Any attorney serving within the Office of the General Counsel, not otherwise required to obtain approval for outside employment under § 8301.102, shall obtain written approval, in accordance with the

procedures and standards set forth in paragraphs (c) and (d) of § 8301.102, before engaging in the outside practice of law, whether compensated or not.

§ 8301.106 Additional rules for employees of the Office of Inspector General.

Any employee of the Office of Inspector General, not otherwise required to obtain approval for outside employment under § 8301.102, shall obtain written approval, in accordance with the procedures and standards set forth in paragraphs (c) and (d) of § 8301.102, before engaging in any form of outside employment that involves the following:

(a) Law enforcement, investigation, security, firearms training, defensive tactics training, and protective services;

(b) Auditing, accounting, bookkeeping, tax preparation, and other services involving the analysis, use, or interpretation of financial records;

(c) The practice of law, whether compensated or not; or

(d) Employment involving personnel, procurement, budget, computer, or equal employment opportunity services.

[FR Doc. 00–25136 Filed 9–29–00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–11–AD; Amendment 39–11912; AD 2000–20–01]

RIN 2120–AA64

Airworthiness Directives; Turbomeca Arriel 1 Series Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Turbomeca Arriel 1 series turboshaft engines. This action requires the installation of a chip detector with electronic warning on the rear bearing oil return system. This amendment is prompted by reports of gas generator rear bearing failures. The actions specified in this AD are intended to prevent gas generator rear bearing failure, which could lead to an uncommanded engine shutdown.

DATES: Effective October 17, 2000. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of October 17, 2000.

Comments for inclusion in the Rules Docket must be received on or before December 1, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–11–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov.'' Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Turbomeca, 64511 Bordes Cedex, France; telephone: 33 59 12 50 00; fax: 33 59 53 15 12. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Rosa, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7152; fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION: The Direction Generale de L'Aviation Civile (DGAC), the airworthiness authority for France, recently notified the Federal Aviation Administration (FAA) that an unsafe condition may exist on certain Turbomeca Arriel 1 series turboshaft engines. The DGAC advises that it has received reports of gas generator rear bearing failure. There were 38 incidents of uncommanded in-flight engine shutdowns before August 1999; no fatalities were reported. This condition, if not corrected, could result in an uncommanded engine shutdown.

Manufacturer's Service Information

Turbomeca has issued Service Bulletin (SB) No. 292 72 0163, Revision 1, dated April 3, 1996, that specifies procedures for the installation of a chip detector with electronic warning on the rear bearing oil return system. The DGAC classified this service bulletin as mandatory and issued AD 98–394(A) in order to ensure the airworthiness of these engines in France.

Bilateral Airworthiness Agreement

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

Requirements of this AD

Since an unsafe condition has been identified that is likely to exist or develop on engines of the same type design in the United States, this AD requires the installation of a chip detector with electronic warning on the rear bearing oil return system. The actions are required to be accomplished in accordance with the service bulletin described previously.

Immediate Adoption

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000- NE–11-AD.'' The postcard will be date-stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2000—20—01 Turbomeca: Amendment 39–11912. Docket 2000–NE–11–AD.

Applicability: This AD is applicable to Turbomeca Arriel 1 A, –1 A1, –1 A2, –1 B, –1 C, –1 C1, –1 C2, –1 D, –1 D1, –1 K, –1 K1, –1 S, and –1 S1 turboshaft engines.These engines are installed on, but not limited to, the following helicopters:

Eurocopter AS 356 C.	Eurocopter AS 365 C1.	Eurocopter AS 350 BA
Eurocopter AS 356 N2.	Eurocopter AS 350 B.	Eurocopter AS 350 B2N
Eurocopter AS 350 D.	Eurocopter As 550 U2.	Augusta A109K2
Sikorsky S76A.	Sikorsky 76A+.	Sikorsky 76A++
Sikorsky S76C.	.	

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

Compliance

Required as indicated, unless accomplished previously.

To prevent gas generator rear bearing failure, which could result in an uncommanded engine shutdown, do the following:

Required Action

(a) Within 30 days from the effective date of this AD, install a chip detector with electronic warning on the rear bearing oil return system in accordance with Turbomeca Service Bulletin (SB) No. 292 72 0163, Revision 1, dated April 3, 1996, paragraph 2, Instructions for incorporation.

Alternative Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Manager, ECO.

Special Flight Permits

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

Incorporation by Reference

(d) The actions required by this AD shall be performed in accordance with Turbomeca Service Bulletin No. 292 72 0163, Revision 1, dated April 3, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Turbomeca, 64511 Bordes Cedex, France; telephone 33 59 12 50 00; fax 33 59 53 15 12. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on October 17, 2000.

Issued in Burlington, Massachusetts, on September 21, 2000.

Mark C. Fulmer,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 00–24900 Filed 8–29–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–140–AD; Amendment 39–11910; AD 2000–19–09]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes Powered by Rolls-Royce RB211 Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes powered by Rolls-Royce RB211 series engines. This action requires modification of the nacelle strut and wing structure. This action is necessary to prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut. This action is intended to address the identified unsafe condition.

DATES: Effective October 17, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 17, 2000.

The incorporation by reference of Boeing Service Bulletin 767–57–0053, Revision 2, dated September 23, 1999, as listed in the regulations, was approved previously by the Director of the Federal Register as of July 24, 2000 (65 FR 37843, June 19, 2000).

Comments for inclusion in the Rules Docket must be received on or before December 1, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–140–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–140–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Rehrl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2783; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received reports indicating that the airplane manufacturer has accomplished a structural reassessment of the damage tolerance capabilities of the Boeing Model 767 series airplanes powered by Rolls-Royce RB211 series engines. This reassessment indicates that the actual operational loads applied to the nacelle strut and wing structure are higher than the analytical loads that were used during the initial design. Subsequent analysis and service history, which includes numerous reports of fatigue cracking on certain strut and wing structure, indicate that fatigue cracking can occur on the primary strut structure before an airplane reaches its design service objective of 20 years or 50,000 flight cycles. Analysis also indicates that such cracking, if it were to occur, would grow at a much greater rate than originally expected. Fatigue cracking in primary strut structure would result in reduced structural integrity of the strut.

Explanation of Relevant Service Information

Boeing recently developed a modification of the strut-to-wing attachment structure installed on Boeing Model 767 series airplanes powered by Rolls-Royce RB211 series engines. This modification significantly improves the load-carrying capability and durability of the strut-to-wing attachments. Such improvement also will substantially reduce the possibility of fatigue cracking and corrosion developing in the attachments.

The FAA has reviewed and approved Boeing Service Bulletin 767–54–0082, dated October 28, 1999, which describes procedures for modification of the nacelle strut and wing structure. The modification consists of the following actions:

- Detailed visual inspections for migration of the midspar, upper spar, and lower spar fitting bushings and the strut side link fitting bearings of the strut.
- Installation of new tension bolts in the aft pitch load fitting and a new side link fitting of the wing.
- Inspection and rework of the side load fittings of the wing and rework of the forward pitch load fitting of the wing.
- Replacement of many of the significant load-bearing components of the strut-to-wing attachment (*e.g.*, midspar fuse pins, side links, side link fuse pins, diagonal brace, and diagonal brace fuse pins) with improved components.

The service bulletin contains a formula for calculating an optional compliance threshold for the specified modification. This formula is intended to be used as an alternative to the 20-year calendar threshold specified in the service bulletin.

In addition, Table 2 of the service bulletin identifies six related service bulletin modifications that must be accomplished before or at the same time as the modification in Boeing Service Bulletin 767–54–0082:

- *Boeing Service Bulletin 767–29–0057:* The FAA has reviewed and approved Boeing Service Bulletin 767–29–0057, dated December 16, 1993, which describes procedures for modification of the electrical wiring support of the alternating current motor pump of the main hydraulic power system. The modification involves installing new band clamps and index-straps, and on certain airplanes, new wire support brackets on the strut bulkhead.
- *Boeing Service Bulletin 767–54–0059:* The FAA has reviewed and approved Boeing Service Bulletin 767–54–0059, dated July 28, 1994, which describes procedures for removing the midspar fuse pins, performing repetitive detailed visual inspections for cracked or broken sealant or migration or rotation of the midspar attachment fitting bushings, and accomplishing follow-on corrective actions (including replacing the bushings), if necessary.
- *Boeing Service Bulletin 767–54–0069:* The FAA has reviewed and approved Boeing Service Bulletin 767–54–0069, Revision 1, dated January 29, 1998, which describes procedures for rework of the side load fitting and tension fasteners, as applicable, and replacement of midspar fuse pins with new, higher-strength midspar fuse pins. The rework involves increasing the size of the tension bolts of the inboard and outboard side load fittings. The replacement also involves installing new, higher-strength bolts and radius fillers in the side load fittings and backup support structure, and installing higher-strength fasteners common to the front spar and rib number 8 rib post.
- *Boeing Service Bulletin 767–54–0083:* The FAA has reviewed and approved Boeing Service Bulletin 767–54–0083, dated September 17, 1998, which describes procedures for replacement of the upper link assembly with a new, improved assembly that will increase the strength and durability of the upper link installation. That service bulletin also describes procedures for modification of the wire support brackets attached to the upper link.
- *Boeing Service Bulletin 767–54–0088:* The FAA has reviewed and approved Boeing Service Bulletin 767–54–0088, Revision 1, dated July 29, 1999, which describes procedures for replacement of the upper link fuse pin and aft pin with new, improved pins that will increase the strength and durability of the upper link installation.
- *Boeing Service Bulletin 767–57–0053, Revision 1, dated October 31, 1996:* The FAA has previously issued AD 2000–12–17, amendment 39–11795 (65 FR 37843, June 19, 2000), which requires repetitive inspections to detect fatigue cracking of the pitch load fitting

lugs of the wing front spar, and rework, if necessary, in accordance with Boeing Service Bulletin 767–57–0053, Revision 2, dated September 23, 1999. ''NOTE 2'' of that AD states that inspections and rework accomplished prior to July 24, 2000 (the effective date of AD 2000–12–17) under Boeing Service Bulletin 767–57–0053, dated June 27, 1996, or Revision 1, dated October 31, 1996, are acceptable for compliance with that AD.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut. This AD requires accomplishment of the actions specified in the service bulletins described previously, except as discussed below.

Differences Between Service Bulletin and This AD

Boeing Service Bulletin 767–54–0082 recommends accomplishment of the actions in Boeing Service Bulletin 767–57–0053, Revision 1, prior to or concurrently with the actions in Boeing Service Bulletin 767–54–0082. However, as discussed above, the FAA has previously issued AD 2000–12–17 to require Boeing Service Bulletin 767–57–0053, Revision 2. Therefore, paragraph (b) of this AD requires accomplishment of Boeing Service Bulletin 767–57–0053, Revision 2, instead of Revision 1. However, as specified in ''Note 2'' of this AD, Revision 1 is acceptable for compliance with this requirement.

Cost Impact

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

The following are costs associated with this AD that would apply if an affected airplane is imported and placed on the U.S. Register in the future:

- It would require approximately 314 work hours to accomplish the actions described in Boeing Service Bulletin 767–54–0082, at an average labor rate of $60 per work hour. The manufacturer has committed previously to its customers that it will bear the cost of replacement parts. As a result, the cost of those parts is not attributable to this AD. Based on these figures, the cost impact of this action would be $18,840 per airplane.
- It would take approximately 16 work hours per airplane to accomplish the actions described in Boeing Service Bulletin 767–29–0057, at an average labor rate of $60 per work hour. Required parts would be provided at no cost by the airplane manufacturer. Based on these figures, the cost impact of this action would be $960 per airplane.
- It would take approximately 6 work hours per airplane to accomplish the actions described in Boeing Service Bulletin 767–54–0059, at an average labor rate of $60 per work hour. Required parts would be provided at no cost by the airplane manufacturer. Based on these figures, the cost impact of this action would be $360 per airplane.
- It would take approximately 212 work hours per airplane to accomplish the actions described in Boeing Service Bulletin 767–53–0069, Revision 1, at an average labor rate of $60 per work hour. Required parts would be provided at no cost by the airplane manufacturer. Based on these figures, the cost impact of this action would be $12,720 per airplane.
- It would take approximately 1 work hour per airplane to accomplish the actions described in Boeing Service Bulletin 767–54–0083, at an average labor rate of $60 per work hour. Required parts would be provided at no cost by the airplane manufacturer. Based on these figures, the cost impact of this action would be $60 per airplane.
- It would take approximately 4 work hours per airplane to accomplish the actions described in Boeing Service Bulletin 767–54–0088, Revision 1, at an average labor rate of $60 per work hour. Required parts would be provided at no cost by the airplane manufacturer. Based on these figures, the cost impact of this action would be $240 per airplane.
- It would take approximately 5 work hours per airplane to accomplish the actions described in Boeing Service Bulletin 767–57–0053, Revision 2, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of these actions would be $300 per airplane. Because the actions described in this service bulletin are already required by another AD action, this requirement adds no new costs for affected operators.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register.**

Comments Invited

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

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (*e.g.,* reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–140–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2000–19–09 Boeing: Amendment 39–11910. Docket 2000–NM–140–AD.

Applicability: Model 767 series airplanes powered by Rolls-Royce RB211 series engines, line numbers 1 through 663 inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut, accomplish the following:

Modifications

(a) At the later of the times specified in paragraph (a)(1) or (a)(2) of this AD, modify the nacelle strut and wing structure on both the left and right sides of the airplane, in accordance with Boeing Service Bulletin 767–54–0082, dated October 28, 1999:

(1) Prior to the accumulation of 37,500 total flight cycles, or within 20 years since the date of manufacture, whichever occurs first. Use of the optional threshold formula described in Figure 1 of the service bulletin is an acceptable alternative to the 20-year threshold, provided that the additional criteria specified in the service bulletin are met; or

(2) Within 3,000 flight cycles after the effective date of this AD.

(b) Prior to or concurrently with the accomplishment of the modification of the nacelle strut and wing structure required by paragraph (a) of this AD, as specified in paragraph 1.D., Table 2, ''Prior or Concurrent Service Bulletins,'' on page 3 of Boeing Service Bulletin 767–54–0082, dated October 28, 1999, accomplish the actions specified in the following service bulletins: Boeing Service Bulletin 767–29–0057, dated December 16, 1993; Boeing Service Bulletin 767–54–0059, dated July 28, 1994; Boeing Service Bulletin 767–54–0069, Revision 1, dated January 29, 1998; Boeing Service Bulletin 767–54–0083, dated September 17, 1998; Boeing Service Bulletin 767–54–0088, Revision 1, dated July 29, 1999; and Boeing Service Bulletin 767–57–0053, Revision 2, dated September 23, 1999.

Note 2: AD 2000–12–17, amendment 39–11795, requires accomplishment of Boeing Service Bulletin 767–57–0053, Revision 2, dated September 23, 1999. However, inspections and rework accomplished in accordance with Boeing Service Bulletin 767–57–0053, dated June 27, 1996, or Revision 1, dated October 31, 1996, are acceptable for compliance with the applicable action required by paragraph (b) of this AD.

Repair

(c) If any damage to airplane structure is found during the accomplishment of any modification required by paragraph (a) or (b) of this AD, and the applicable service bulletin specifies to contact Boeing for appropriate action, then prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Alternative Methods of Compliance

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Incorporation by Reference

(f) Except as provided by paragraph (c) of this AD, the actions shall be done in accordance with Boeing Service Bulletin 767–54–0082, dated October 28, 1999; Boeing Service Bulletin 767–29–0057, dated December 16, 1993; Boeing Service Bulletin 767–54–0059, dated July 28, 1994; Boeing Service Bulletin 767–54–0069, Revision 1, dated January 29, 1998; Boeing Service Bulletin 767–54–0083, dated September 17, 1998; Boeing Service Bulletin 767–54–0088, Revision 1, dated July 29, 1999; and Boeing Service Bulletin 767–57–0053, Revision 2, dated September 23, 1999; as applicable.

(1) The incorporation by reference of Boeing Service Bulletin 767–54–0082, dated October 28, 1999; Boeing Service Bulletin 767–29–0057, dated December 16, 1993; Boeing Service Bulletin 767–54–0059, dated July 28, 1994; Boeing Service Bulletin 767–54–0069, Revision 1, dated January 29, 1998; Boeing Service Bulletin 767–54–0083, dated September 17, 1998; and Boeing Service Bulletin 767–54–0088, Revision 1, dated July 29, 1999; is approved by the Director of the Federal Register, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Boeing Service Bulletin 767–57–0053, Revision 2, dated September 23, 1999, was approved previously by the Director of the Federal Register as of July 24, 2000 (65 FR 37843, June 19, 2000).

(3) Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(g) This amendment becomes effective on October 17, 2000.

Issued in Renton, Washington, on September 21, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–24751 Filed 9–29–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–38–AD; Amendment 39–11913; AD 2000–20–02]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–50 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to General Electric Company (GE) CF6–50 series turbofan engines. This action requires inspection of the low pressure turbine nozzle lock assemblies, and replacement of the borescope plug with a new design plug. This amendment is prompted by three uncontained engine failures. The actions specified in this AD are intended to detect loose or missing LPT nozzle lock assembly studs that could lead to failure of the locks and subsequent uncontained failure of the engine.

DATES: Effective October 17, 2000. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of October 17, 2000.

Comments for inclusion in the Rules Docket must be received on or before December 1, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–38–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov.'' Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone (513) 672–8400, fax (513) 672–8422. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Karen Curtis, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7192, fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION: On April 25, 2000, a DC10–30 experienced an uncontained engine failure during takeoff. Ground inspection found uncontainment of the low pressure turbine (LPT) case, airplane damage, and ingestion damage to the other two engines. An investigation revealed that the failure of stage 2 LPT nozzle lock assemblies made of Waspalloy material resulted in the uncontained failure of all stage 2 nozzle segments.

Since that time, there have been two more uncontained engine failures, on September 5, 2000, and September 7, 2000, that have been attributed to the failure of Waspalloy stage 2 LPT nozzle lock assembly studs.

Before these three events, there had been two uncontained failures of stage 2 LPT nozzle lock assemblies made of Rene 41 material. One failure was in April 1991 which was contained within the cowl with no damage to the airplane, and one in 1996 that also penetrated the cowl and resulted in minor damage to the airplane. There was also one unscheduled engine removal (UER) for broken Rene 41 nozzle lock assembly studs in 1997 and two UER's for broken Waspalloy assemblies; one in January 1999, and one in December 1999.

Loose or missing LPT nozzle lock assembly studs could lead to failure of the locks and subsequent uncontained failure of the engine.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of GE Alert Service Bulletin (ASB) CF6–50 72–A1196, dated September 15, 2000, that describes procedures for replacing the existing stage 2 LPT nozzle borescope plug, part number (P/N) 9022M63G13, with borescope plug P/N 2083M99P01. This new plug provides an additional antirotation feature for the nozzle segments in the event of failure of the nozzle locks.

Interim Action Requirements of This AD

Since an unsafe condition has been identified that is likely to exist or develop on other GE CF6–50 series turbofan engines of the same type design, this AD is being issued as an interim action to detect loose or missing LPT nozzle lock assembly studs that could lead to failure of the lock assemblies, and subsequent uncontained failure of the engine. This AD requires:

- Initial and repetitive inspections of the lock assemblies for loose or missing studs.
- Replacement of all of the stage 2 LPT lock assemblies with new assemblies before further flight if a loose or missing stud is found.
- Installation of borescope plug P/N 2083M99P01. This new borescope plug is designed to prevent rotation of the stage 2 LPT nozzle if the nozzle lock assemblies fail.
- Inspection of the area surrounding the borescope plug for evidence of buckling or cracks whenever the nozzle lock studs are inspected.
- Replacement of the LPT stator case assembly with a serviceable part before further flight if any buckling or cracks are found.

The borescope plug must be replaced as specified in ASB CF6–50 72–A1196.

Immediate Adoption of This AD

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

Comments Invited

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

additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NE–38–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

This proposed rule does not have federalism implications, as defined in Executive Order No. 13132, because it 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. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2000–20–02 General Electric Company: Amendment 39–11913. Docket 2000–NE–38–AD.

Applicability: This airworthiness directive (AD) is applicable to General Electric Company (GE) CF6–50 series turbofan engines. These engines are installed on, but not limited to, Airbus Industries A300, Boeing Airplane Company 747, and McDonnell Douglas Corporation DC10 airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines 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 (h) 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

Compliance with this AD is required as indicated, unless already done.

To detect loose or missing LPT nozzle lock assembly studs that could lead to failure of the locks and subsequent uncontained failure of the engine, do the following:

Initial Inspection of Stage 2 LPT Nozzle Lock Assemblies

(a) Visually inspect the stage 2 LPT nozzle lock assemblies for loose or missing studs within the following times after the effective date of this AD information about on-wing visual inspections may be found in the appropriate aircraft maintenance manual (AMM):

Time on lock assembly	Inspect within the earlier of
(1) 5,500 or fewer hours time-since-new (TSN) on the effective date of this AD.	500 hours time-in-service (TIS) or 60 days after the effective date of this AD.
(2) Greater than 5,500 hours TSN on the effective date of this AD, or if TSN is not known.	250 hours TIS or 30 days after the effective date of this AD.

(b) If any stage 2 LPT nozzle lock assembly stud is loose or missing, replace all of the stage 2 LPT nozzle lock assemblies with new nozzle lock assemblies before the further flight.

Repetitive Inspection of Stage 2 LPT Nozzle Lock Assemblies

(c) Thereafter, visually inspect the stage 2 LPT nozzle lock assemblies for loose or missing studs within the following times-since-last-inspection (TSLI) information about on-wing visual inspections may be found in the appropriate AMM:

Time on lock assembly	Repetitive inspection
(1) 5,500 or fewer hours TSN.	500 hours TSLI.
(2) Greater than 5,500 hours TSN or if TSN is not known.	250 hours TSLI.

(d) If any stage 2 LPT nozzle lock assembly stud is loose or missing, place all of the stage 2 LPT nozzle lock assemblies with new nozzle lock assemblies before further flight.

Replacement of Borescope Plug

(e) On engines with lock assemblies that have the following times on the effective date of this AD, remove the existing stage 2 LPT nozzle borescope plug, part number P/N 9022M63G13, and install borescope plug P/N 2083M99P01, or a plug with the alternate P/N's 305–381–303–0 or 2110M79P01, in accordance with the Accomplishment Instructions 3.A through 3.B.(7) of GE alert service bulletin (ASB) CF6–50 72–A1196, dated September 15, 2000:

Time on lock assembly	Install borescope plug within the earlier of
(1) 5,500 or fewer hours TSN on the effective date of this AD.	500 hours TIS or 60 days after the effective date of this AD.
(2) Greater than 5,500 hours TSN on the effective date of this AD.	250 hours TIS or 30 days after the effective date of this AD.

(f) Do not install borescope plug P/N 9022M63G13 in the borescope inspection port for the stage 2 LPT nozzle after the plug has been replaced in accordance with paragraph (e) of this AD.

Inspection for Buckling and Cracks

(g) For engines on which the borescope plug has been replaced in accordance with paragraph (e) of this AD, visually inspect the LPT stator case assembly around the stage 2 LPT borescope inspection port boss each time the lock assemblies are inspected, as specified in paragraph (c) of this AD, for evidence of buckling or cracks. If buckling or cracks are found, replace the LPT stator case assembly before further flight with a serviceable case.

Alternative Methods of Inspection

(h) An alternative method of compliance of adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators shall

submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(i) Special flights 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 aircraft to a location where the requirements of this AD can be accomplished.

Documents That Have Been Incorporated by Reference

(j) The borescope plug replacement must be done in accordance with GE ASB CF6–50 72C–A1196, dated September 15, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone (513) 672–8400, fax (513) 672–8422. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Effective Date

(k) This amendment becomes effective on October 17, 2000.

Issued in Burlington, Massachusetts, on September 21, 2000.

Mark C. Fulmer,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 00–24901 Filed 9–29–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–21–AD; Amendment 39–11917; AD 2000–20–06]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Model A109K2 and A109E Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for Agusta S.p.A. (Agusta) Model A109K2 and A109E helicopters. This AD requires replacing a certain main transmission aft support fitting (aft support fitting) with an airworthy aft support fitting within specified time intervals and establishes a retirement life for certain aft support fittings. This AD is prompted by three failures of the engine to main gearbox drive shaft due to fatigue cracks on the aft support fittings. This condition, if not corrected, could result in excessive displacement of the main gearbox, failure of an engine to main gearbox drive shaft, loss of power to the main rotor, and a subsequent forced landing.

DATES: Effective October 17, 2000.

Comments for inclusion in the Rules Docket must be received on or before December 1, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–21–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.

FOR FURTHER INFORMATION CONTACT: Uday Garadi, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5123, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: The Ente Nazionale per l'Aviazione Civile (ENAC), which is the airworthiness authority for Italy, notified the FAA that an unsafe condition may exist on Agusta Model A109K2 and A109E helicopters. The ENAC advises replacing certain support fittings.

Agusta has issued Alert Bollettino Tecnico (Technical Bulletin) No. 109K–25 and No. 109EP–7, both dated March 3, 2000, which specify replacing the left and right aft aluminum support fittings with improved steel support fittings and establishes a new retirement life for the aluminum support fittings installed on the aft end of the main transmission. The ENAC classified those technical bulletins as mandatory and issued AD No. 2000–128, dated March 6, 2000, to assure the continued airworthiness of these helicopters in Italy.

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

The FAA has identified an unsafe condition that is likely to exist or develop on other Agusta Model A109K2 and A109E helicopters of the same type designs registered in the United States. This AD is being issued to prevent cracks on the aft support fittings that could result in excessive displacement of the main gearbox, failure of an engine to main gearbox drive shaft, loss of power to the main rotor, and a subsequent forced landing. This AD requires replacing any aft support fitting, P/N 109–0325–08–01, with an airworthy support fitting, P/N 109–0325–08–109, within specified time intervals and establishes a retirement life of 150 hours TIS for support fittings, P/N 109–0325–08–01, installed on the aft end of the main transmission. Installing the support fittings, P/N 109–0325–08–109, constitutes terminating action for the requirements of this AD. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity of the helicopter. Therefore, replacing certain support fittings with 140 hours TIS or more is required within 10 hours TIS, and this AD must be issued immediately.

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

The FAA estimates that 4 helicopters will be affected by this AD, that it will take approximately 9 work hours per Agusta Model A109E helicopter and 6 work hours per Agusta Model A109K2 helicopter to replace the support fittings, and that the average labor rate is $60 per work hour. The manufacturer has stated in the technical bulletins that labor will be reimbursed up to $40 per work hour for the Agusta Model A109E, and all required parts for both model helicopters will be provided under warranty. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,440.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by

submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their mailed 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. 2000–SW–21–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000—20–06 Agusta S.p.A.: Amendment 39–11917. Docket No. 2000–SW–21–AD.

Applicability: Model A109K2 with serial number (S/N) up to and including 10036 and Model A109E with S/N up to and including 11069, excluding A109E helicopters with serial number 11049, 11055, 11056, or 11067, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent a crack in a main transmission aft support fitting (aft support fitting) that could result in excessive displacement of the main gearbox, failure of an engine to main gearbox drive shaft, loss of power to the main rotor, and a subsequent forced landing, accomplish the following:

(a) Remove each main transmission aft support fitting, part number (P/N) 109–0325–08–01 and replace it with an airworthy support fitting, P/N 109–0325–08–109, as follows:

(1) For an aft support fitting, P/N 109–0325–08–01, with less than 140 hours time-in-service (TIS), replace it at or before 150 hours TIS.

(2) For an aft support fitting, P/N 109–0325–08–01, with 140 or more hours TIS, replace it within 10 hours TIS.

Note 2: Agusta Alert Bollettino Tecnico (Technical Bulletin) No. 109K–25 and No. 109EP–7, both dated March 3, 2000, pertain to the subject of this AD.

(b) This AD revises the Airworthiness Limitations Section of the applicable maintenance manual by establishing a life limit of 150 hours TIS for the aft support fitting, P/N 109–0325–08–01.

(c) Replacing all aft support fittings, P/N 109–0325–08–01, with support fittings, P/N 109–0325–08–109, constitutes terminating action for the requirements of this AD.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

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

(f) This amendment becomes effective on October 17, 2000.

Note 4: The subject of this AD is addressed in Ente Nazionale per l'Aviazione Civile (Italy) AD No. 2000–128, dated March 6, 2000.

Issued in Fort Worth, Texas, on September 25, 2000.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00–25151 Filed 9–29–00; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

RIN 3038–AB60

Profile Documents for Commodity Pools

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission (''CFTC'' or ''Commission'') is adopting amendments to its rules to permit commodity pool operators (''CPOs'') to provide a summary profile document to prospective commodity pool participants prior to giving them the pool's complete disclosure document. Certain technical changes to rules relating to CPOs and commodity trading advisors (''CTAs'') are also being adopted.

EFFECTIVE DATE: November 1, 2000.

FOR FURTHER INFORMATION CONTACT: Eileen R. Chotiner, Futures Trading Specialist, (202) 418–5467, electronic mail: ''echotiner@cftc.gov,'' Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION: On July 27, 2000, the Commission proposed to amend its rules to allow CPOs to use a profile document to solicit prospective commodity pool participants prior to providing them with the pool's Disclosure Document.[1] The Commission also proposed amendments to Commission Rule 4.26 to establish procedures for the use, amendment and filing of profile documents that are parallel to those applicable to disclosure documents. The proposed rule changes are intended to accommodate National Futures Association's (''NFA'') proposed Compliance Rule 2–35(d). In addition, certain technical amendments related to filings by CPOs and commodity trading advisors (''CTAs'') were proposed.

The 30-day comment period expired on August 28, 2000. The Commission received one comment letter, from NFA, which supported the proposed rule changes. Accordingly, the Commission has determined to adopt the changes to Rules 4.2, 4.21, 4.26 and 4.36, essentially as proposed.

Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–611 (1994), requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the RFA.[2] The Commission previously has determined that registered CPOs are not small entities for the purpose of the RFA.[3] With respect to CTAs, the Commission has stated that it would evaluate within the context of a particular rule proposal which all or some affected CTAs would be considered to be small entities and, if so, the economic impact on them of any rule.[4] In this regard, the Commission notes that the sole effect on CTAs of the rule revisions adopted herein is to reduce the filing requirement for disclosure documents. The Commission has previously determined that the disclosure requirements governing this category of registrant will not have a significant economic impact on a substantial number of small entities.[5] Therefore, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that these regulations will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

This rule (Sections 4.31 and 4.33) contains information collection requirements. As required by the Paperwork Reduction Act of 1995,[6] the Commission has submitted a copy of this rule to the Office of Management and Budget (OMB) for its review.[7] In response to the Commission's invitation in the proposed rulemaking to comment on any potential paperwork burden associated with this regulation, no comments were received.

List of Subjects in 17 CFR Part 4

Brokers, Commodity futures, Commodity pool operators, Commodity trading advisors.

For the reasons stated in the preamble, the Commission amends 17 CFR Part 4 as follows:

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

1. The authority citation for Part 4 continues to read as follows: Authority: 7 U.S.C. 1a, 2, 4, 6b, 6c, 6l, 6m, 6n, 6o, 12a and 23.

2. Section 4.2 is amended by revising paragraph (a) to read as follows:

§ 4.2 Requirements as to filing.

(a) All material filed with the Commission under this part 4 must be filed with the Commission at its Washington, DC office (Att: Managed Funds Branch, Division of Trading and Markets, CFTC, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581); Provided, however, that Disclosure Documents, profile documents, and amendments thereto may be filed at the following electronic mail address: *ddoc-efile@cftc.gov.*

* * * * *

3. Section 4.21 is amended by revising paragraph (a) to read as follows:

§ 4.21 Required delivery of pool Disclosure Document.

(a)(1) No commodity pool operator registered or required to be registered under the Act may, directly or indirectly, solicit, accept or receive funds, securities or other property from a prospective participant in a pool that it operates or intends to operate unless, on or before the date it engages in that activity, the commodity pool operator delivers or causes to be delivered to the prospective participant a Disclosure Document for the pool containing the information set forth in § 4.24.

(2) Notwithstanding the requirements regarding solicitation specified in paragraph (a)(1) of this section, a commodity pool operator may provide to a prospective participant either of the following documents prior to delivery of a Disclosure Document, subject to compliance with rules promulgated by a registered futures association pursuant to section 17(j) of the Act:

(i) A profile document;

(ii) Where the prospective participant is an accredited investor, as defined in 17 CFR 230.501(a), a notice of intended offering and statement of the terms of the intended offering.

* * * * *

4. Section 4.26 is amended by revising paragraphs (a), (b) and (d) to read as follows:

§ 4.26 Use, amendment and filing of Disclosure Document.

(a)(1) Subject to paragraph (c) of this section, all information contained in the Disclosure Document and, where used, profile document, must be current as of the date of the Document; Provided, however, that performance information may be current as of a date not more than three months prior to the date of the Document.

(2) No commodity pool operator may use a Disclosure Document or profile document dated more than nine months prior to the date of its use.

(b)(1) If the commodity pool operator knows or should know that the Disclosure Document or profile document is materially inaccurate or incomplete in any respect, it must correct that defect and must distribute the correction to:

(i) All existing pool participants within 21 calendar days of the date upon which the pool operator first knows or has reason to know of the defect; and

(ii) Each previously solicited prospective pool participant prior to accepting or receiving funds, securities or other property from any such prospective participant.

(2) The pool operator may furnish the correction by any of the following means:

(i) An amended Disclosure Document or profile document;

[1] 65 FR 46122 (July 27, 2000).

[2] 47 FR 18618–18621 (April 30, 1982).

[3] 47 FR 18619–18620.

[4] 47 FR 18618–18620.

[5] *See* 60 FR 38146, 38181 (July 25, 1995) and 48 FR 35248 (August 3, 1983).

[6] Pub. L. 104–13 (May 13, 1995).

[7] 44 U.S.C. 3504(h).

(ii) With respect to a hard copy of the Disclosure Document, a sticker affixed to the Disclosure Document; or

(iii) Other similar means.

(3) The pool operator may not use the Disclosure Document or profile document until such correction has been made.

* * * * *

(d) Except as provided by § 4.8:

(1) The commodity pool operator must file with the Commission one copy of the Disclosure Document and, where used, profile document for each pool that it operates or that it intends to operate not less than 21 calendar days prior to the date the pool operator first intends to deliver such Document or documents to a prospective participant in the pool; and

(2) The commodity pool operator must file with the Commission one copy of the subsequent amendments to the Disclosure Document and, where used, profile document for each pool that it operates or that it intends to operate within 21 calendar days of the date upon which the pool operator first knows or has reason to know of the defect requiring the amendment.

5. Section 4.36 is amended by revising paragraph (d) to read as follows:

§ 4.36 Use, amendment and filing of Disclosure Document.

* * * * *

(d)(1) The commodity trading advisor must file with the Commission one copy of the Disclosure Document for trading program that it offers or that it intends to offer not less than 21 calendar days prior to the date the trading advisor first intends to deliver the Document to a prospective client in the trading program; and

(2) The commodity trading advisor must file with the Commission one copy of the subsequent amendments to the Disclosure Document for each trading program that it offers or that it intends to offer within 21 calendar days of the date upon which the trading advisor first knows or has reason to know of the defect requiring the amendment.

Issued in Washington, DC, on September 25, 2000 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–24984 Filed 9–29–00; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8904]

RIN 1545–AX38

Treatment of Nonqualified Preferred Stock and Other Preferred Stock in Certain Exchanges and Distributions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to nonqualified preferred stock. The regulations address the effective date of the definition of nonqualified preferred stock and the treatment of nonqualified preferred stock and similar preferred stock received by shareholders in certain corporate reorganizations and distributions. The regulations are necessary to reflect changes to the law concerning these types of preferred stock that were made by the Taxpayer Relief Act of 1997.

EFFECTIVE DATE: These regulations are effective October 2, 2000.

FOR FURTHER INFORMATION CONTACT: Richard E. Coss, (202) 622–7790 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

On January 26, 2000, the IRS and Treasury published in the **Federal Register** a notice of proposed rulemaking (REG–105089–99, 2000–6 I.R.B. 580 [65 FR 4203]) relating to nonqualified preferred stock (as defined in section 351(g)(2) of the Internal Revenue Code) (NQPS). The proposed regulations address the effective date of the definition of NQPS, and provide rules exempting from treatment as NQPS certain preferred stock received by shareholders in corporate reorganizations and distributions subject to sections 354, 355, and 356.

No comments responding to the notice of proposed rulemaking were submitted, and no public hearing was requested or held. However, one commentator suggested that the rule in the proposed regulations interpreting section 351(g)(2)(C)(i)(II) (relating to preferred stock transferred in connection with the performance of services) should be expanded to include transactions subject to section 351.

The IRS and Treasury agree with this suggestion. Accordingly, these final regulations extend the exemption from treatment as NQPS in § 1.356–7(c) to preferred stock received by shareholders in certain stock exchanges under section 351. The proposed regulations are adopted as revised by this Treasury decision.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Richard E. Coss of the Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding the following entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.351–2 also issued under 26 U.S.C. 351(g)(4).

Section 1.354–1 also issued under 26 U.S.C. 351(g)(4).

Section 1.355–1 also issued under 26 U.S.C. 351(g)(4).

Section 1.356–7 also issued under 26 U.S.C. 351(g)(4). * * *

Section 1.1036–1 also issued under 26 U.S.C. 351(g)(4). * * *

Par. 2. Section 1.351–2 is amended by adding paragraph (e) to read as follows:

§ 1.351–2 Receipt of property.

* * * * *

(e) See § 1.356–7(a) for the applicability of the definition of

nonqualified preferred stock in section 351(g)(2) for stock issued prior to June 9, 1997, and for stock issued in transactions occurring after June 8, 1997, that are described in section 1014(f)(2) of the Taxpayer Relief Act of 1997, Public Law 105–34 (111 Stat. 788, 921). See § 1.356–7(c) for the treatment of preferred stock received in certain exchanges for common or preferred stock described in section 351(g)(2)(C)(i)(II).

Par. 3. Section 1.354–1 is amended by adding paragraph (f) to read as follows:

§ 1.354–1 Exchanges of stock and securities in certain reorganizations.

* * * * *

(f) See § 1.356–7(a) and (b) for the treatment of nonqualified preferred stock (as defined in section 351(g)(2)) received in certain exchanges for nonqualified preferred stock or preferred stock. See § 1.356–7(c) for the treatment of preferred stock received in certain exchanges for common or preferred stock described in section 351(g)(2)(C)(i)(II).

Par. 4. Section 1.355–1 is amended by adding paragraph (d) to read as follows:

§ 1.355–1 Distribution of stock and securities of a controlled corporation.

* * * * *

(d) *Nonqualified preferred stock.* See § 1.356–7(a) and (b) for the treatment of nonqualified preferred stock (as defined in section 351(g)(2)) received in certain exchanges for (or in certain distributions with respect to) nonqualified preferred stock or preferred stock. See § 1.356–7(c) for the treatment of the receipt of preferred stock in certain exchanges for (or in certain distributions with respect to) common or preferred stock described in section 351(g)(2)(C)(i)(II).

Par. 5. Section 1.356–7 is added to read as follows:

§ 1.356–7 Rules for treatment of nonqualified preferred stock and other preferred stock received in certain transactions.

(a) *Stock issued prior to effective date.* Stock described in section 351(g)(2) is nonqualified preferred stock (NQPS) regardless of the date on which the stock is issued. However, sections 351(g), 354(a)(2)(C), 355(a)(3)(D), 356(e), and 1036(b) do not apply to any transaction occurring prior to June 9, 1997, or to any transaction occurring after June 8, 1997, that is described in section 1014(f)(2) of the Taxpayer Relief Act of 1997, Public Law 105–34 (111 Stat. 788, 921). For purposes of this section, preferred stock that is not NQPS is referred to as Qualified Preferred Stock (QPS).

(b) *Receipt of preferred stock in exchange for (or distribution on) substantially identical preferred stock*—(1) *General rule.* For purposes of sections 354(a)(2)(C)(i), 355(a)(3)(D), and 356(e)(2), preferred stock is QPS, even though it is described in section 351(g)(2), if it is received in exchange for (or in a distribution with respect to) preferred stock (the original preferred stock) that is QPS, provided—

(i) The original preferred stock is QPS solely because, on its issue date, either a right or obligation described in clause (i), (ii), or (iii) of section 351(g)(2)(A) was not exercisable until after a 20-year period beginning on the issue date, or the right or obligation was exercisable within the 20-year period beginning on the issue date but was subject to a contingency which made remote the likelihood of the redemption or purchase, or the issuer's (or a related party's) right to redeem or purchase the stock was not more likely than not to be exercised within a 20-year period beginning on the issue date, or because of any combination of these reasons; and

(ii) The stock received is substantially identical to the original preferred stock.

(2) *Substantially identical.* The stock received is substantially identical to the original preferred stock if—

(i) The stock received does not contain any term or terms that, in relation to any term or terms of the original preferred stock, either decrease the period in which a right or obligation described in clause (i), (ii), or (iii) of section 351(g)(2)(A) can be exercised, or increase the likelihood that such a right or obligation will be exercised, or accelerate the timing of the returns from the stock instrument, including the timing of actual or deemed dividends or other distributions received on the stock; and

(ii) As a result of the exchange or distribution, exercise of the right or obligation does not become more likely than not to occur within a 20-year period beginning on the issue date of the original preferred stock.

(3) *Treatment of stock received.* The stock received will continue to be treated as QPS in subsequent transactions involving such stock, and the principles of this paragraph (b) apply to such transactions as though the stock received is the original preferred stock issued on the same date as the original preferred stock.

(c) *Stock transferred for services.* For purposes of sections 351(g)(1), 354(a)(2)(C)(i), 355(a)(3)(D), and 356(e)(2), preferred stock containing a right or obligation described in clause (i), (ii) or (iii) of section 351(g)(2)(A) that is exercisable only upon the holder's separation from service from the issuer or a related person (as described in section 351(g)(3)(B)) will be treated as transferred in connection with the performance of services (and representing reasonable compensation) within the meaning of section 351(g)(2)(C)(i)(II), if such preferred stock is received in exchange for (or in a distribution with respect to) existing stock containing a similar right or obligation (exercisable only upon separation from service) and the existing stock was transferred in connection with the performance of services for the issuer or a related person (and represented reasonable compensation when transferred). In applying the rules relating to NQPS, the preferred stock received will continue to be treated as transferred in connection with the performance of services (and representing reasonable compensation) in subsequent transactions involving such stock, and the principles of this paragraph (c) apply to such transactions.

(d) *Rights to acquire stock.* For purposes of § 1.356–6, the principles of paragraphs (a), (b), and (c) of this section apply.

(e) *Examples.* In the examples in this paragraph (e), T and P are corporations, A is a shareholder of T, and A surrenders and receives (in addition to the stock exchanged in the examples) common stock in the reorganizations described. The following examples illustrate paragraphs (a), (b), and (c) of this section:

Example 1. In 1995, A transfers property to T and receives T preferred stock that is described in section 351(g)(2) in a transaction under section 351. In 2002, pursuant to a reorganization under section 368(a)(1)(B), A surrenders the T preferred stock in exchange for P NQPS. Under paragraph (a) of this section, the T preferred stock issued to A in 1995 is NQPS. However, because section 351(g) does not apply to transactions occurring before June 9, 1997, the T NQPS was not ''other property'' within the meaning of section 351(b) when issued in 1995. Under sections 354(a)(2)(C) and 356(e)(2), the P NQPS received by A in 2002 is not ''other property'' within the meaning of section 356(a)(1)(B) because it is received in exchange for NQPS.

Example 2. T issues QPS to A on January 1, 2000 that is not NQPS solely because the holder cannot require T to redeem the stock until January 1, 2022. In 2007, pursuant to a reorganization under section 368(a)(1)(A) in which T merges into P, A surrenders the T preferred stock in exchange for P preferred stock with terms that are identical to the terms of the T preferred stock, including the term that the holder cannot require the redemption of the stock until January 1, 2022. Because the P stock and the T stock have identical terms, and because the

redemption did not become more likely than not to occur within the 20-year period that begins on January 1, 2000 (which is the issue date of the T preferred stock) as a result of the exchange, under paragraph (b) of this section, the P preferred stock received by A is treated as QPS. Thus, the P preferred stock received is not ''other property'' within the meaning of section 356(a)(1)(B).

Example 3. The facts are the same as in *Example 2,* except that, in addition, in 2010, pursuant to a recapitalization of P under section 368(a)(1)(E), A exchanges the P preferred stock above for P NQPS that permits the holder to require P to redeem the stock in 2020. Under paragraph (b) of this section, the P preferred stock surrendered by A is treated as QPS. Because the P preferred stock received by A in the recapitalization is not substantially identical to the P preferred stock surrendered, the P preferred stock received by A is not treated as QPS. Thus, the P preferred stock received is ''other property'' within the meaning of section 356(a)(1)(B).

Example 4. T issues preferred stock to A on January 1, 2000 that permits the holder to require T to redeem the stock on January 1, 2018, or at any time thereafter, but which is not NQPS solely because, as of the issue date, the holder's right to redeem is subject to a contingency that makes remote the likelihood of redemption on or before January 1, 2020. In 2007, pursuant to a reorganization under section 368(a)(1)(A) in which T merges into P, A surrenders the T preferred stock in exchange for P preferred stock with terms that are identical to the terms of the T preferred stock. Immediately before the exchange, the contingency to which the holder's right to cause redemption of the T stock is subject makes remote the likelihood of redemption before January 1, 2020, but the P stock, although subject to the same contingency, is more likely than not to be redeemed before January 1, 2020. Because, as a result of the exchange of T stock for P stock, the exercise of the redemption right became more likely than not to occur within the 20-year period beginning on the issue date of the T preferred stock, the P preferred stock received by A is not substantially identical to the T stock surrendered, and is not treated as QPS. Thus, the P preferred stock received is ''other property'' within the meaning of section 356(a)(1)(B).

Example 5. The facts are the same as in *Example 4,* except that, immediately before the merger of T into P in 2007, the contingency to which the holder's right to cause redemption of the T stock is subject makes it more likely than not that the T stock will be redeemed before January 1, 2020. Because exercise of the redemption right did not become more likely than not to occur within the 20-year period beginning on the issue date of the T preferred stock as a result of the exchange, the P preferred stock received by A is substantially identical to the T stock surrendered, and is treated as QPS. Thus, the P preferred stock received is not ''other property'' within the meaning of section 356(a)(1)(B).

Example 6. A is an employee of T. In connection with A's performance of services for T, T transfers to A in 2000 an amount of T common stock that represents reasonable compensation. The T common stock contains a term granting A the right to require T to redeem the common stock, but only upon A's separation from service from T. In 2005, pursuant to a reorganization under section 368(a)(1)(A) in which T merges into P, A receives, in exchange for A's T common stock, P preferred stock granting a similar redemption right upon A's separation from P's service. Under paragraph (c) of this section, the P preferred stock received by A is treated as transferred in connection with the performance of services (and representing reasonable compensation) within the meaning of section 351(g)(2)(C)(i)(II). Thus, the P preferred stock received by A is QPS.

(f) *Effective dates.* This section applies to transactions occurring on or after October 2, 2000.

Par. 6. Section 1.1036–1 is amended by adding paragraph (d) to read as follows:

§ 1.1036–1 Stock for stock of the same corporation.

* * * * *

(d) *Nonqualified preferred stock.* See § 1.356–7(a) for the applicability of the definition of nonqualified preferred stock in section 351(g)(2) for stock issued prior to June 9, 1997, and for stock issued in transactions occurring after June 8, 1997, that are described in section 1014(f)(2) of the Taxpayer Relief Act of 1997, Public Law 105–34 (111 Stat. 788, 921).

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: September 25, 2000.

Jonathan Talisman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 00–25258 Filed 9–29–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–00–043]

RIN 2115–AE46

Special Local Regulations for Marine Events; Fountain Power Boats Offshore Race, Pamlico River, Washington, North Carolina

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is adopting temporary special local regulations during the Fountain Power Boats Offshore Race, to be held October 13, 14 and 15, 2000, on the waters of the Pamlico River, Washington, North Carolina. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Pamlico River during the event.

DATES: This rule is effective from 6 a.m. on October 13, 2000, to 5 p.m. on October 15, 2000.

ADDRESSES: Comments and materials received from the public as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–00–043 and are available for inspection or copying at Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: S. L. Phillips, Marine Events Coordinator, Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, telephone number (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

A notice of proposed rulemaking (NPRM) was not published for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM and for making the rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard received confirmation of the request for special local regulations on August 24, 2000. We were notified of the event with insufficient time to publish a NPRM, allow for comments, and publish a final rule prior to the event.

Background and Purpose

On October 13, 14, and 15, 2000, Fountain Power Boats will sponsor the Fountain Power Boats Offshore Race, on the Pamlico River, Washington, North Carolina. The event will consist of approximately 50 high speed power boats racing in heats along a 5 mile oval course. A fleet of spectator vessels is anticipated. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Discussion of Regulations

The Coast Guard is establishing temporary special local regulations on specified waters of the Pamlico River. The temporary special local regulations will be enforced from 6 a.m. to 5 p.m. on October 13, 14 and 15, 2000. The effect will be to restrict general navigation in the regulated area during

the event. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. The Patrol Commander will allow non-participating vessels to transit the regulated area between races. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

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).

We expect the economic impact of this temporary final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation prevents traffic from transiting a portion of the Pamlico River during the event, the effect of this regulation will not be significant due to the limited duration of the regulation and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), 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.

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.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the effected portions of the Pamlico River during the event.

Although this regulation prevents traffic from transiting or anchoring in a portion of the Pamlico River during the event, the effect of this regulation will not be significant because of its limited duration and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those 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 Executive Order 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 Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Environment

We prepared an ''Environmental Assessment'' in accordance with Commandant Instruction M16475.1C and determined that this rule will not significantly affect the quality of the human environment. The ''Environmental Assessment'' and ''Finding of No Significant Impact'' is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

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

Regulation

For the reasons discussed in the preamble, the Coast Guard amends Part 100 of Title 33, Code of Federal Regulations as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35–T05–043 is added to read as follows:

§ 100.35–T05–043 Fountain Power Boats Offshore Race, Pamlico River, Washington, North Carolina

(a) *Definitions—(1) Regulated Area.* The waters of the Pamlico River from shoreline to shoreline, bounded on the south by a line running northeasterly from Hills Point at latitude 35°28′30″ North, longitude 076°59′20″ West, to Broad Creek Point at latitude 33°29′05″ North, longitude 076°58′50″ West, and bounded on the north by the Norfolk Southern Railroad Bridge. All coordinates reference Datum NAD 1983.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Fort Macon.

(3) *Official Patrol.* The Official Patrol is any vessel assigned or approved by Commander, Coast Guard Group Fort Macon with a commissioned, warrant, or petty officer of the Coast Guard on board and displaying a Coast Guard ensign.

(b) *Special Local Regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in these areas shall:

(i) Stop the vessel immediately when directed to do so by any official patrol.

(ii) Proceed as directed by any official patrol.

(c) *Effective Dates.* This section will be effective from 6 a.m. on October 13, 2000 to 5 p.m. on October 15, 2000.

(d) *Enforcement Times.* This section will be enforced from 6 a.m. to 5 p.m. on October 13, 14 and 15, 2000.

Dated: September 15, 2000.

T.C. Paar,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 00–25269 Filed 9–29–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–00–218]

RIN 2115–AA97

Safety Zone: 2nd Annual Head to the New River Front Regatta, Hartford, Connecticut

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the 2nd Annual Head to the New River Front Regatta in the Connecticut River, Hartford, CT, on October 15, 2000. This action is needed to protect the vessels of the regatta, recreational and commercial vessels and their passengers and crews during the regatta. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

DATES: This rule is effective from 9 a.m. October 15, 2000 until 3 p.m., October 15, 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 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: MSTC Chris Stubblefield, Command Center, Long Island Sound at (203) 468–4428.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. The Coast Guard also finds good cause to make this rule effective less than 30 days after publication in the **Federal Register**. The sponsor of the event did not provide the Coast Guard with the final details for the event in sufficient time to publish a NPRM or a final rule 30 days in advance. The delay encountered if normal rulemaking procedures were followed would effectively cancel the event.

Background and Purpose

The River Front Recapture, Inc. is sponsoring a regatta from Connecticut River marker #138 to 1 nautical mile north of the Founders Bridge on October 15, 2000.

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. Although this regulation prevents traffic from transiting portions of the Connecticut River, the effect of this regulation will not be significant for several reasons: the duration of the safety zone is limited and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners and marine information broadcasts. Mariners will be able to adjust their plans accordingly based on the extensive advance information. Additionally, this safety zone has been narrowly tailored to impose the least impact on maritime interests yet provide the level of safety deemed necessary.

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.

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

The Coast Guard considered the environmental impact of this rule and

concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.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.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—[AMENDED]

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

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

2. Add temporary § 165.T01–CGD1–218 to read as follows:

§ 165.T01–CGD1–218 2nd Annual Head to the New River Front Regatta, Hartford, CT.

(a) *Location.* The safety zone includes all waters of the Connecticut River within the marked boundaries of the race course from Connecticut River marker #138 to 1 nautical mile north of the Founders Bridge.

(b) *Effective date.* This section is effective on October 15, 2000 from 9 a.m. until 3 p.m., October 15, 2000.

(c) (1) *Regulations.* The general regulations covering safety zones contained in § 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: September 20, 2000.

David P. Pekoske,

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

[FR Doc. 00–25268 Filed 9–29–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–00–217]

RIN 2115–AA97

Safety Zone: Weekly Fireworks, Dockside Restaurant, Port Jefferson Harbor, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the Weekly Fireworks, Dockside Restaurant, to be held in Port Jefferson Harbor, Port Jefferson, NY on the following dates: September 16, 23, 30, October 7, 14, 21, 28 and December 31, 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 9 p.m., September 16, 2000 until 10 p.m., December 31, 2000.

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 Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Chris Stubblefield, Command Center, Group/Marine Safety Office Long Island Sound, New Haven, CT (203) 468–4428.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. The Coast Guard also finds good cause to make this rule effective less than 30 days after publication in the **Federal Register**. The sponsor of the event did not provide the Coast Guard with the final details for the event in sufficient time to publish a NPRM or a final rule 30 days in advance. The delay encountered if normal rulemaking procedures were followed would effectively cancel the event. Cancellation of this event is contrary to the public interest since the fireworks display is for the benefit of the public.

Background and Purpose

The Dockside Restaurant, Port Jefferson, NY is sponsoring a fireworks display in Port Jefferson Harbor, Port Jefferson, NY. The fireworks display will occur on the following dates: September 16, 23, 30, October 7, 14, 21, 28 and December 31, 2000. The safety zone covers all waters of Port Jefferson Harbor within a 600 foot radius of the fireworks launching area which will be located in approximate position: 40° – 57′38″N, 073° – 04′47″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. This safety zone involves only a portion of Port Jefferson Harbor and entry into this zone will be restricted for only 60 minutes on September 16, 23, 30, October 7, 14, 21, 28 and December 31, 2000. Although this regulation prevents traffic from transiting this section of Port Jefferson Harbor, 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 are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605 (b) that this rule will not have a significant impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Port Jefferson Harbor from 9 p.m. until 10 p.m. on September 16, 23, 30, October 7, 14, 21, 28, and December 31, 2000. This safety zone will not have a significant economic impact on a substantial number of small entities for the following 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.

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 the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If your small business or organization would be affected by this rule and you have any questions concerning its provisions or options for compliance, please call Chief Chris Stubblefield at (203) 468–4428. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government 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, Government 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 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 rule 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 ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under Addresses.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), 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.

2. Add temporary § 165.T01–CGD1–217 to read as follows:

§ 165.T01–CGD1–217 Weekly Fireworks, Dockside Restaurant, Port Jefferson Harbor, Port Jefferson, NY.

(a) *Location.* The safety zone includes all waters of Port Jefferson Harbor within a 600 foot radius of the launch site located in Port Jefferson Harbor, Port Jefferson, NY in approximate position 40°57′38″N, 73°04′47″W (NAD 1983).

(b) *Enforcement period.* This section will be enforced from 9 p.m. until 10 p.m. on the following dates: September 16, 23, 30, October 7, 14, 21, 28 and until 9 p.m., December 31, 2000.

(c) (1) *Regulations.* The general regulations covering safety zones contained in § 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.

(d) *Effective date.* This section is effective from 9 p.m., September 16, 2000 until 10 p.m., December 31, 2000.

Dated: September 15, 2000.

David P. Pekoske,

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

[FR Doc. 00–25267 Filed 9–29–00; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6873–3]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Kassauf-Kimerling Battery Disposal Superfund Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) Region 4 announces the deletion of the Kassauf-Kimerling Battery Disposal Superfund Site from the National Priorities List (NPL). The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental

Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the Florida Department of Environmental Protection (FDEP) have determined that the Site poses no significant threat to public health or the environment and therefore, further response measures pursuant to CERCLA are not appropriate.

EFFECTIVE DATE: October 2, 2000.

ADDRESSES: Comprehensive information on this site is available through the EPA Region 4 public docket, which is available for viewing at the information repositories at two locations. Locations, contacts, phone numbers and viewing hours are: Record Center, U.S. EPA Region 4, 61 Forsyth Street, Atlanta, Georgia 30303–8909, (404) 562–9530, hours: 8 a.m. to 4 p.m., Monday through Friday by appointment only; Tampa/Hillsborough County Public Library/Special Collections, 900 North Ashley, Tampa, Florida 33602, (813) 273–3652, hours: 9 a.m. to 9 p.m., Monday through Thursday, 9 a.m. to 5 p.m., Friday through Saturday.

FOR FURTHER INFORMATION CONTACT: Mindy Gardner, U.S. EPA Region 4, Waste Management Division, 61 Forsyth Street, Atlanta, Georgia 30303–8909, (404) 562–8907 or by electronic mail at *gardner.mindy@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA announces the deletion of the Kassauf-Kimerling Battery Disposal Superfund Site in Tampa, Hillsborough County, Florida from the NPL, which constitutes appendix B of 40 CFR part 300. EPA published a Notice of Intent to Delete the Kassauf-Kimerling Battery Disposal Superfund Site from the NPL on August 5, 1999 in the **Federal Register** (64 FR 42630). EPA received no comments on the proposed deletion; therefore, no responsiveness summary is necessary for this Notice of Deletion.

EPA identifies sites on the NPL that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substances Superfund Response Trust Fund (Fund). Pursuant to 40 CFR 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed Remedial Actions if conditions at the site warrant such action. Deletion of a site from the NPL does not affect the responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Environmental protection, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: October 5, 1999.

A. Stanley Meiburg,

Deputy Regional Administrator, Region 4.

Note: The Office of the Federal Register received this document on September 18, 2000.

For reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.; p. 351: E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.; p.193.

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the site ''Kassauf-Kimerling Battery Disposal,'' Tampa, Florida.

[FR Doc. 00–24307 Filed 9–29–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[CC Docket No. 94–102; FCC 00–326]

Wireless Radio Services; Compatibility with Enhanced 911 Emergency Calling Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration.

SUMMARY: The Commission, in this document makes adjustments to the deployment schedule that must be followed by wireless carriers that choose to implement enhanced 911 Phase II service using a handset-based technology. This document also defers the date for initial distribution of Automatic Location Identification (ALI)-capable handsets by seven months, adjusts the timetable for carriers to meet certain interim benchmarks for activating new ALI-capable handsets, defers the date by which a carrier must achieve full penetration of ALI-capable handsets by one year, modifies the manner in which the Commission defines full penetration, eliminates the separate handset phase-in schedule triggered by a request from a Public Safety Answering Point, and addresses several other issues regarding implementation of enhanced 911 Phase II. These actions are taken in response to petitions for reconsideration of the Third Report and Order in this proceeding.

DATES: Effective November 1, 2000.

ADDRESSES: A copy of any comments on the information collection contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Dan Grosh, 202–418–1310. For further information concerning the information collection contained in this Fourth Memorandum Opinion and Order, contact Judy Boley, Federal Communications Commission, 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Fourth Memorandum Opinion and Order (MO&O) in CC Docket No. 94–102; FCC 00–326, adopted August 24, 2000, and released September 8, 2000. The complete text of the MO&O and the Supplemental Final Regulatory Flexibility Analysis is available on the Commission's Internet site, at *www.fcc.gov.,* and is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC. The text may also be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), CY–B400, 445 12th Street, SW., Washington, DC.

The procedures regarding submission of waivers of the Phase II requirements contain information collection requirements that are not effective until approved by the Office of Management and Budget. Public comment on the information collections in the waiver requirements are due December 1, 2000, and comments by the Office of Management and Budget are due January 30, 2001. The Commission will publish a document in the **Federal Register** announcing OMB approval of these burdens.

Synopsis of the Fourth Memorandum Opinion and Order

1. In this MO&O, in response to petitions for reconsideration of the Third Report and Order in this proceeding (64 FR 60126, November 4, 1999), the Commission makes certain changes to its wireless enhanced 911 (E911) rules aimed at facilitating full compliance with those rules on a nationwide basis. This MO&O is

particularly concerned with implementation of Phase II of the Commission's E911 program.

2. Specifically, the MO&O first makes adjustments to the deployment schedule that must be followed by wireless carriers that choose to implement E911 Phase II service using a handset-based technology. While the Commission retains October 1, 2001, as the implementation date for E911 Phase II, it defers the date for initial distribution of Automatic Location Identification (ALI)-capable handsets by seven months, and adjusts the timetable for carriers to meet certain interim benchmarks for activating new ALI-capable handsets. In this regard, the MO&O extends from March 1, 2001, to October 1, 2001, the date for carriers to begin selling and activating ALI-capable handsets.

3. In taking these actions, the Commission disagrees with those petitioners who seek substantial delays in the handset deployment schedule, instead finding that the public interest and the public safety do not support a substantial delay in the current handset deployment schedule. Even if some major handset manufacturers prove unable or unwilling to produce ALI-capable handsets in the near future, the Commission believes that the public safety will be better served if carriers area required to deploy other available ALI solutions, including GPS handsets that may be available from other manufacturers, according to the timetable set in the MO&O. To allow the lengthy delay requested by some parties, the Commission finds, would jeopardize the progress made to date in the development of ALI solutions. These issues are discussed in more detail in paragraphs 24 through 30 of the full text of the MO&O.

4. While the Commission concludes that substantial changes in the current schedule are not justified, it does find good cause to make some changes in the handset schedule to allow a more realistic opportunity for deployment of handset-based solutions. Thus, the MO&O eliminates the separate phase-in schedule that is triggered by a Public Safety Answering Point (PSAP) request.

5. The MO&O next extends by seven months the date for initial distribution of ALI-capable handsets. The Commission believes that the current March 1, 2001, date may be difficult to meet and, as discussed in paragraph 33 of the full text of the MO&O, and revises the schedule to require that carriers employing a handset-based solution begin making ALI-capable handsets available for sale no later than October 1, 2001. Further, these initial handsets need not be the same types or brands as those that carriers plan to offer later in the year, or in future years.

6. Next the Commission adopts the following revised phase-in schedule:

- December 31, 2001: At least 25 percent of all new handsets activated are to be ALI-capable;
- June 30, 2002: 50 percent of all new handsets activated are to be ALI-capable;
- December 31, 2002, and thereafter: 100 percent of all new digital handsets activated are to be ALI-capable.

As is the case currently, this requirement applies only to the activation of newly-purchased handsets, not to handsets already in use. Consumers will continue to be able to use their existing phones, and to switch service to other carriers or to other operating areas.

7. Next, the Commission concludes that the final step in the current schedule for handset solutions should be modified in two respects. First, the MO&O extends the timeframe for carriers to reach full penetration of ALI-capable handsets by an additional year, by moving the deadline from December 31, 2004, to December 31, 2005. Second, the MO&O adopts a requirement that carriers achieve 95 percent penetration of ALI-capable handsets by the December 31, 2005, date, rather than that they employ ''reasonable efforts'' to achieve 100 percent penetration.

8. The MO&O, in paragraphs 42 through 45, considers the Commission's policy on waiver requests. Generally, the Commission's rule may be waived for good cause shown. Waiver is only appropriate, however, if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest. In those particular cases where waivers may be justified, broad, generalized waivers should not be necessary and will not be granted. The Commission expects waiver requests to be specific, focused and limited in scope, and with a clear path to full compliance. Further, carriers should undertake concrete steps necessary to come as close as possible to full compliance, and should document their efforts aimed at compliance in support of any waiver requests. Carriers seeking a waiver will be expected to specify the solutions they considered and explain why none could be employed in a way that complied with the Phase II rules. If deployment is scheduled, but for some reason must be delayed, the carrier should specify the reason for the delay and provide a revised schedule. It is not sufficient for a carrier to undertake a minimalist approach, in which the carrier conducts certain tests, decides that the tests do not definitively demonstrate that the technologies tested will satisfy the Commission's requirements in all situations, and as a result, declines to implement any ALI solution. In view of the importance of the Commission's E911 rules to public safety, the Commission expects to take any steps necessary to ensure that carriers take their obligations seriously, including assessing appropriate penalties on carriers that fail to comply.

9. The MO&O considers a request for waiver from Sprint Spectrum, L.P. to permit implementation of a handset-based location technology. (Paragraphs 46 and 47.) Based on the present record, the Commission denies Sprint's petition for reconsideration and renewed request for a waiver to implement a hybrid solution, finding that Sprint has not adequately demonstrated that special circumstances exist that warrant a deviation from our rules, nor that grant of such a waiver would be in the public interest.

10. Paragraphs 51 through 68 of the MO&O discuss VoiceStream's request for waiver to permit implementation of a handset-based location technology. The Commission grants a waiver to VoiceStream to permit to employ an ALI solution that requires changes to both its network and handsets, subject to the following conditions and requirements. First, VoiceStream must implement a network safety solution that provides baseline location information for all wireless 911 calls no later than December 31, 2001. The accuracy requirement for this baseline location information is 1000 meters for 67 percent of calls. Second, by October 2, 2001, VoiceStream must ensure that 50 percent of all new handsets activated are Enhanced Observed Time Difference of Arrival (E–OTD)–capable. Third, effective October 1, 2001, VoiceStream must ensure that all E–OTD–capable handsets comply with an accuracy requirement of 100 meters for 67 percent of calls, 300 meters for 95 percent of calls. Fourth, VoiceStream must ensure that all new E–OTD–capable handsets activated on or after October 1, 2003, comply with an accuracy requirement of 50 meters for 67 percent of calls, 150 meters for 95 percent of calls. Fifth, within six months after a PSAP request, or October 1, 2001, whichever is later, VoiceStream must implement any network or infrastructure upgrades necessary to provide Phase II service, and begin providing Phase II location information. Sixth, VoiceStream must comply with the requirement to achieve 95 percent penetration of location-capable headsets

among its subscribers no later than December 31, 2005. Seventh, VoiceStream must report the results of all trials and tests of its ALI technology and results semi-annually beginning October 1, 2000, and continuing through October 1, 2003. To the extent that VoiceStream cannot comply with any of these conditions, it will be expected to use another ALI methodology that comports with our requirements.

11. The MO&O, at paragraphs 69 through 74, denies a request for waiver seeking an extension of all Phase II deadlines for rural wireless carriers, filed by United States Cellular Corporation (USCC), finding that the request is insufficiently substantiated.

12. Paragraphs 75 through 81 of the MO&O grant a slight extension of the date upon which carriers must file their implementation plan reports from October 1, 2000, to November 9, 2000. Carriers may make good faith changes in their plans even after the report is filed, including changes in ALI technologies. These changes must be filed within thirty days of the adoption of any such change.

Paperwork Reduction Act of 1995 Analysis

13. The actions contained in this MO&O have been analyzed with respect to the Paperwork Reduction Act of 1995, and found to impose new reporting and recordkeeping requirements or burdens on the public. Implementation of these new reporting and recordkeeping requirements will be subject to approval by the Office of Management and Budget, as prescribed by the Act. The new paperwork requirement contained in the waiver section of this decision will go into effect January 30, 2001.

14. The deadline for carriers to file their implementation plans (OMB 3060–0910) is extended from October 1, 2000, to November 9, 2000.

Supplemental Final Regulatory Flexibility Analysis (SFRFA)

15. As required by the Regulatory Flexibility Act (RFA),[1] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in Appendix B II of the Further Notice of Proposed Rulemaking in this proceeding (FNPRM). A Final Regulatory Flexibility Analysis (FRFA) was incorporated in Appendix C of the Third Report and Order (Third R&O). Additionally, the Commission sought written public comment on the proposals in FNPRM, including comment on the IRFA. These comments were discussed in the FRFA. This Supplemental Final Regulatory Flexibility Act Analysis (SFRFA) considers the current Fourth Memorandum Opinion and Order (MO&O) and updates information contained in the FRFA. The present SFRFA, contained in Appendix C of the full text of the MO&O, conforms to the RFA.

Need for, and Objectives of, the MO&O

16. The MO&O is intended to provide wireless carriers, manufacturers, and the public safety community with additional clarity so that Phase II of the Commission's 911 effort can be deployed and operational on schedule, so far as possible. The MO&O supports the efforts of many entrepreneurs, public safety answering points, and companies who are working toward the technical and operational improvements needed to optimize 911 service and thus save lives.

Summary of Significant Issues Raised by Public Comments in Response to the FRFA

17. No comments were directed at the FRFA, and no comments were received from small entities that are not part of a larger organization. However, one reconsideration petition, filed jointly by handset manufacturers Nokia, Inc. and Motorola, Inc. contends that the rules adopted in the Third R&O set an overly aggressive deployment schedule for the introduction of handset-based Automatic Location Identification (ALI) technologies for which there is inadequate support in the record. Nokia, Motorola, and Ericsson ask that the Commission relax the handset deployment schedule substantially by only requiring carriers to begin selling and activating ALI-capable handsets 18 months after the date on which they have made their technology choices known to the FCC. (The discussion concerning these petitions and comments supporting Nokia, Motorola and Ericsson's arguments favoring a relaxed schedule may be found at paragraphs 12–14 of the MO&O.) Other parties raised concerns about the separate schedule for ALI-capable handset deployment triggered by a public service answering point (PSAP) request, noting the impracticality of such a schedule. (This contention is discussed in paragraph 15 of the MO&O.) Finally, in paragraph 16 of the MO&O, other parties maintain that the requirement in the current 911 rules that carriers employing handset-based solutions undertake reasonable efforts to achieve 100 percent usage of ALI-capable handsets by their customers by December 31, 2004, or two years after a PSAP request, is both overly demanding and vague.

Description and Estimate of the Number of Small Entities To Which Rules Will Apply

18. 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: (i) is independently owned and operated; (ii) is not dominant in its field of operation; and (iii) 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.'' Nationwide, as of 1992, there were approximately 275,801 small organizations. The Commission updates the figures reflected in the FRFA in the Third Report and MO&O.

19. *Broadband Personal Communications Service (PCS).* The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. As stated in paragraph 11 of the FRFA, there is a total of 183 small entity PCS providers as defined the SBA and the Commission's auction's rules.

20. *Narrowband PCS.* The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission assume, for purposes of this SFRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA, so, there may be as many as 3,519 small entities affected.

21. *Specialized Mobile Radio (SMR).* The Commission awards bidding credits in auctions for geographic area 800 MHz

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601 *et seq.*, has been amended by the Contract with America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

and 900 MHz SMR licenses to firms that had revenues of no more than $15 million in each of the three previous calendar years. In the context of 900 MHz SMR, this regulation defining ''small entity'' has been approved by the SBA; as has this regulation concerning 800 MHz SMR.

22. The rules in the MO&O apply to SMR providers in the 800 MHz and 900 MHz bands that hold CMRS licenses. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service as CMRS operators, nor how many of these providers have annual revenues of no more than $15 million. The Commission assumes, for purposes of this SFRFA, that all of the remaining existing SMR authorizations are held by small entities, as that term is defined by the SBA. In the 900 MHz SMR band, there are 60 small or very small entities and there are 38 such entities in the 800 MHz band.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

23. In paragraphs 42 through 45, the MO&O discusses what should be included in successful waiver requests. All of the other changes adopted in this MO&O, are changes in the existing schedule rather than adding new burdens. The critical nature of improving nationwide wireless E911 services does not allow the Commission much flexibility to differentiate between large and small entities because a lapse in the provision of dependable, responsive 911 service by a small business can lead to the same catastrophic result as a lapse by a large entity. However, the Commission, in adopting the E911 improvement program, has tried wherever possible to consider the individual needs and situation of all involved parties. In this decision, the actual cost of the amendments to all entities is nominal.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

24. The RFA requires an agency to describe any significant alternative that it has considered in reaching its proposed approach, which may include the following four alternatives: (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (iii) the use of performance, rather than design standards; and (iv) exemption from coverage.

25. First, the Commission declines to extend the implementation date for E911 Phase II beyond October 1, 2001, partially to avoid placing the burden for obtaining location information on PSAPs, already acting under constrained emergency conditions. This discussion is at paragraphs 24 through 30 of the MO&O. However, we do extend the date for initial distribution of ALI-capable handsets by seven months and we also adjust the timetable for carriers to meet certain interim benchmarks for activating new ALI-capable handsets. The alternative, to leave the schedules as is would be unfair to carriers, large and small. (Paragraph 33 of the MO&O contains this discussion.) At paragraphs 36–37 of the MO&O, we defer the date by which a carrier must achieve full penetration of ALI-capable handsets by one year, and modify the manner in which we define full penetration. Further, at paragraphs 31–32 of the MO&O, the Commission eliminates the separate handset deployment schedule for areas where PSAPs have requested deployment of Phase II. These actions should provide flexibility to all entities to comply with 911 requirements utilizing the most current and efficient technology, thus also ensuring the most responsive and dependable 911 system possible. Thus the Commission again chose not to stay with the current schedule. The alternatives in each case would have resulted in additional burden on all affected parties.

26. One alternative that the Commission considered and rejected concerned the petition by USCC that requests a six-month extension of all Phase II deadlines for rural wireless carriers. As discussed in paragraphs 69 through 74 of the MO&O, USCC contends that without such an extension, rural wireless carriers (often small entities) like USCC will be forced to begin spending millions of dollars to implement a network-based Phase II solution, because equipment manufacturers are unable at present to guarantee that they will provide a handset-based solution that satisfies the requirements and timetable. The Commission denies this request finding that even if some manufacturers cannot meet even the deadlines as revised in this MO&O, others may very well be able to provide ALI-capable handsets within the new timeframe. Also, the MO&O maintains that the expenses involved will come over a period of time and not all come due at once and that USCC's request is overly broad. Further, the MO&O finds that there are certain ALI solutions that are being offered on terms that do not require up-front investment by carriers. Further, the MO&O stresses that the Commission's denial of USCC's request does not foreclose future waiver requests from USCC or other carriers, including rural carriers.

27. Finally, it should be noted that the Commission's requirement that wireless carriers provide the location of wireless 911 callers has created a business opportunity for companies that are to develop and provide the technology to meet this obligation. It is expected that many location technology providers will qualify as small businesses.

28. *Report to Congress:* The Commission will send a copy of the MO&O, including this SFRFA, in a report to be sent to Congress pursuant to Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the MO&O on Reconsideration and this SFRFA to the Chief Counsel for Advocacy of the Small Business Administration.

Ordering Clauses

29. Part 20 of the Commission's Rules is amended.

30. The rule amendments made by the MO&O shall become effective November 1, 2000, except for the new information collection regarding waivers, which will become effective January 30, 2001, pending OMB approval.

31. The Commission's Consumer Information Bureau, Reference Operations Division, shall send a copy of this MO&O, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

32. The petition for reconsideration filed by Nokia and Motorola is denied.

33. The petition for reconsideration filed by Sprint PCS is denied.

34. The petition for reconsideration filed by Aerial Communications, Inc., is denied.

35. VoiceStream Communications is granted a waiver of the E911 Phase II requirements, subject to conditions, to the extent indicated in the full text of the MO&O.

36. The request for extension of the E911 Phase II deadlines for rural carriers filed by United States Cellular Corp. is denied.

Paperwork Reduction Act

37. This MO&O contains a new information collection. The Commission, as part of its continuing effort to reduce paperwork burdens,

invites the general public to comment on the information collections contained in this MO&O as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due December 1, 2000. Comments should address: (a) Whether the new 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 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. In addition to the burdens included in this submission, this decision also slightly modifies the PRA submission contained in OMB No. 3060–0910 by extending the date by which carriers must submit to the Commission, their plans for implementing Phase II from October 1, 2000, to November 9, 2000.

OMB Approval Number:

Title: Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Fourth MO&O.

Form No. N.A.

Type of Review: New information collection.

Respondents: Business or other for profit.

Number of Respondents: 2,500.

Estimated Time Per Response: 3 hours.

Total Annual Burden: 7,500 hours.

Cost to Respondents: .0.

Needs and Uses: The information required to be included in a successful request for waiver of the E911 Phase II requirements will be used to assist the Commission in judging whether the request has merit.

List of Subjects in 47 CFR Part 20

Communications common carrier, Communications equipment, Radio.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 20 as follows:

PART 20—COMMERCIAL MOBILE RADIO SERVICES

1. The authority citation for part 20 continues to read as follows:

Authority: 47 U.S.C. 154, 160, 251–254, 303, and 332 unless otherwise noted.

2. Section 20.18 is amended by revising paragraphs (g)(1), (g)(2), and (i) to read as follows:

§ 20.18 911 Service.

* * * * *

(g) *Phase-in for Handset-based Location Technologies.* Licensees subject to this section who employ a handset-based location technology may phase in deployment of Phase II enhanced 911 service, subject to the following requirements:

(1) Without respect to any PSAP request for deployment of Phase II 911 enhanced service, the licensee shall:

(i) Begin selling and activating location-capable handsets no later than October 1, 2001;

(ii) Ensure that at least 25 percent of all new handsets activated are location-capable no later than December 31, 2001;

(iii) Ensure that at least 50 percent of all new handsets activated are location-capable no later than June 30, 2002; and

(iv) Ensure that 100 percent of all new digital handsets activated are location-capable no later than December 31, 2002, and thereafter.

(v) By December 31, 2005, achieve 95 percent penetration of location-capable handsets among its subscribers.

(2) Once a PSAP request is received, the licensee shall, in the area served by the PSAP, within six months or by October 1, 2001, whichever is later:

(i) Install any hardware and/or software in the CMRS network and/or other fixed infrastructure, as needed, to enable the provision of Phase II enhanced 911 service; and

(ii) Begin delivering Phase II enhanced 911 service to the PSAP.

* * * * *

(i) *Reports on Phase II plans.* Licensees subject to this section shall report to the Commission their plans for implementing Phase II enhanced 911 service, including the location-determination technology they plan to employ and the procedure they intend to use to verify conformance with the Phase II accuracy requirements by November 9, 2000. Licensees are required to update these plans within thirty days of the adoption of any change. These reports and updates may be filed electronically in a manner to be designated by the Commission.

* * * * *

[FR Doc. 00–25219 Filed 9–29–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 32 and 64

[CC Docket No. 99–253; FCC 00–78]

Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carrier: Phase 1

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: This document announces the effective date of the rules and information collections of the Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carrier: Phase 1 Report and Order adopted March 2, 2000.

DATES: Effective September 28, 2000.

FOR FURTHER INFORMATION CONTACT: JoAnn Lucanik, Accounting Safeguards Division, Common Carrier Bureau, at (202) 418–0873 or Mika Savir, Accounting Safeguards Division, Common Carrier Bureau, at (202) 418–0384.

SUPPLEMENTARY INFORMATION: On March 2, 2000, the Commission adopted the *Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carrier: Phase 1 Report and Order,* 65 FR 16328 (March 28, 2000) in this Report and Order the Commission eliminates the expense matrix filing requirement; provides large ILECs the option to obtain a biennial attestation engagement to satisfy their CAM audit obligation; establishes a $500,000 *de minimis* exception to the affiliate transactions fair market value estimate requirement; eliminates the 15-day pre-filing requirement for cost pool and time reporting procedures changes; eliminates the notification requirement for temporary or experimental accounts; eliminates the notification requirement for extraordinary items, contingent liabilities, and material prior period adjustments; eliminates the reclassification requirements for property in Account 2002; and eliminates the reclassification requirements for property in Account 2003. The Commission substantially streamlines the ARMIS 43–02 USOA Report and significantly reduced the reporting requirements for carriers. In 65 FR 16328 (March 28, 2000) The Commission stated that the Report and Order contained information collections that had not been approved by the

Office of Management and Budget (OMB). OMB approved the information collections (see OMB numbers 3060–0470 approved May 31, 2000; 3060–0370, 3060–0395, and 3060–0734 approved June 19, 2000; and 3060–0384 approved September 1, 2000). In 65 FR 16328 (March 28, 2000) we also stated that the Commission would publish a document in the **Federal Register** announcing the effective date of the rules. This publication satisfies our statement that the Commission would publish a document in the **Federal Register** announcing the effective date of the information collections and the new and/or modified sections of Parts 32 and 64 rules.

List of Subjects

47 CFR Part 32

Communications common carriers, Reporting and recordkeeping requirements, Telephone, Uniform System of Accounts.

47 CFR Part 64

Communications common carriers, Federal Communications Commission, Radio, Reporting and recordkeeping requirements, Telegraph, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–25014 Filed 9–29–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; FCC 00–332]

Federal-State Joint Board on Universal Service: Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission stays, on its own motion, the implementation of recently adopted federal Lifeline and Link Up assistance rule amendments only to the extent that they apply to qualifying low-income consumers living near reservations.

DATES: Effective September 5, 2000.

FOR FURTHER INFORMATION CONTACT: Paul Garnett, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order and Further Notice of Proposed Rulemaking in CC Docket No. 96–45 released on August 31, 2000. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, S.W., Washington, D.C. 20554.

I. Introduction

1. In this Order, we stay, on our own motion, the implementation of recently adopted federal Lifeline and Link Up assistance rule amendments only to the extent that they apply to qualifying low-income consumers living near reservations. We emphasize that this Order does not affect the implementation of the enhanced Lifeline and Link Up support for qualifying low-income consumers living on reservations. Those rules are unaffected and became effective on schedule on September 5, 2000, as directed by the Commission. Finally, as described in greater detail below, we extend until September 22, 2000, the date by which carriers may file data in order to receive support during the calendar year 2000 for enhanced Lifeline and Link Up services provided during the fourth quarter 2000.

II. Discussion

2. Following the adoption of the definition of ''tribal lands'' in the *Twelfth Report and Order*, 65 FR 47941 (August 4, 2000), we became aware that the term ''near reservation,'' as it is currently defined by the BIA, may include wide geographic areas that do not possess the characteristics that warranted the targeting of enhanced Lifeline and Link Up support to reservations, such as geographic isolation, high rates of poverty, and low telephone subscribership. Such an outcome may not further our goal, as described in the *Twelfth Report and Order*, of increasing telecommunications deployment and subscribership in the most historically isolated and underserved regions of our Nation. Therefore, on our own motion we stay the implementation of the above-described Lifeline and Link Up assistance rule amendments to the extent that they apply to qualifying low-income consumers located ''near reservations,'' as that phrase is defined in section 20.1(r) of the BIA regulations. A notation is added to § 54.400(e) of the Commission's rules stating that we have stayed the implementation of enhanced Lifeline and Link Up support for eligible residents of tribal lands to the extent that such support applies to qualifying low-income consumers living ''near'' reservations. We do not stay the application of enhanced Lifeline and Link Up programs to low-income individuals located on ''reservations,'' including on lands conveyed pursuant to the Alaska Native Claims Settlement Act.

3. In the *Twelfth Report and Order*, we directed eligible carriers, interested in receiving enhanced Lifeline and Link Up support in the calendar year 2000 for services provided in the fourth quarter 2000, to submit to the Universal Service Administrative Company (USAC) by September 1, 2000, a letter from a corporate officer of the carrier containing detailed information and certifications regarding their provision of services to qualifying low-income consumers. In this Order, we extend until September 22, 2000, the date by which carriers may file data regarding their provision of eligible services to qualifying low-income consumers living on reservations, as defined by the BIA.

III. Ordering Clauses

4. Pursuant to the authority contained in sections 1–4, 201–205, 254, 303(r), and 403 of the Communications Act of 1934, as amended, and § 1.3 and § 1.429(k) of the Commission's rules, this Order is adopted.

5. Pursuant to sections 1 and 4(i) of the Communications Act, and § 1.3 and § 1.429(k) of the Commission's rules, the application of enhanced Lifeline and Link Up programs to qualified low-income consumers living near reservations is stayed pending further Commission action.

6. This order is effective upon release September 5, 2000.

7. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Order, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons set forth in the preamble, 47 CFR part 54 is amended as follows:

1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

2. A note is added to 47 CFR 54.400(e) to read as follows:

§ 54.400 Terms and Definitions.

* * * * *

(e) * * *

Note to paragraph (e): This paragraph (e) is stayed to the extent that it applies to qualifying low-income consumers living ''near reservations'' as that phrase is defined in 25 CFR 20.1(r).

[FR Doc. 00–25220 Filed 9–29–00; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 375 and 386

RIN 2126–AA56

Transportation of Household Goods in Interstate or Foreign Commerce; Rules of Practice for Motor Carrier Safety and Hazardous Materials Proceedings

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule; technical amendments.

SUMMARY: This document implements sections 208 and 209 of the Motor Carrier Safety Improvement Act (MCSIA) of 1999 by amending 49 CFR parts 386 and 375, respectively. Section 208 revised the definition of an imminent hazard in 49 U.S.C. 521(b)(5)(B), and section 209 amended the definition of household goods in 49 U.S.C. 13102(10). Other technical changes are also being made to part 386, as explained below.

EFFECTIVE DATE: November 1, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Hill, Regulatory Development Division, Office of Policy and Program Development, FMCSA, (202) 366–4009, or Mr. Charles E. Medalen, Office of the Chief Counsel, (202) 366–1354, Federal Highway Administration (FHWA), 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a 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 MCSIA of 1999 [Pub. L. 106–159, 113 Stat. 1748, December 9, 1999] made a number of changes to title 49, United States Code. This document implements the amendments made by sections 208 and 209, and makes minor technical changes to 49 CFR 386.72(a).

Section 208 revised the definition of an imminent hazard in 49 U.S.C. 521(b)(5)(B) to cover ''any condition of vehicle, employee, or commercial motor vehicle operations which substantially increases the likelihood of serious injury or death if not discontinued immediately.'' The previous definition was ''any condition of vehicle, employee, or commercial motor vehicle operations which is likely to result in serious injury or death if not discontinued immediately.'' In order to implement the new standard, 49 CFR 386.72(b)(1) is being amended. In addition, references to Federal Highway Administration (FHWA) personnel in that paragraph are being changed to list the appropriate officials of the FMCSA.

Section 209 amended the definition of household goods by revising paragraph (A) of 49 U.S.C. 13102(10). The new version provides that ''(10) Household goods.—The term 'household goods,' as used in connection with transportation, means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of such dwelling, and similar property if the transportation of such effects or property is—(A) arranged and paid for by the householder, except such term does not include property moving from a factory or store, other than property that the householder has purchased with the intent to use in his or her dwelling and is transported at the request of, and the transportation charges are paid to the carrier by, the householder.'' The previous text of paragraph (A) read: ''(A) arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in his or her dwelling.'' To make the new definition applicable, 49 CFR 375.1(b)(1) is being amended.

Finally, 49 CFR 386.72(a) is being amended to substitute references to the appropriate FMCSA officials for the FHWA officials previously listed there, and to conform the language of the paragraph more closely to the applicable definition of imminent hazard [49 U.S.C. 5102(5)]. This definition is not identical to the imminent hazard definition applicable to § 386.72(b) [*i.e.,* 49 U.S.C. 521(b)(5)(B)].

Rulemaking Analyses and Notices

These amendments make regulatory changes to implement two amendments enacted by Congress; to update references to FHWA functions now exercised by the FMCSA; and to conform the language of § 386.72(a) more closely to the underlying statute. Public comments are unnecessary and could not change the substance of these amendments, since all of the changes being made today are required by statute. The FMCSA therefore finds good cause pursuant to 5 U.S.C. 553(b) to promulgate these amendments without prior notice and opportunity for comment.

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

The FMCSA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866. The agency has also determined that this action is not a significant regulatory action under the DOT's regulatory policies and procedures. These technical amendments are ministerial in nature.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FMCSA has evaluated the effects of this rule on small entities and has determined that it will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

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

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk

to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

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

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999, and it has been determined this action does not have a substantial direct effect or sufficient federalism implications on States that would limit the policymaking discretion of the States. Nothing in this document directly preempts any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

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

Paperwork Reduction Act

This action does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

National Environmental Policy Act

The agency has analyzed this rulemaking for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347), and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

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

List of Subjects

49 CFR Part 375

Advertising, Arbitration, Consumer protection, Freight, Insurance, Motor carriers, Moving of household goods, Reporting and recordkeeping requirements.

49 CFR Part 386

Administrative procedures, Commercial motor vehicle safety, Highway safety, Motor carriers.

Issued on: September 27, 2000.

Clyde J. Hart, Jr.,

Acting Deputy Administrator.

In consideration of the foregoing, the FMCSA amends Title 49, Code of Federal Regulations, Chapter III, parts 375 and 386 as set forth below:

PART 375—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

1. Revise the authority citation for part 375 to read as follows:

Authority: 5 U.S.C. 553; 49 U.S.C. 13301 and 14104; and 49 CFR 1.73.

2. Revise § 375.1(b) to read as follows:

§ 375.1 Applicability and definitions.

* * * * *

(b) * * *

(1) *Household goods.* The term ''household goods'' means personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling and such other similar property as the FMCSA may provide by regulation; except that this definition shall not include property moving from a factory or store, other than property that the householder has purchased with the intent to use in his or her dwelling and is transported at the request of, and the transportation charges are paid to the carrier by the householder.

* * * * *

PART 386—RULES OF PRACTICE FOR MOTOR CARRIER SAFETY AND HAZARDOUS MATERIALS PROCEEDINGS

3. The authority citation for part 386 is revised to read as follows:

Authority: 49 U.S.C. 113, Chapters 5, 51, 131–141, 145–149, 311 (Subchapter III), 313, and 315, Pub. L. 104–134, title III, chapter 10, Sec. 31001, par. (s), 110 Stat. 1321–373, and 49 CFR 1.45 and 1.73.

4. In § 386.72 revise paragraphs (a) and (b)(1) to read as follows:

§ 386.72 Imminent hazard.

(a) Whenever it is determined that an imminent hazard exists as a result of the transportation by motor vehicle of a particular hazardous material, the Chief Counsel or Deputy Chief Counsel of the FMCSA may bring, or request the United States Attorney General to bring, an action in the appropriate United States District Court for an order suspending or restricting the transportation by motor vehicle of the hazardous material or for such other order as is necessary to eliminate or ameliorate the imminent hazard, as provided by 49 U.S.C. 5122. In this paragraph, ''imminent hazard'' means the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before a notice of investigation proceeding, or other administrative hearing or formal proceeding, to abate the risk of harm can be completed.

(b)(1) Whenever it is determined that a violation of 49 U.S.C. 31502 or the Motor Carrier Safety Act of 1984, as amended, or the Commercial Motor Vehicle Safety Act of 1986, as amended, or a regulation issued under such section or Acts, or a combination of such violations, poses an imminent hazard to safety, the Director of the Office of Enforcement and Compliance or a State Director, or his or her delegate, shall order a vehicle or employee operating such vehicle out of service, or order an employer to cease all or part of the employer's commercial motor vehicle operations, as provided by 49 U.S.C. 521(b)(5). In making any such order, no restrictions shall be imposed on any employee or employer beyond that required to abate the hazard. In this paragraph, ''imminent hazard'' means any condition of vehicle, employee, or commercial motor vehicle operations which substantially increases the likelihood of serious injury or death if not discontinued immediately.

* * * * *

[FR Doc. 00–25260 Filed 9–29–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AG08

Migratory Bird Hunting; Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2000–01 Late Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes special late season migratory bird hunting regulations for certain tribes on Federal Indian reservations, off-reservation trust lands and ceded lands. This responds to tribal requests for U.S. Fish and Wildlife Service (hereinafter Service or we) recognition of their authority to regulate hunting under established guidelines. This rule allows the establishment of season bag limits and, thus, harvest at levels compatible with populations and habitat conditions.

DATES: This rule takes effect on September 29, 2000.

ADDRESSES: You may inspect comments on the special hunting regulations and tribal proposals during normal business hours in Room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703/358–1714).

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 *et seq.*), authorizes and directs the Secretary of the Department of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

In the August 18, 2000, **Federal Register** (65 FR 50483), we proposed special migratory bird hunting regulations for the 2000–01 hunting season for certain Indian tribes, under the guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467). The guidelines respond to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal members and nonmembers on their reservations. The guidelines include possibilities for:

(1) On-reservation hunting by both tribal members and nonmembers, with hunting by non-tribal members on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s);

(2) On-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and

(3) Off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits.

In all cases, the regulations established under the guidelines must be consistent with the March 10–September 1 closed season mandated by the 1916 Migratory Bird Treaty with Canada.

In the April 25, 2000, **Federal Register** (65 FR 24260), we requested that tribes desiring special hunting regulations in the 2000–01 hunting season submit a proposal including details on:

(a) Harvest anticipated under the requested regulations;

(b) Methods that would be employed to measure or monitor harvest (such as bag checks, mail questionnaires, *etc.*);

(c) Steps that would be taken to limit level of harvest, where it could be shown that failure to limit the harvest would adversely impact the migratory bird resource; and

(d) Tribal capabilities to establish and enforce migratory bird hunting regulations.

No action is required if a tribe wishes to observe the hunting regulations established by the State(s) in which an Indian reservation is located. We have successfully used the guidelines since the 1985–86 hunting season. We finalized the guidelines beginning with the 1988–89 hunting season (August 18, 1988, **Federal Register** [53 FR 31612]).

Although the proposed rule included generalized regulations for both early- and late-season hunting, this rulemaking addresses only the late-season proposals. Early-season proposals were was addressed in the September 1 **Federal Register** (65 FR 53190). As a general rule, early seasons begin during September each year and have a primary emphasis on such species as mourning and white-winged dove. Late seasons begin about October 1 or later each year and have a primary emphasis on waterfowl.

Status of Populations

In the August 18 **Federal Register**, we reviewed the status for various populations for which seasons were proposed. This information included brief summaries of the May Breeding Waterfowl and Habitat Survey and population status reports for blue-wing teal, Canada goose populations hunted in September seasons, sea ducks, sandhill cranes, woodcock, mourning doves, white-winged doves, white-tipped doves, and band-tailed pigeons. As a result of these status, we have responded by proposing Flyway frameworks that are essentially the same as those of last season for the 2000–01 waterfowl hunting season (August 22, 2000, **Federal Register**, 65 FR 51174). The tribal seasons established below are commensurate with the population status.

Comments and Issues Concerning Tribal Proposals

For the 2000–01 migratory bird hunting season, we proposed regulations for 25 tribes and/or Indian groups that followed the 1985 guidelines and were considered appropriate for final rulemaking. Some of the proposals submitted by the tribes had both early- and late-season elements. However, as noted earlier, only those with late-season proposals are included in this final rulemaking; 15 tribes have proposals with late seasons. Comments and proposals are addressed in the following section. The comment period for the proposed rule, published on August 18, 2000, closed on August 28, 2000.

We received one comment regarding the notice of intent published on April 25, 2000, which announced rulemaking on regulations for migratory bird hunting by American Indian tribal members. We responded to this comment in the September 1 **Federal Register**.

NEPA Consideration

Under the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), the ''Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES–75–74)'' was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). A supplement to the final environmental statement, the ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (SEIS 88–14)'' was filed on June 9, 1988, and notice of availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582), and June 17, 1988 (53 FR 22727). Copies of these documents are available from us at the address indicated under the caption **ADDRESSES.** In addition, an August 1985 Environmental Assessment titled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the same address.

Endangered Species Act Considerations

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531–1543; 87 Stat. 884), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''insure that any action authorized, funded or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat * * *'' Consequently, we conducted consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion and may have caused modification of some regulatory measures previously proposed. The final frameworks reflect any modifications. Our biological opinions resulting from our Section 7 consultation are public documents available for public inspection in the Service's Division of Endangered Species and DMBM, at the address indicated under the caption **ADDRESSES**.

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail and issued a Small Entity Flexibility Analysis (Analysis) in 1998. The Analysis documented the significant beneficial economic effect on a substantial number of small entities. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The Analysis was based on the 1996 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns from which it was estimated that migratory bird hunters would spend between $429 million and $1,084 million at small businesses in 1998. Copies of the Analysis are available upon request.

Executive Order (E.O.) 12866

Collectively, the rules covering the overall frameworks for migratory bird hunting are economically significant and have been reviewed by the Office of Management and Budget (OMB) under E.O. 12866. This rule is a small portion of the overall migratory bird hunting frameworks and was not individually submitted and reviewed by OMB under E.O. 12866.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808 (1) and this rule will be effective immediately.

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995. We utilize the various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of the Migratory Bird Harvest Information Program and assigned clearance number 1018–0015 (expires 9/30/2001). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Sandhill Crane Harvest Questionnaire and assigned clearance number 1018–0023 (expires 7/31/2003). The information from this survey is used to estimate the magnitude, the geographical and temporal distribution of harvest, and the portion it constitutes of the total population. A Federal 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.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not ''significantly or uniquely'' affect small governments, and will not produce a Federal mandate of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that this rule will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

Takings Implication Assessment

Under E.O. 12630, these rules, authorized by the Migratory Bird Treaty Act, do not have significant takings implications and do not affect any constitutionally protected property rights. These rules will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise privileges that would be otherwise unavailable; and, therefore, reduce restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections and employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, under E.O. 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship With Tribes

Due to the migratory nature of certain species of birds, the Federal government has been given responsibility over these species by the Migratory Bird Treaty Act. Thus, under the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512

DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, by virtue of the tribal proposals received in response to the April 25, 2000, request for proposals and the August 18, 2000, proposed rule, we have consulted with all the tribes affected by this rule.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment on the regulations. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In doing this, we recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the tribes would have insufficient time to communicate these seasons to their member and non-tribal hunters and to establish and publicize the necessary regulations and procedures to implement their decisions.

We therefore find that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these regulations will, therefore, take effect immediately upon publication.

Therefore, under the authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703 *et seq.*), we prescribe final hunting regulations for certain tribes on Federal Indian reservations (including off-reservation trust lands), and ceded lands. The regulations specify the species to be hunted and establish season dates, bag and possession limits, season length, and shooting hours for migratory game birds.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Accordingly, part 20, subchapter B, chapter I of Title 50 of the Code of Federal Regulations is amended as follows:

PART 20—[AMENDED]

1. The authority citation for part 20 continues to read as follows:

Authority: 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

(**Note:** The following hunting regulations provided for by 50 CFR 20.110 will not appear in the Code of Federal Regulations because of their seasonal nature).

2. Section 20.110 is amended by revising paragraphs (a), (b), (f), (g), (j), (o), (p) and (r), and by adding paragraphs (s) through (y) to read as set forth below. (Current § 20.110 was published at 65 FR 53193, September 1, 2000.)

§ 20.110 Seasons, limits and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

(a) Colorado River Indian Tribes, Parker, Arizona (Tribal Members and Non-Tribal Hunters)

Doves

Season Dates: Open September 1, close September 15, 2000; then open November 17, 2000, close January 7, 2001.

Daily Bag and Possession Limits: For the early season, daily bag limit is 10 mourning or 10 white-winged doves, singly, or in the aggregate. For the late season, the daily bag limit is 10 mourning doves. Possession limits are twice the daily bag limits.

Ducks (Including Mergansers)

Season Dates: Begin October 7, 2000, close January 21, 2001.

Daily Bag and Possession Limits: Seven ducks, including no more than one pintail, two redheads, two hen mallards, four scaup, two goldeneyes, two cinnamon teal, and one canvasback. The possession limit is twice the daily bag limit.

Coots and Common Moorhens

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots and common moorhens, singly or in the aggregate.

Geese

Season Dates: Begin November 18, 2000, end January 14, 2001.

Daily Bag and Possession Limits: Four geese, including no more than two dark (Canada) geese and three white (snow, blue, Ross's) geese. The possession limit is eight.

General Conditions: A valid Colorado River Indian Reservation hunting permit is required for all persons 14 years and older and must be in possession before taking any wildlife on tribal lands. Any person transporting game birds off the Colorado River Indian Reservation must have a valid transport declaration form. Other tribal regulations apply, and may be obtained at the Fish and Game Office in Parker, Arizona.

(b) Crow Creek Sioux Tribe, Crow Creek Indian Reservation, Fort Thompson, South Dakota (Tribal Members and Non-Tribal Hunters)

Sandhill Cranes

Season Dates: Open September 16, close October 22, 2000.

Daily Bag Limit: Three sandhill cranes.

Permits: Each person participating in the sandhill crane season must have a valid Federal sandhill crane hunting permit in their possession while hunting.

Ducks

Season Dates: Begin October 7, end December 19, 2000.

Daily Bag and Possession Limits: Six ducks, including no more than five mallards (including no more than two female mallards), one mottled duck, one canvasback, two redheads, one pintail, two scaup, and two wood ducks. The possession limit is twice the daily bag limit.

Mergansers

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Five mergansers, including no more than one hooded merganser. The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Begin October 21, 2000, end January 23, 2001.

Daily Bag and Possession Limits: Three and six, respectively.

White-Fronted Geese

Season Dates: Begin September 30, end December 24, 2000.

Daily Bag and Possession Limits: Two and four, respectively.

Light Geese

Season Dates: Begin September 30, close December 24, 2000, then open February 19, close March 10, 2000.

Daily Bag and Possession Limits: 20 geese daily, no possession limit.

General Conditions: The waterfowl hunting regulations established by this final rule apply only to tribal and trust lands within the external boundaries of the reservation. Tribal and non-tribal hunters must comply with basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the

Crow Creek Sioux Tribe also apply on the reservation.

* * * * *

(f) Kalispel Tribe, Kalispel Reservation, Usk, Washington (Tribal Members and Non-Tribal Hunters)

Tribal Members

Ducks

Season Dates: Open September 15, 2000, close January 31, 2001.

Daily Bag and Possession Limits: Seven ducks, including no more than one pintail, two hen mallards, four scaup, and one canvasback.

Geese

Season Dates: Open September 1, 2000, close January 31, 2001.

Daily Bag and Possession Limits: Four geese, including four dark geese but not more than three light geese. The possession limit is twice the daily bag limit.

General: Tribal members must possess a validated Migratory Bird Hunting and Conservation Stamp and a tribal ceded lands permit.

Non-Tribal Hunters

Ducks

Season Dates: Open September 30, 2000, close January 21, 2001. During this period, days to be hunted are specified by the Kalispel Tribe as weekends, holidays and for a continuous period in the months of December and January. Non-tribal hunters should contact the tribe for more detail on hunting days.

Daily Bag and Possession Limits: Seven ducks, including no more than one pintail, two hen mallards, two redheads, four scaup, and one canvasback.

Geese

Season Dates: Begin September 30, 2000, close January 21, 2001. During this period, days to be hunted are specified by the Kalispel Tribe as weekends, holidays and for a continuous period in the months of December and January. Non-tribal hunters should contact the tribe for more detail on hunting days.

Daily Bag and Possession Limits: Four geese, including four dark geese but not more than three light geese. The possession limit is twice the daily bag limit.

General: Hunters must observe all State and Federal regulations, such as those contained in 50 CFR part 20 and including the possession of a validated Migratory Bird Hunting and Conservation Stamp.

(g) Little River Band of Ottawa Indians, Manistee, Michigan (Tribal Members Only)

Ducks

Season Dates: Begin September 30, end November 28, 2000.

Daily Bag Limits: Six ducks, including no more than four mallards (only one of which may be a hen), three scaup, one black duck, two redheads, two wood ducks, one pintail, and one canvasback.

Mergansers

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Five mergansers, including no more than one hooded merganser. The possession limit is twice the daily bag limit.

Coots and Common Moorhens (Common Gallinules)

Season Dates: Begin September 30, end November 28, 2000.

Daily Bag Limit: 15 coots and common moorhens (common gallinules), singly or in the aggregate.

Canada Geese

Season Dates: Open September 1, close September 15, then open September 17, close October 4, 2000.

Daily Bag Limits: Five geese in the first portion and two geese thereafter.

Other Geese

Season Dates: Same as for ducks.

Daily Bag Limits: Ten geese, including no more than two whitefronts or two brant.

Rails, Snipe, and Woodcock

Season Dates: Open September 15, close November 14, 2000.

Daily Bag Limit: 25 rails, 8 snipe, and 3 woodcock.

General: Possession limits are twice the daily bag limit, except for rails, which are equal to the daily bag limit.

* * * * *

(j) Navajo Indian Reservation, Window Rock, Arizona (Tribal Members and Nonmembers)

Band-Tailed Pigeons

Season Dates: Open September 1, close September 30, 2000.

Daily Bag and Possession Limits: 5 and 10 pigeons, respectively.

Mourning Doves

Season Dates: Open September 1, close September 30, 2000.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Ducks (Including Mergansers)

Season Dates: Begin September 30, 2000, close January 14, 2001.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, one canvasback, four scaup, and two redheads. The possession limit is twice the daily bag limit.

Dark Geese

Season Dates: Begin September 30, 2000, end January 7, 2001.

Daily Bag and Possession Limits: Three and six geese, respectively.

Coots and Common Moorhens

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots and moorhens, singly or in the aggregate.

General Conditions: Tribal and non-tribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20, regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Navajo Nation also apply on the reservation.

* * * * *

(o) Tulalip Tribes of Washington, Tulalip Indian Reservation, Marysville, Washington (Tribal Members and Non-Tribal Hunters)

Tribal Members

Ducks/Coot

Season Dates: Open September 15, 2000, and close February 1, 2001.

Daily Bag and Possession Limits: 6 and 12 birds, respectively; except that bag and possession limits are restricted for blue-winged teal, canvasback, harlequin, pintail, and wood duck to those established for the Pacific Flyway by final Federal frameworks, to be announced.

Geese

Season Dates: Open September 15, 2000, and close February 1, 2001.

Daily Bag and Possession Limits: 6 and 12 geese, respectively; except that the bag limits for brant and cackling and dusky Canada geese are those established for the Pacific Flyway under final Federal frameworks, to be announced. The tribes also set a maximum annual bag limit on ducks and geese for those tribal members who engage in subsistence hunting.

Non-Tribal Hunters

Ducks

Season Dates: Begin October 7, 2000, end January 21, 2001.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, one canvasback, four scaup, and two redheads. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots.

Geese

Season Dates: Begin October 14, 2000, end January 21, 2001.

Daily Bag and Possession Limits: Four geese, including four dark geese but no more than three light geese. The possession limit is twice the daily bag limit.

Brant

Season Dates: Begin January 6, end January 21, 2001.

Daily Bag and Possession Limits: Two and four brant, respectively.

General Conditions: All waterfowl hunters, members and non-members, must obtain and possess while hunting a valid hunting permit from the Tulalip tribes. Also, non-tribal members sixteen years of age and older, hunting under Tulalip Tribes' Ordinance No. 67, must possess a validated Federal Migratory Bird Hunting and Conservation Stamp and a validated State of Washington Migratory Waterfowl Stamp. All Tulalip tribal members must have in their possession while hunting, or accompanying another, their valid tribal identification card. All hunters are required to adhere to a number of other special regulations enforced by the tribes and available at the tribal office.

(p) Wampanoag Tribe of Gay Head, Aquinnah, Massachusetts (Tribal Members Only)

Ducks

Season Dates: Open October 10, 2000, and close January 20, 2001.

Daily Bag and Possession Limits: Six ducks, including no more than two hen mallards, two black ducks (one black duck from December 2 to December 9, 2000), two mottled ducks, one fulvous whistling duck, four mergansers, three scaup, one hooded merganser, two wood ducks, one canvasback, two redheads, one pintail, and one hen eider. The season is closed for harlequin ducks. In addition to the daily duck bag limit, a daily bag limit of six teal is allowed.

Sea Ducks

Season Dates: Open October 14, 2000, and close January 6, 2001.

Daily Bag and Possession Limits: Seven ducks including no more than four of any one species.

Geese

Season Dates: Open September 19, 2000, and close January 20, 2001.

Daily Bag and Possession Limits: 4 Canada geese and 15 snow geese.

Woodcock

Season Dates: Open October 14, and close November 15, 2000.

Daily Bag and Possession Limits: Three woodcock.

General Conditions: Shooting hours are one-half hour before sunrise to sunset. Non-toxic shot is required. Tribal members will observe all basic Federal migratory bird hunting regulations contained in 50 CFR part 20.

* * * * *

(r) White Mountain Apache Tribe, Fort Apache Indian Reservation, Whiteriver, Arizona (Tribal Members and Non-Tribal Hunters)

Band-Tailed Pigeons

Season Dates: Open September 6, close September 20, 2000.

Daily Bag and Possession Limits: Three and six pigeons, respectively.

Mourning Doves

Season Dates: Open September 6, close September 20, 2000.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Ducks (Including Mergansers)

Season Dates: Begin October 21, 2000, end January 21, 2001.

Daily Bag and Possession Limits: Four ducks, including no more than three mallards (including no more than one hen mallard), two redheads or one canvasback and one redhead, and one pintail. The possession limit is twice the daily bag limit.

Coots, Moorhens and Gallinules

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots, moorhens, and gallinules, singly or in the aggregate. The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Begin October 21, 2000, end January 12, 2001.

Bag and Possession Limits: Three and six, respectively.

General Conditions: All non-tribal hunters hunting band-tailed pigeons and mourning doves on Reservation lands shall have in their possession a valid White Mountain Apache Daily or Yearly Small Game Permit. In addition to a small game permit, all non-tribal hunters hunting band-tailed pigeons must have in their possession a White Mountain Special Band-tailed Pigeon Permit. Other special regulations established by the White Mountain Apache Tribe apply on the reservation. Tribal and non-tribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking. In addition:

(1) The area open to waterfowl hunting in the above seasons consists of: the entire length of the Black River west of the Bonito Creek and Black River confluence and the entire length of the Salt River forming the southern boundary of the reservation; the White River, extending from the Canyon Day Stockman Station to the Salt River; and all stock ponds located within Wildlife Management Units 4, 5, 6, and 7. Tanks located below the Mogollon Rim, within Wildlife Management Units 2 and 3 will be open to waterfowl hunting during the 2000–01 season. All other waters of the reservation will be closed to waterfowl hunting for the 2000–01 season.

(2) Tribal and non-tribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking.

(3) See other special regulations established by the White Mountain Apache Tribe that apply on the reservation, available from the reservation Game and Fish Department.

(s) Confederated Salish and Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana (Non-Tribal Hunters)

Ducks (Including Mergansers)

Season Dates: Begin September 30, 2000, end January 14, 2001.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, one canvasback, four scaup, and two redheads. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: The daily bag and possession limit is 25.

Geese

Dark Geese

Season Dates: Begin September 30, 2000, end January 7, 2001.

Daily Bag and Possession Limits: Four and eight geese, respectively.

Light Geese

Season Dates: Begin September 30, 2000, end January 7, 2001.

Daily Bag and Possession Limits: Three and six geese, respectively.

General Conditions: Non-tribal hunters must comply with all basic Federal migratory bird hunting regulations contained in 50 CFR part 20 regarding manner of taking. In addition, shooting hours are sunrise to sunset and each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Confederated Salish and Kootenai Tribes also apply on the reservation.

(t) Jicarilla Apache Tribe, Jicarilla Indian Reservation, Dulce, New Mexico (Tribal Members and Non-Tribal Hunters)

Ducks (Including Mergansers)

Season Dates: Begin October 7, end November 30, 2000.

Daily Bag and Possession Limits: The daily bag limit is seven, including no more than two hen mallards, one pintail, two redheads, four scaup, and one canvasback. The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Begin October 7, end November 30, 2000.

Daily Bag and Possession Limits: Two and four, respectively.

General Conditions: Tribal and non-tribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Jicarilla Tribe also apply on the reservation.

(u) Klamath Tribe, Chiloquin, Oregon (Tribal Members Only)

Ducks

Season Dates: Begin October 1, 2000, end January 28, 2001.

Daily Bag and Possession Limits: 9 and 18 ducks, respectively.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 6 and 12 geese, respectively.

General: The Klamath Tribe provides its game management officers, biologists and wildlife technicians with regulations enforcement authority, and has a court system with judges that hear cases and set fines.

(v) Lower Brule Sioux Tribe, Lower Brule Reservation, Lower Brule, South Dakota (Tribal Members and Non-Tribal Hunters)

Ducks (Including Mergansers)

Season Dates: Begin October 7, 2000, end January 11, 2001.

Daily Bag and Possession Limits: Six ducks, including no more than five mallards (only one of which may be a hen), one pintail, three scaup, one mottled duck, two redheads, one canvasback, two wood ducks, and one hooded merganser. The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Begin October 14, 2000, end January 16, 2001.

Daily Bag and Possession Limits: Three geese. The possession limit is twice the daily bag limit.

White-Fronted Geese

Season Dates: Begin October 14, 2000, end January 7, 2001.

Daily Bag and Possession Limits: Two geese. The possession limit is twice the daily bag limit.

Light Geese

Season Dates: Begin October 14, 2000, end January 14, 2001, then begin February 24, end March 9, 2001.

Daily Bag Limit: 20 geese.

General Conditions: All hunters must comply with the basic Federal migratory bird hunting regulations in 50 CFR part 20, including the use of steel shot. Non-tribal hunters must possess a validated Migratory Bird Hunting and Conservation Stamp. The Lower Brule Sioux Tribe has an official Conservation Code that hunters must adhere to when hunting in areas subject to control by the tribe.

(w) Shoshone-Bannock Tribes, Fort Hall Indian Reservation, Fort Hall, Idaho (Non-Tribal Hunters)

Ducks (Including Mergansers)

Season Dates: Begin October 7, 2000, end January 19, 2001.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, one canvasback, one scaup, and two redheads. The possession limit is twice the daily bag limit.

Mergansers

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 5 and 10 mergansers, respectively.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 10 and 20 coots, respectively.

Geese

Season Dates: Begin October 14, 2000, end January 19, 2001.

Daily Bag and Possession Limits: Four geese, including not more than three light geese or two white-fronted geese. The possession limit is twice the daily bag limit.

Common Snipe

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

General Conditions: Non-tribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must possess a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Other regulations established by the Shoshone-Bannock Tribes also apply on the reservation.

(x) Swinomish Indian Tribal Community, LaConner, Washington (Tribal Members Only)

Ducks (Including Mergansers)

Season Dates: Begin September 30, 2000, end February 21, 2001.

Daily Bag and Possession Limits: 10 ducks, including no more than 2 hen mallards, 1 pintail, 1 canvasback, 4 scaup, and 2 redheads. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Seven geese, including seven dark geese but no more than six light geese. The possession limit is twice the daily bag limit.

Brant

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 5 and 10 brant, respectively.

General Conditions: The Swinomish Tribal Community has established additional special regulations for on-reservation hunting. Tribal hunters should consult the tribal office for additional information.

(y) Yankton Sioux Tribe, Marty, South Dakota (Tribal Members and Non-Tribal Hunters)

Ducks (Including Mergansers)

Season Dates: Begin October 14, end December 26, 2000.

Daily Bag and Possession Limits: Six ducks, including no more than five mallards (no more than two hen mallards), two redheads, one pintail, one hooded merganser, one canvasback, three scaup, and two wood ducks. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 15 and 30 coots, respectively.

Dark Geese

Season Dates: Begin October 28, 2000, end January 30, 2001.

Daily Bag and Possession Limits: Three geese, including no more than one white-fronted goose (or brant). The possession limit is twice the daily bag limit.

Light Geese

Season Dates: Begin October 28, 2000, end February 11, 2001.

Daily Bag and Possession Limits: 20 geese, no possession limit.

General Conditions:

(1) The waterfowl hunting regulations established by this final rule apply to tribal and trust lands within the external boundaries of the reservation.

(2) Tribal and non-tribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Yankton Sioux Tribe also apply on the reservation.

Dated: September 27, 2000.

Stephen C. Saunders,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 00–25177 Filed 9–27–00; 3:38 pm]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 65, No. 191
Monday, October 2, 2000

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 905 and 944

[Docket No. FV00–905–2 PR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida and Imported Grapefruit; Relaxation of the Minimum Size Requirements for Red Seedless Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would relax minimum size requirements for red seedless grapefruit grown in Florida and for red seedless grapefruit imported into the United States from size 48 (3 9/16 inches diameter) to size 56 (3 5/16 inches diameter). The Citrus Administrative Committee (Committee), the agency that locally administers the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida, recommended this change for Florida red seedless grapefruit. The change in the import regulation is required under section 8e of the Agricultural Marketing Agreement Act of 1937. This change would allow handlers and importers to ship size 56 red seedless grapefruit, and is expected to maximize grapefruit shipments to fresh market channels.

DATES: Comments must be received by October 17, 2000.

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

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883; telephone: (863) 299–4770, Fax: (863) 299–5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

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

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Agreement No. 84 and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

This proposed rule also is issued under section 8e of the Act, which provides that whenever certain specified commodities, including grapefruit, are regulated under a Federal Marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

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

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

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

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

The order for Florida citrus provides for the establishment of minimum grade and size requirements with the concurrence of the Secretary. The minimum grade and size requirements are designed to provide fresh markets with fruit of acceptable quality and size, thereby maintaining consumer confidence for fresh Florida citrus. This contributes to stable marketing conditions in the interest of growers, handlers, and consumers, and helps increase returns to Florida citrus growers. The current minimum grade standard for red seedless grapefruit is U.S. No. 1. The current minimum size requirement for domestic shipments is size 56 (at least 3 5/16 inches in diameter) through November 12, 2000, and size 48 (3 9/16 inches in diameter), thereafter. The current minimum size for export shipments is size 56 throughout the year.

This proposed rule invites comments on a change to the order's rules and regulations that would relax the minimum size requirement for domestic shipments of red seedless grapefruit. This rule would relax the minimum size from size 48 (3 9/16 inches in diameter) to size 56 (3 5/16 inches in diameter).

Absent this change, the minimum size would revert to size 48 (3 9/16 inches in diameter) on November 13, 2000. This change would allow handlers and importers to continue to ship size 56 red seedless grapefruit, and it is expected to maximize grapefruit shipments to fresh market channels. The Committee met on May 26, 2000, and unanimously recommended this action.

Section 905.52 of the order, in part, authorizes the Committee to recommend minimum grade and size regulations to the Secretary. Section 905.306 (7 CFR part 905.306) specifies minimum grade and size requirements for different varieties of fresh Florida grapefruit. Such requirements for domestic shipments are specified in § 905.306 in Table I of paragraph (a), and for export shipments in Table II of paragraph (b). This rule adjusts Table I to establish a minimum size of 56 (3 5/16 inches diameter). Minimum grade and size requirements for grapefruit imported into the United States are currently in effect under § 944.106 (7 CFR part 944.106). This rule also adjusts § 944.106 to establish a minimum size of 56. Export requirements for Florida red seedless grapefruit are not changed by this rule.

In the past, the Committee recommended relaxing the minimum size for red seedless grapefruit to size 56 in one year intervals. Rather than continuing to make this recommendation each year, the Committee recommended relaxing the minimum size for red seedless grapefruit from size 48 (3 9/16 inches in diameter) to size 56 (3 5/16 inches in diameter) on a continuous basis. In making this recommendation, the Committee recognized that the reasoning behind past recommendations to relax the minimum size to size 56 would most probably continue to exist at least into the foreseeable future.

As in the past, the Committee considered supply and demand in making its recommendation. Since the 1994–95 season, the production of red seedless grapefruit has been somewhere between 28.1 and 31.4 million 1 3/5 bushel boxes each year. Future production is expected to be near or below this range.

The Committee expects fresh market demand to continue to be sufficient to permit the shipment of size 56 red seedless grapefruit. The Committee believes that domestic markets have been developed for size 56 fruit and that the industry should continue to supply those markets. This size relaxation would enable Florida grapefruit shippers to continue shipping size 56 red seedless grapefruit to the domestic market. This rule would have a beneficial impact on producers and handlers because it would permit Florida grapefruit handlers to make available the sizes of fruit needed to meet consumer needs. Matching the sizes with consumer needs is consistent with current and anticipated demand, and would maximize shipments to fresh market channels.

For the grapefruit industry, it is important to maximize shipments to the fresh market. This is especially true for red seedless grapefruit because the returns for processing are negligible. On-tree returns for processed red seedless grapefruit averaged $.17 per 1 3/5 bushel box from 1994 through 1999. In many cases, this is below the cost of production. Comparatively, the average on-tree return is $3.32 for fresh shipments during the same period.

For the years 1994 through 1999, fresh domestic shipments of red seedless grapefruit averaged 16.7 million 4/5 bushel cartons per season. Of these shipments, approximately 2.9 percent were size 56. The average f.o.b. price for size 56 red seedless grapefruit was $5.22 during the 1998–99 season. Combining this price with the average volume of size 56 calculates an approximate market value of $2.5 million for size 56 red seedless grapefruit.

During the first 11 weeks of the season, beginning with the third week in September, the Committee has been using a volume regulation to limit the volume of small red seedless grapefruit that can enter the fresh market. The Committee has used this regulation for the past three seasons, and has recommended using it again for the upcoming season. The Committee believes the percentage size regulation has been helpful in reducing the negative effects of having size 56 red seedless grapefruit available on the domestic market, and that no other restrictions on size 56 are needed.

Therefore, based on available information, the Committee unanimously recommended that the minimum size for shipping red seedless grapefruit to the domestic market should be size 56. This minimum size change would pertain to the domestic market, and would not change the minimum size for export shipments, which will remain at size 56. The largest market for size 56 red seedless grapefruit is for export. Additionally, importers would be favorably affected by this change since the relaxation of the minimum size regulation would also apply to imported grapefruit.

Section 8e of the Act provides that when certain domestically produced commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Since this rule would relax the minimum size requirement under the domestic handling regulations, a corresponding change to the import regulations must also be considered.

Minimum grade and size requirements for grapefruit imported into the United States are currently in effect under § 944.106 (7 CFR 944.106). This rule would relax the minimum size requirement for imported red seedless grapefruit to 3 5/16 inches in diameter (size 56), to reflect the relaxation being made under the order for red seedless grapefruit grown in Florida.

Handlers in Florida shipped approximately 33,650,000 4/5 bushel cartons of grapefruit to the fresh market during the 1999–2000 season. Of these cartons, about 18,463,000 were exported. In the past three seasons, domestic shipments of Florida grapefruit averaged about 16,172,000 cartons. Imports totaled about 456,470 cartons in 1999. Imports account for less than five percent of domestic grapefruit shipments.

During the period January 1, 1999, through December 31, 1999, imports of grapefruit totaled 19,400,000 pounds (approximately 456,470 cartons). Recent yearly data indicate that imports from May through November are typically negligible. Future imports should not vary significantly from the 19,400,000 pounds. The Bahamas were the principal source of imported grapefruit, accounting for 93 percent of the total. Israel, Mexico and Turkey supplied remaining imports. Most imported grapefruit enters the United States from November through May.

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

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

There are approximately 75 grapefruit handlers who are subject to regulation under the order, and approximately 11,000 growers of citrus in the regulated

area, and about 25 grapefruit importers. Small agricultural service firms, which include grapefruit handlers and importers, are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000.

Based on the industry and Committee data for the 1999–2000 season, the average annual f.o.b. price for fresh Florida red seedless grapefruit was around $7.52 per 4/5 bushel carton, and total fresh shipments for the 1999–2000 season are estimated at 25.6 million cartons of red seedless grapefruit. Approximately 25 percent of all handlers handled 70 percent of Florida grapefruit shipments. In addition, many of these handlers ship other citrus fruit and products which are not included in Committee data but would contribute further to handler receipts. Using the average f.o.b. price, about 69 percent of grapefruit handlers could be considered small businesses under SBA's definition. The majority of handlers, importers, and growers may be classified as small entities.

During the period January 1, 1999, through December 31, 1999, imports of grapefruit totaled 19,400,000 pounds (approximately 456,470 cartons). Recent yearly data indicate that imports from May through November are typically negligible. Future imports should not vary significantly from the 19,400,000 pounds. The Bahamas were the principal source of imported grapefruit, accounting for 93 percent of the total. Israel, Mexico, and Turkey supplied remaining imports. Most imported grapefruit enters the United States from November through May.

This proposed rule would relax the minimum size requirement for domestic shipments of red seedless grapefruit from size 48 (3–9/16 inches in diameter) to size 56 (3–5/16 inches in diameter). Absent this rule, the minimum size requirement for domestic shipments would revert to size 48 on November 13, 2000. The Committee believes that domestic markets have been developed for size 56 red seedless grapefruit and that the industry should continue to supply those markets. This change would allow handlers and importers to continue to ship size 56 red seedless grapefruit, and it is expected to maximize shipments to fresh market channels. The Committee unanimously recommended this action. Section 905.306 specifies the minimum grade and size requirements for different varieties of fresh Florida grapefruit. Authority for this action is provided in § 905.52 of the order.

This action would provide for the continued shipment of size 56 red seedless grapefruit. This change is not expected to increase costs associated with the order requirements, or the grapefruit import regulation. This rule would have a positive impact on affected entities. This rule would benefit producers and handlers by making available those sizes of fruit needed to meet consumer needs. This is consistent with current and anticipated demand, and would provide for the maximization of shipments to fresh market channels. The opportunities and benefits of this rule are expected to be equally available to all grapefruit handlers, growers, and importers regardless of their size of operation.

Section 8e of the Act provides that when certain domestically produced commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Because this rule would change the minimum size for domestic red seedless grapefruit shipments, a similar change would also be applicable to imported grapefruit. Therefore, this rule would also relax the minimum size for imported red seedless grapefruit to size 56. This regulation would benefit importers to the same extent that it would benefit Florida grapefruit producers and handlers because it would continue to allow shipments of size 56 red seedless grapefruit into U.S. markets.

The Committee considered one alternative to this action. The Committee discussed relaxing the minimum size to size 56 for one year, as in the past, rather than on a continuous basis. Members said that, rather than discussing the issue each year and recommending a change, they would prefer to make the change effective on a continuous basis. They also stated that should they ever want to increase the minimum size, they could meet and recommend the change to the Secretary. Therefore, the option of relaxing the minimum size for one year was rejected.

This proposed rule would relax size requirements under the marketing order for Florida citrus. Accordingly, this action would not impose any additional reporting or recordkeeping requirements on either small or large red seedless grapefruit handlers and importers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule. However, red seedless grapefruit must meet the requirements as specified in the U.S. Standards for Grades of Florida Grapefruit (7 CFR 51.750 through 51.784) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627).

In addition, the Committee's meeting was widely publicized throughout the Florida citrus industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 26, 2000, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this proposed rule.

A 15-day comment period is provided to allow interested persons to respond to this proposal. Fifteen days is deemed appropriate because this rule would need to be in place on November 13, 2000. This action is similar to those recommended in previous seasons, and it was unanimously recommended by the Committee. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects

7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth above, 7 CFR Parts 905 and 944 are proposed to be amended as follows:

1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

2. In § 905.306, the table in paragraph (a) is amended by revising the entry for ''Seedless, red'' to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum Diameter (Inches)
(1)	(2)	(3)	(4)
GRAPEFRUIT			
* *	* *	* *	*
Seedless, Red	On and after 11/13/00	U.S. No. 1	3–5/16
* *	* *	* *	*

PART 944—FRUITS; IMPORT REGULATIONS

3. In § 944.106, the table in paragraphs (a) is amended by revising the entry for ''Seedless, red'' to read as follows:

§ 944.106 Grapefruit import regulation.

(a) * * *

Grapefruit classification	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
* *	* *	* *	*
Seedless, red	On and after 11/13/00	U.S. No. 1	3–5/16
* *	* *	* *	*

Dated: September 27, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–25188 Filed 9–27–00; 4:21pm]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–55–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes that are equipped with a certain windshield configuration. The proposed AD would require you to incorporate pilot's operating handbook (POH) information that would prohibit the operation of the windshield heating system in the ''LIGHT'' mode, and would require you to modify the windshield deicing system wiring and circuit breakers. You could remove the POH information after accomplishing the modification. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by the proposed AD are intended to prevent loss of electrical power to the windshield deicing system due to operation in the ''LIGHT'' mode, which could result in icing of the windshield and loss of control of the airplane.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before November 7, 2000.

ADDRESSES: Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–55–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Roman T. Gabrys, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4141; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on the proposed AD? The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption **ADDRESSES**. The FAA will consider all comments received on or before the closing date. We may amend the proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the proposed AD action and determining whether we need to take additional rulemaking action.

Are there any specific portions of the proposed AD I should pay attention to? The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed rule that might suggest a need to modify the rule. You may examine all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of the proposed AD.

We are re-examining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clearer, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at *http://www.plainlanguage.gov.*

How can I be sure FAA receives my comment? If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2000–CE–55–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What events have caused this proposed AD? The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified the FAA that an unsafe condition may exist on certain Pilatus Models PC–12 and PC–12/45 airplanes. The FOCA reports that the electrical load of the left hand (LH) and right hand (RH) windshields can become too high during flight at cruise altitudes when the ''LIGHT'' mode is selected on the windshield deicing system. The FOCA references eight instances where prolonged operation of the windshield deicing system in the ''LIGHT'' mode caused this system to temporarily shut down.

The airplanes involved in the above instances were equipped with part number (P/N) 959.81.10.107 LH and P/N/ 959.81.10.108 RH windshields.

What are the consequences if the condition is not corrected? Operation of the existing design windshield deicing system in the ''LIGHT'' position can overload the electrical capacity of the wiring and circuit breakers. This could result in complete electrical power loss to the windshield and icing of the windshield.

Is there service information that applies to this subject? Pilatus has issued the following:

—Temporary Revision No. 21 to PC–12 Pilot's Operating Handbook, Report No. 01973–001, Section 2, Windshield Heater Operation 101–320, Issued: May 19, 2000: This document specifies operating procedures and limitations for airplanes with the affected windshield configurations; and

—Service Bulletin No. 30–006, dated May 22, 2000: This document includes procedures for modifying the windshield deicing system wiring and circuit breakers.

What action did FOCA take? The FOCA classified Pilatus Service Bulletin No. 30–006, dated May 22, 2000, as mandatory and issued Swiss AD HB 2000–393, dated September 6, 2000, in order to assure the continued airworthiness of these airplanes in Switzerland.

Was this in accordance with the bilateral airworthiness agreement? These airplane models are manufactured in Switzerland and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the FOCA has kept FAA informed of the situation described above.

The FAA's Determination and an Explanation of the Provisions of the Proposed AD

What has FAA decided? The FAA has examined the findings of the FOCA; reviewed all available information, including the service information referenced above; and determined that:

—The unsafe condition referenced in this document exists or could develop on other Pilatus PC–12 and PC-12/45 airplanes of the same type design that incorporate this windshield configuration;

—The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and

—AD action should be taken in order to correct this unsafe condition.

What does the proposed AD require? This proposed AD would require you to incorporate POH information that would prohibit the operation of the windshield heating system in the ''LIGHT'' mode, and would require you to modify the windshield deicing system wiring and circuit breakers. You could remove the POH information after accomplishing the modification.

Cost Impact

How many airplanes does the proposed AD impact? We estimate that the proposed AD affects 108 airplanes in the U.S. registry.

What is the cost impact of the proposed AD on owners/operators of the affected airplanes? We estimate the following costs to accomplish the proposed modification:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. airplane operators
18 workhours × $60 per hour = $1,080 ..	Pilatus will provide free-of-charge	$1,080 per airplane.	$116,640.

Compliance Time of the Proposed AD

What is the compliance time of the proposed AD? The compliance time of the proposed AD is as follows:

—Incorporation of the POH temporary revision: ''Within the next 30 days after the effective date of this AD;'' and

—Modification: ''Within the next 12 months after the effective date of this AD.''

Why is the compliance of the proposed AD in calendar time instead of hours time-in-service (TIS)? Although loss of electrical power to the windshield deicing system due to operation in the ''LIGHT'' mode is unsafe during flight, the condition is not a direct result of airplane operation. The chance of this situation occurring is the same for an airplane with 10 hours TIS as it would be for an airplane with 500 hours TIS. A calendar time for compliance will assure that the unsafe condition is addressed on all airplanes in a reasonable time period.

Regulatory Impact

Does this proposed AD impact various entities? The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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 (AD) to read as follows:

Pilatus Aircraft Ltd.: Docket No. 2000–CE–55–AD.

(a) *What airplanes are affected by this AD?* This AD affects Models PC–12 and PC–12/45 airplanes, manufacturer serial number (MSN) 101 through MSN 320, that are:

(1) certificated in any category; and

(2) equipped with part number (P/N) 959.81.10.107 LH and P/N 959.81.10.108 RH windshields (or FAA-approved equivalent part numbers).

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes on the U.S. Register must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent loss of electrical power to the windshield deicing system due to operation in the ''LIGHT'' mode, which could result in icing of the windshield and loss of control of the airplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Action	Compliance time	Procedures
(1) Insert Temporary Revision No. 21 to PC–12 Pilot's Operating Handbook, Report No. 01973–001, Section 2, Windshield Heater Operation 101–320, Issued May 19, 2000.	Within the next 30 days after the effective date of this AD, unless already accomplished.	Anyone who holds at least a private pilot certificate, as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), may incorporate the pilot's operating handbook (POH) revision required by this AD. You must make an entry into the aircraft records that shows compliance with this AD, in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(2) Modify the windshield deicing system wires and circuit breakers. You may remove the POH temporary revision referenced in paragraph (d)(1) of this AD after accomplishing this modification.	Within the next 12 months after the effective date of this AD, unless already accomplished.	In accordance with the modification procedures in the Accomplishment Instructions section of Pilatus Service Bulletin No. 30–006, dated May 22, 2000.
(3) Do not install, on any affected airplane, P/N 959.81.10.107 LH and P/N 959.81.10.108 RH windshields (or FAA-approved equivalent part numbers), without incorporating the modification required in paragraph (d)(2) of this AD.	As of the effective date of this AD	Not applicable.

Note 1: Temporary Revision No. 21 to PC–12 Pilot's Operating Handbook, Report No. 01973–001, Section 2, Windshield Heater Operation 101–320, Issued: May 19, 2000, eliminates the need for Temporary Revision No. 14 in the POH.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through a FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so

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

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Roman T. Gabrys, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 329–4141; facsimile: (816) 329–4090.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021. You may examine these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in Swiss AD HB 2000–393, dated September 6, 2000.

Issued in Kansas City, Missouri, on September 26, 2000.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–25152 Filed 9–29–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–14–AD]

RIN 2120–AA64

Airworthiness Directives; Rockwell Collins, Inc. ADC–85, ADC–85A, ADC–850C, and ADC–850F Air Data Computers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Rockwell Collins, Inc. (Rockwell) ADC–85, ADC–85A, ADC–850C, and ADC–850F air data computers that are installed on airplanes. The proposed AD would require you to replace any air data computer (ADC) with one that has reprogrammed and tested central processing unit (CPU) circuit card and circuit card assemblies. The proposed AD is the result of a flight test that showed that these ADC's could display an unwarranted ADC flag in response to the airplane's ''Normal/Alternate Air'' static source selection capability. The actions specified by the proposed AD are intended to prevent the ADC from displaying an unwarranted ADC flag when switching static air sources. This could cause the flight crew to deselect a valid alternate static air source during the time the unwarranted ADC flag is displayed and possibly result in the display of misleading information during critical operating situations.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule by November 6, 2000.

ADDRESSES: Send comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–14–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may inspect comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except holidays.

You may get the service information referenced in the proposed AD from Rockwell Collins, Business and Regional Systems, 400 Collins Road Northeast, Cedar Rapids, Iowa 52498. You may read this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Roger A. Souter, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Rm 100, Wichita, Kansas 67209; telephone: (316) 946–4134; facsimile: (316) 946–4407. E-mail address: *Roger.Souter@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this AD? We invite your comments on the proposed rule. You may send whatever written data, views, or arguments you choose. You need to include the rule's docket number and send your comments in triplicate to the address specified under the caption **ADDRESSES**. We will consider all comments received by the closing date specified above, before acting on the proposed rule. We may change the proposals contained in this notice because of the comments received.

Are there any specific portions of the AD I should pay attention to? The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed rule that might call for a need to change the proposed rule. You may read all comments we receive. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this proposal.

The FAA is reviewing the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on the ease of understanding this document, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at http://www.faa.gov/language/.

How can I be sure FAA receives my comment? If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2000–CE–14–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What events have caused this proposed AD? The air data computer (ADC), as part of its monitoring process, tests for errant sensor behavior, such as unreasonable jumps in altitude and unreasonably high vertical speed. When the ADC detects an errant sensor behavior, the ADC displays a flag for 5.5 seconds plus the time it takes for the sensor to settle within the limits for another 5.5-second period. This results in a minimum ADC flag display of 11 seconds.

Testing of certain Rockwell Collins ADC's reveals the ADC could display unwarranted flags on aircraft where you can select the ''Normal/Alternate Air'' static source. When there is a significant difference between normal and alternate/revisionary static air sources, you can exceed the ADC monitor thresholds and the ADC would display flags.

If the flight crew used the undesirable ADC flag displays to deselect the alternate static air source before the initial 11-second display period, a valid air source may have been deselected. Confusion could result when the previously unflagged normal static air source is reselected. This may also result in the ADC displaying a flag for the first 11 seconds. The affected ADC's include:

Unit	Part No.	Applicable to serial No.	Production installed serial No.
ADC–85	622–8051–002, 622–8051–003	All units	None.
ADC–85A	822–0370–113, 822–0370–123, 822–0370–139, 822–0370–404, 822–0370–408	All units	None.
ADC–850C	822–0374–121, 822–0374–135, 822–0374–407, 822–0374–410	1FWH and below, except 1B16 through 1P6C	1B16 through 1P6C, 1LT6 and above.
ADC–850F	822–1036–406, 822–1036–418	All Units	None.

What are the consequences if the condition is not corrected? If these situations were to occur while the flight crew were making critical flight decisions, this unwarranted ADC flag could distract the crew and the lack of attention to the critical actions could result in an unsafe operating condition.

Relevant Service Information

What service information applies to this subject? Rockwell has issued Service Bulletin No. 62 (ADC–85/85A/850C/850F–34–62), dated October 25, 1999.

What are the provisions of this service bulletin? The service bulletin contains procedures for replacing or reprogramming applicable parts or Circuit Card Assemblies on CPU Circuit Cards in the ADC and testing the modified ADC.

The FAA's Determination and an Explanation of the Provisions of the Proposed AD

What has FAA decided? After examining the circumstances and reviewing all available information related to the incidents described above, we have determined that:

—The unsafe condition referenced in this document exists or could develop on airplanes equipped with either a Rockwell ADC–85, ADC–85A, ADC–850C, or ADC–850F ADC's;

—Any airplane with one of these ADC units should have the actions specified in the above service bulletin incorporated; and

—The FAA should take AD action to correct this unsafe condition.

What does this proposed AD require? This proposed AD would require you to:

—Remove the ADC from the airplane,

—Replace or reprogram applicable parts or Circuit Card Assemblies on the CPU Circuit Card,

—Test the modified ADC, and

—Install the modified ADC in the airplane.

Cost Impact

How many airplanes does this proposed AD impact? We estimate the proposed AD would affect 245 airplanes in the U.S. registry.

What is the cost impact of the proposed action for the affected airplanes on the U.S. Register? We estimate that it would take about 1 workhour per airplane to remove the ADC. We estimate that it would take about 1 workhour to install the ADC in the airplane.

We estimate that it would take about 1 workhour per airplane to do the proposed installation and reprogramming and about 3 workhours per airplane to do the proposed testing at an average labor rate of $60 an hour. Parts to do this action cost up to $680. Based on the figures presented above, we estimate the total cost impact of the proposed action on U.S. operators is $254,800, or $1,040 per airplane.

For units that are still under warranty, Rockwell will provide the parts and labor at no charge.

Regulatory Impact

Does this proposed AD impact relations between Federal and State governments? The proposed regulations would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. It is determined that this proposed rule would not have federalism implications under Executive Order 13132.

Does this proposed AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this proposed action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if put into effect 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. We have placed a copy of the draft regulatory evaluation prepared for this action in the Rules Docket. You may get a copy of it 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, under the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) 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. FAA amends Section 39.13 by adding a new airworthiness directive (AD) to read as follows:

Rockwell Collins, Inc.: Docket No. 2000–CE–14–AD.

(a) *What airplanes are affected by this AD?* The following Rockwell Collins air data computers (ADC) that are installed in, but not limited to the airplanes that are listed below:

(1) Affected ADC's:

Unit	Part No.	Applicable to serial No.	Production installed serial No.
ADC–85	622–8051–002, 622–8051–003	All Units	None.
ADC–85A	822–0370–113, 822–0370–123, 822–0370–139, 822–0370–404, 822–0370–408	All Units	None.
ADC–850C	822–0374–121, 822–0374–135, 822–0374–407, 822–0374–410	1FWH and below, except 1B16 through 1P6C	1B16 through 1P6C, 1LT6 and above.
ADC–850F	822–1036–406, 822–1036–418	All Units	None.

(2) List of airplanes where the affected ADC could be installed. This is not a comprehensive list and airplanes not on this list that have the ADC installed through field approval or other methods are still affected by this AD:

Unit	Airplane model
ADC–85/ADC–85A.	Astra AIA, Chinese Y7 and Y8, Czech LET–610, DC–8, Falcon 20F, Piaggio P–180, Raytheon King 250, 350, and 1900, Saab 340.
ADC–850D	Lear 60.
ADC–850F	Falcon 20, 50, and 50EX.

(b) *Who must comply with this AD?* Anyone who wishes to operate any airplane on the U.S. Register that uses one of the above referenced Rockwell air data computers must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent an unwarranted display of the ADC flag when switching static air sources. This could cause the flight crew to react to this incorrect flight information and possibly result in an unsafe operating condition.

(d) *What must I do to address this problem?* To address this problem, you must accomplish the following actions:

Actions	Compliance times	Procedures
(1) Remove any affected ADC from the airplane.	Within 1 year after the effective date of this AD.	Do these actions in accordance with Rockwell Collins Service Bulletin No. 62 (ADC–85/85A/850C/850F–34–62), dated October 25, 1999, the applicable Collins Computer Component Maintenance Manual, and Collins Avionics Standard Shop Practices Instruction Manual.
(2) As applicable, replace or reprogram parts or Circuit Card assemblies on Central Processing Unit Circuit Cards.		
(3) Test the ADC.		
(4) Install the modified ADC in the airplane.		
(5) Do not install on any airplane one of the affected ADC's unless the modification and test required by paragraphs (d)(2) and (d)(3) of this AD are accomplished.	As of the effective date of this AD	Use the procedures in the referenced service information.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Wichita Aircraft Certification Office (ACO, 1801 Airport Road, Rm 100, Wichita, Kansas 67209, approves your alternative. Send your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

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

(f) *Where can I get information about any already-approved alternative methods of compliance?* You can contact Roger A. Souter, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Rm 100, Wichita, Kansas 67209; telephone: (316) 946–4134; facsimile: (316) 946–4407, E-mail: Roger.Souter@faa.gov.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from Rockwell Collins, Business and Regional Systems, 400 Collins Road Northeast, Cedar Rapids, Iowa 52498; or may read this document at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on September 26, 2000.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–25153 Filed 9–29–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–16–AD

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 204B Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for Bell Helicopter Textron, Inc. (BHTI) Model 204B helicopters. The AD would require replacing any main rotor mast assembly (mast), part number (P/N) 204–011–450–001, within 25 hours time-in-service (TIS). This proposal is prompted by the crash of a restricted category Model UH–1B helicopter due to failure of a mast, P/N 204–011–450–001. The same mast P/N is used on the Model 204B helicopters. The actions specified by the proposed AD are intended to prevent failure of the mast and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before December 1, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–16–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 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael Kohner, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Certification Office, Fort Worth, Texas 76193–0170, telephone (817) 222–5447, fax (817) 222–5783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications 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 will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available 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. 2000–SW–16–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–16–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

This document proposes adopting a new AD for BHTI Model 204B helicopters. The AD would require replacing any mast, P/N 204–011–450–001, within 25 hours time-in-service (TIS). This proposal is prompted by the crash of a restricted category Model UH–1B helicopter due to failure of a mast, P/N 204–011–450–001, as a result of an undetected fatigue crack in the stabilizer bar damper spline. Metallurgical examination of the failed part by the National Transportation Safety Board (NTSB) Materials Laboratory revealed fatigue cracking adjacent to the upper groove on the stabilizer bar damper spline. Several other cracks were noted in the same area during visual examination. The mast was reported to have accumulated 4006 hours TIS. The accident investigation also revealed that the U. S. Army removed the masts, P/N 204–011–450–001 and –005, from service in July 1984.

The FAA issued AD 2000–15–21 on August 1, 2000 (65 FR 48605, August 9, 2000), requiring removal of the mast, P/N 204–011–450–001 and –005, from service on former U.S. military restricted category helicopters. Because the same P/N mast is used on the Bell Model 204B helicopters, this AD proposes to remove the mast, P/N 204–011–450–001, from service on these model helicopters as well. The actions specified by the proposed AD are intended to prevent failure of the mast. This condition, if not corrected, could result in loss of control of the helicopter.

We have identified an unsafe condition that is likely to exist or develop on other BHTI Model helicopters of the same type design. The proposed AD would require replacing any mast, P/N 204–011–450–001, which would no longer be eligible for installation on any helicopter.

We estimate that 15 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 10 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 $8,862 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $141,930.

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:

Bell Helicopter Textron, Inc.: Docket No. 2000–SW–16–AD.

Applicability: Model 204B helicopters with main rotor mast assembly, part number (P/N) 204–011–450–001, installed, 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 (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within 25 hours time-in-service, unless accomplished previously.

To prevent failure of the main rotor mast assembly (mast) and subsequent loss of control of the helicopter, accomplish the following:

(a) Remove any mast, P/N 204–011–450–001, from service and replace it with an airworthy mast. Accomplishing the requirement of this paragraph constitutes terminating action for the requirements of this AD. P/N 204–011–450–001 is not eligible for installation on any helicopter.

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

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

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

Issued in Fort Worth, Texas, on September 25, 2000.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00–25154 Filed 9–29–00; 8:45 am]

BILLING CODE 4910–13–P

POSTAL SERVICE

39 CFR Parts 111 and 502

Production, Distribution, and Use of Postal Security Devices and Information-Based Indicia

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service is proposing to add new sections to the Domestic Mail Manual (DMM) and to title 39, Code of Federal Regulations (CFR), to reflect policies and regulations pertaining to all postage evidencing systems that generate information-based indicia (IBI). We originally published policies and regulations for public review and comment in the March 28, 1997, **Federal Register** (62 FR 14833). In the September 2, 1998, **Federal Register** (63 FR 46719) we published a revision of those proposed policies and regulations which included changes made in response to the comments received from the public.

This publication of proposed policies and regulations includes extensive changes. We based the changes since the 1998 publication on public comments and on the experience we gained by testing and implementing the first postage evidencing systems to generate information-based indicia (IBI). One significant proposed change is the establishment by the Postal Service of the Electronic Funds Resetting System (EFRS) to process resetting data for these systems. We will continue to process data for traditional postage meters under the Computerized Meter Resetting System (CMRS). Other proposed changes include modifying the forms of payment the Postal Service will accept, and changing the policy for refunds for unused IBI postage and for the balance remaining on a postal security device (PSD) that is withdrawn from service.

We are reissuing the policies and regulations in this proposal for public comment because we made extensive changes. We will revise the proposed IBI policies and regulations, if required, and publish them as a final rule after we review the comments.

DATES: Comments must be received on or before December 1, 2000.

ADDRESSES: Written comments should be mailed or delivered to the Manager, Postage Technology Management, USPS Headquarters, 475 L'Enfant Plaza SW, Room 8430, Washington, DC 20260–2444. Copies of all written comments will be available at this address for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Nicholas S. Stankosky, 202–268–5311.

SUPPLEMENTARY INFORMATION: Postage evidencing systems covered by these regulations include all those systems that generate information-based indicia (IBI) and use a postal security device (PSD). The characteristics of these systems enable the Postal Service to scan indicia to detect fraud. Core security functions, such as digital signature generation, digital signature verification, and the management of postage registers are performed by the PSD. The IBI contains a two-dimensional barcode that incorporates a cryptographic digital signature. The component of these postage evidencing systems that controls the registered user infrastructure for system authorization, system audits, remote postage resetting, and production of the indicia is called the client system.

Authorized postage evidencing systems are available from authorized, commercial product service providers. The provider's infrastructure supports user registration (formerly ''licensing''), PSD management and life cycle support, and an interface between the client system and the Postal Service infrastructure. The Postal Service infrastructure supports the issuance of user registrations, updating user registration information, PSD inventory and tracking, resetting, account reconciliation, lost and stolen/irregularity monitoring, and the assignment of digital certificates.

The Following is a Summary of the Postal Service's Position on Some General Interest Policy Issues for Postage Evidencing Systems That Generate IBI

1. Any proposed postage evidencing system that generates IBI must be submitted to the Postal Service for approval under the then current version of the postage evidencing product submission procedures. These procedures include specifics on letters of intent, nondisclosure agreements, the product service provider's concept of operations and infrastructure, documentation requirements, product submissions, and testing activities. Information pertaining to these

procedures may be accessed through the USPS Web site.

2. The user must register with the Postal Service before using a postage evidencing system that generates IBI.

3. PSDs remain the property of the USPS-authorized product service provider and are available only through a lease agreement with the provider. The software component of these postage evidencing systems is licensed to the registered user by the provider.

4. Until the Postal Service has recorded sufficient data on reliability and security, the total amount of postage in a descending register, which shows the amount of postage available, will be limited to an amount established by the Postal Service.

5. Authorized providers must keep records of the distribution, maintenance, replacement, and disposal of all PSDs throughout the complete life cycle of the PSD. All PSDs must be tracked, including newly produced PSDs; active leased PSDs; and inactive unleased PSDs; and lost, stolen, and scrapped PSDs.

6. Indicia produced by these postage evidencing systems may be used to indicate postage for single-piece rate First-Class Mail (including Priority Mail), single-piece rate International Mail, Standard Mail (B); and Express Mail, Express Mail International Service, Global Priority Mail, and Priority Mail Global Guaranteed. Mail bearing the indicia is entitled to all privileges and subject to all conditions applying to these classes of mail.

7. Providers are responsible for audit functions. The Postal Service will not take over this function, but may at times participate in or review the audit process. PSDs must be audited at least once every 3 months.

8. To ensure the quality and readability of the indicia, providers must perform an analysis of the mailpieces that registered users submit every 6 months for the provider's mailpiece quality assurance program. The provider must notify the registered user and the Postal Service of any deficiencies and provide guidance to the user to correct any deficiencies that are discovered.

9. All postage downloads or settings will be made under the provisions of the Electronic Funds Resetting System (EFRS). The Postal Service will conduct periodic audits of the provider's resetting system to ensure that the system is operating correctly and that postal revenues are protected.

10. The Postal Service may physically inspect a PSD if it has a reason to suspect a security problem.

11. The Postal Service will provide refunds through the product service providers, in accordance with Postal Service procedures, for printed but unused postage and for the full postage value balance remaining on a PSD that is withdrawn from service.

12. The provider must supply registered users with modifications reflecting rate changes and must implement new rates as of the effective date for the new rates established by the Postal Service.

13. There are provisions in the regulations for the correction of postage and dates. For date correction, the facing identification mark (FIM) and two-dimensional barcode will be suppressed; for postage correction, the FIM will be suppressed.

14. The provider will make the registered user aware of the applicable Postal Service regulations pertaining to use of the information-based indicia and of the postage evidencing system that generates them through cautionary statements in the system software, system documentation, and product labeling, as appropriate.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed amendments to the Domestic Mail Manual, incorporated by reference in the Code of Federal Regulations. See 39 CFR part 111.

PART 111—[AMENDED]

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

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

2. Add the following sections to the Domestic Mail Manual as set forth below:

P050 Information-Based Indicia (IBI)

1.0 BASIC INFORMATION

1.1 Description of Postage Evidencing Systems that Generate Information-Based Indicia (IBI)

Postage evidencing systems that generate information-based indicia (IBI) are secure systems that print USPS-authorized, digitally signed indicia to show payment of postage. These systems include as a primary component a postal security device (PSD) that performs core security functions such as digital signature generation and verification, as well as the management of postage registers. The component of these postage evidencing systems that controls the registered user infrastructure for system authorization, system audits, remote postage resetting, and production of the indicia is called the client system. The PSD and the client system interact to generate the indicia. Indicia consist of a USPS-approved two-dimensional barcode and certain human-readable information. Authorized postage evidencing systems are available from authorized, commercial product service providers. Avoiding the payment of postage by misusing a postage evidencing system is punishable by law.

1.2 Product Service Provider Responsibilities

Postal security devices (PSDs) remain the property of the USPS-authorized product service provider and are available only through a lease agreement with the provider. The software component of these postage evidencing systems is licensed to the registered user by the provider. The Postal Service holds providers responsible for the control, operation, distribution, maintenance, and replacement of the PSD throughout the entire life cycle of the PSD. The provider is also responsible for the secure disposal or destruction of the PSD at the end of its useful life.

1.3 Product Service Providers

Postage evidencing systems that generate IBI are available from authorized providers. The following providers have been approved as of September 2000:

E-Stamp Corporation, 2051 Stierlin Court, Mountain View, CA 94043–4655, www.estamp.com

Neopost Online, 3400 Bridge Parkway, Suite 201, Redwood City, CA 94065–1168, www.neopostonline.com

Pitney Bowes, Inc., 40 Lindeman Drive, Trumbull, CT 06611–4785, www.pitneybowes.com/soho/

Stamps.com, 3420 Ocean Park Boulevard, Suite 1040, Santa Monica, CA 90405–3035, www.stamps.com

1.4 Possession

No one other than an authorized product service provider may possess or use a PSD without a valid USPS-issued postage evidencing system user registration and a valid lease agreement with the provider. Any person in possession of a PSD without meeting these conditions must immediately surrender it to the provider or to the USPS.

1.5 Classes of Mail

Information-based indicia (IBI) produced by an authorized postage evidencing system may be used to indicate postage for single-piece rate First-Class Mail (including Priority Mail), single-piece rate International Mail, and single-piece rate Standard Mail (B); also Express Mail, Express Mail Military Service, Express Mail International Service, Global Priority Mail, and Priority Mail Global Guaranteed. The indicia can be used to pay for special services. Mail prepared using such a system is entitled to all privileges and subject to all conditions that apply to the various mail classes and services.

1.6 Amount of Postage

The value of the indicia affixed to each mailpiece must equal or exceed the exact amount due for the piece when mailed. Refunds for overpayment must meet the standards in P014.

1.7 Reply Postage

A postage evidencing system that generates IBI may be used to prepare prepaid reply postage for the following domestic mail classes: All single-piece rate First-Class Mail (including Priority Mail), Standard Mail (B), and Express Mail. The prepaid reply mail must meet the following conditions:

a. The postage amount in the indicium must be enough to prepay the postage in full.

b. Indicium showing postage evidencing may be printed directly on the mailpiece or on a label and must be applied to a mailpiece in accordance with the directions in 4.4. An applied label must adhere well enough that it cannot be removed in one piece.

c. The mailpiece must be pre-addressed for return to the registered user.

d. If the postage evidencing system used to prepare the return postage indicium has the capability to print destination addresses for the given size and class of mailpiece, the address for returning the mailpiece to the registered user must be prepared using that system.

e. For those postage evidencing systems without the capability to print an address for the given class or size of mailpiece, the address side of reply mail may be prepared by any photographic, mechanical, or electronic process or combination of such processes (other than handwriting, typewriting, or hand stamping).

f. The address side of the mailpiece must follow the style and content of the example below. Nothing may be added except a return address and facing identification mark (FIM).

g. If the reply mailpiece is letter-sized First-Class Mail, a FIM D is required when the indicium for reply postage is printed directly on the mailpiece.

h. Prepaid reply mail is delivered only to the address of the registered user. If the address is altered, the mail is held for postage.

i. IBI used to prepay reply postage must show the date the indicium was printed by the registered user, and must include the words ''REPLY POSTAGE''.

IBI placed here
with date postage was printed
and the words "REPLY POSTAGE"

NO POSTAGE STAMP NECESSARY
POSTAGE HAS BEEN PAID BY

Name of the Registered IBI User
Street Address for Registered User
City, State, 5 Digit ZIP Code of Registered User 12345

2.0 USER REGISTRATION

2.1 Procedures

The user must register with the Postal Service before using a postage evidencing system that generates IBI. An applicant must apply for a user registration through the provider and submit to the provider all data required for a registration to lease and use postage evidencing systems. The application must show the post office where the applicant intends to deposit the mail. This is called the registration post office. An application for a user registration is processed through the Centralized Registration System (CRS), formerly the Centralized Meter Licensing System. The provider electronically transmits the required information to CRS in the USPS-specified format. There is no fee for the application or user registration. After approving an application, the Postal Service issues a postage evidencing system user registration, and notifies the appropriate provider. A single user registration covers all postage evidencing systems for the same applicant for the same post office, but a separate application must be submitted for each post office where the applicant intends to deposit mail. A single PSD can be registered to only one post office at any one time; it must be reauthorized by the provider for use at a different post office.

2.2 Registered User's Agreement

By submitting an application for a user registration, the applicant agrees that the registration may be revoked immediately and that the postage evidencing system may be withdrawn

from service by the provider or the USPS for the following reasons:

a. The postage evidencing system is used in any fraudulent or unlawful scheme or enterprise.

b. The postage evidencing system is not used for 12 consecutive months.

c. The registered user fails to exercise sufficient control of the postage evidencing system or fails to comply with the standards for system care or use.

d. The postage evidencing system is used outside the United States, its territories or its possessions, except as specifically authorized by these regulations or by the manager of Postage Technology Management, USPS Headquarters.

e. IBI mail is deposited at other than the registration post office (except as permitted under 5.0 or D072).

f. The registered user fails to forward mailpieces to the provider for quality assurance as required in 2.6.h.

2.3 Refusal to Register a User

The Postal Service notifies both the applicant and the provider when an application for user registration is refused. The notification is in writing and is sent certified mail, return receipt requested. Any applicant refused a user registration may appeal the decision under 2.5. The Postal Service may refuse to register a user for the following reasons:

a. The applicant submitted false information on the user registration application.

b. The applicant violated any standard for the care or use of a PSD, postage evidencing system, information-based indicia, or postage meter that resulted in the revocation of that applicant's user registration or postage meter license within 5 years preceding submission of the application.

c. There is sufficient reason to believe that the postage evidencing system is to be used in violation of Postal Service regulations.

2.4 Revocation of a User Registration

The Postal Service notifies the registered user of any revocation. The Postal Service also notifies the registered user's provider of the revocation so that the provider can cancel the lease agreement and withdraw the postage evidencing system from service. The notification is in writing and is sent certified mail, return receipt requested. Revocation takes effect 10 calendar days after the registered user receives or refuses to receive the revocation notice unless, within that time, the registered user appeals the decision under 2.5. A user registration is subject to revocation for any of the following reasons:

a. The postage evidencing system is used for any illegal scheme or enterprise or there is probable cause to believe that the system is to be used in violation of the applicable standards.

b. The user registration does not have a postage evidencing system applied against it or the registered user's postage evidencing system has not been reset within the last 12 months.

c. Sufficient control of the postage evidencing system is not exercised or the standards for its care or use are not followed.

d. The postage evidencing system is kept or used outside the customs territory of the United States or those U.S. territories and possessions where the Postal Service operates, except as specified in 2.11 or 2.12.

e. IBI mail is deposited at other than the registration post office (except as permitted under 5.0 or D072).

f. The registered user fails to forward mailpieces to the provider for quality assurance as required in 2.6.h.

2.5 Appeal Process

An applicant who is refused a user registration, or a registered user whose registration is revoked, may file a written appeal with the manager of Postage Technology Management, USPS Headquarters, within 10 calendar days after receiving or refusing to receive notification of the decision.

2.6 Registered User's Responsibilities

The registered user's responsibilities for the care and use of a postage evidencing system that generates IBI include the following:

a. A PSD that is delivered to a registered user must remain in the registered user's custody until it is returned to the authorized provider, or to the Postal Service, or is removed by the U.S. Postal Inspection Service.

b. Some postage evidencing systems maintain a log file that automatically records all transactions relating to indicia creation, funds transfer (including postage value download), and postal security device audits which is transmitted automatically to the provider by the system with each connection. The registered user may not manipulate these log files to reflect an inaccurate record of transactions or prevent the transmission of these log files to the provider.

c. The registered user must, upon request, make immediately available for review and audit by the provider or by the Postal Service any PSD in the user's custody and the corresponding transaction records.

d. The registered user must reset the PSD at least once every 3 months to meet provider audit and examination requirements. A zero value reset will meet this requirement.

e. The registered user must update information with the provider whenever there is any change in the user's name, address, telephone number, location of the PSD, registration post office, or any other required user registration information. The Postal Service will issue a revised user registration based on the transmission of updated information from the provider.

f. The registered user must report a misregistering or otherwise defective PSD to the provider under 2.8, and must ensure that the defective PSD is not used. Anyone in possession of a misregistering or otherwise defective PSD must return it to the provider within 3 business days.

g. For postage evidencing systems that generate IBI and access the USPS Address Management System (AMS) CD–ROM, the registered user must maintain address quality by ensuring the CD–ROM is updated at least once every 6 months.

h. The registered user must forward a mailpiece with an indicium produced by the postage evidencing system to the provider for quality assurance when the system is installed and at least once every 6 months thereafter, in accordance with provider directions.

i. The registered user must enter into a signed lease agreement with the provider that includes a financial agreement for resetting the PSD with postage and the Postage Payment Agreement. The Postal Service is not a party to the lease agreement, except to the extent that it may enforce the Postage Payment Agreement.

j. The registered user must ensure that the cautionary information placed by the provider in system documentation, on the opening screens at system start-up, or on labels attached to the PSD or its housing, is not removed or destroyed while the postage evidencing system is in the registered user's possession. The cautionary information contains basic reminders on ownership and use of the PSD, warnings against system tampering or misuse resulting in non-payment of postage owed, and the penalties for such system misuse. Postage evidencing systems without this cautionary information shall not be authorized for use.

2.7 Custody of Suspect PSDs

The Postal Service may conduct unannounced, on-site examinations of PSDs reasonably suspected of being manipulated or otherwise defective. A

postal inspector also may immediately withdraw a suspect PSD from service for physical and/or laboratory examination. The inspector withdrawing a suspect PSD issues the registered user a receipt for the PSD; forwards a copy to the provider; and, if necessary, assists in obtaining a replacement PSD. Where possible, the Inspection Service gives advance notice to the provider that a PSD is to be inspected. Unless there is reason to believe that the PSD is fraudulently set with postage, existing postage in the PSD is refunded to the registered user, in accordance with established refund procedures, when it is withdrawn from service.

2.8 Defective PSD

The registered user must immediately report any defective PSD to the provider. The provider must retrieve any defective PSD in a user's possession within 3 business days of notification by the registered user, and must notify the manager of Postage Technology Management, USPS Headquarters, immediately. A faulty PSD may not be used under any circumstance. The provider supplies the registered user with a replacement PSD only if the faulty PSD is in the provider's possession.

2.9 Missing PSD

The registered user must immediately report to the provider the loss or theft of any PSD or the recovery of any missing PSD. Reports must include the postal security device identification number of the PSD; the date, location, and details of the loss, theft, or recovery; and a copy of any police report. The provider will report all details of the incident to the manager of Postage Technology Management, USPS Headquarters.

2.10 Returning a PSD

A registered user in possession of a faulty or misregistering PSD, or who no longer wants to keep a PSD, must return the PSD to the provider to be withdrawn from service. PSDs must be shipped by Priority Mail unless the manager of Postage Technology Management, USPS Headquarters, gives written permission to ship at another rate or special service.

2.11 Approval for Use of Postage Evidencing Systems at Military Post Offices

A person authorized by the Department of Defense to use the services of an overseas military post office, such as an APO or FPO, is allowed to use a USPS-approved postage evidencing system that generates IBI in accordance with the same regulations that apply to domestic users. For such users, the APO or FPO will be designated as the registration post office on their user registration. These users must deposit the mail prepared with their system at the registration post office.

2.12 Approval for Use of Postage Evidencing Systems Outside the Country

Under certain conditions, with specific approval from the manager of Postage Technology Management, USPS Headquarters, registered users (other than those with access to an overseas military post office) may use postage evidencing systems that generate IBI outside the customs territory of the United States to print evidence of U.S. postage. The procedures and conditions are as follows:

a. The potential users must maintain a permanent, established business address in the United States. Any exceptions must be specifically approved in writing by the manager of Postage Technology Management, USPS Headquarters (see G043).

b. All registered users who use a USPS-approved postage evidencing system outside the customs territory of the United States are subject to all Postal Service regulations and U.S. statutes pertaining to mail, mail fraud, and misuse of postage evidencing systems.

c. All postage evidencing systems authorized by the USPS for use in foreign locations must have enhanced security features. Only those systems specifically approved in writing by the manager of Postage Technology Management, USPS Headquarters, may be used outside the customs territory of the U.S.

d. Potential users must submit all data required for the application for a registration to lease and use postage evidencing systems to the provider. The provider will annotate the application to state that it is for the foreign use of a U.S. postage evidencing system and show where the system is to be located. The provider must submit the application to the manager of Postage Technology Management, USPS Headquarters, for review and approval. Once an application is approved, Postage Technology Management will designate the registration post office and notify the provider and the registered user. Multiple foreign postage evidencing systems for the same registered user at the same registration post office may be covered by one foreign user registration. Mailers who currently have a user registration must apply for a separate foreign user registration to participate in this program.

e. The provider selected by the registered user must agree in writing to all terms and conditions established by the Postal Service pertaining to the distribution of U.S. postage evidencing systems outside of the United States.

Once the postage evidencing system is installed, the provider must provide the information required for Form 3601–C, Postage Evidencing System Activity Report, and submit it directly to the manager of Postage Technology Management, USPS Headquarters (see G043).

f. Mail to which an IBI is applied as postage evidencing must use domestic U.S. postage and must be entered at the registration post office.

3.0 SETTING

3.1 Initialization and Authorization of the PSD

Before the registered user can print evidence of postage, the PSD must be initialized and authorized by the provider. The initialization process installs PSD-specific information that does not change over the life cycle of the PSD. The authorization process is the setting of user-specific information. The PSD is reauthorized by the provider when certain user-specific information changes. Settings are made in accordance with the provisions of the USPS Electronic Funds Resetting System (EFRS).

3.2 Relocation of Registered User

If a registered user changes the post office at which IBI mail is to be deposited, the provider must reauthorize the PSD for the new registration post office. The user must notify the provider and must be registered at the new registration post office before the provider can reauthorize the PSD.

3.3 Payment for Postage

The Postal Service will accept payment only in the following forms: Automated Clearinghouse (ACH) debit and credit card.

3.4 Resetting

To reset a PSD the following conditions must be met:

a. The registered user shall initiate payment to the Postal Service sufficient to cover the desired postage increment before requesting a postage value download to reset the PSD.

b. As part of the resetting procedure, the registered user must provide identifying information and PSD audit data as required by the Postal Service and in accordance with the provider's

resetting specifications. Before completing the PSD resetting, the provider must verify the identifying data, authenticate the registered user, conduct the postage evidencing system audit, and ascertain whether payment to the Postal Service sufficient to cover the requested postage value download was initiated by the registered user.

c. The provider will supply the registered user with documentation of the reset transaction and the balance on the PSD.

3.5 Postage Refunds

The Postal Service provides refunds for the entire postage value balance remaining on a PSD that is withdrawn from service and is in the possession of the provider. Refunds are requested and paid through the provider. Refunds for postage already printed onto an envelope or label are made in accordance with P014. Postage losses due to malfunctions are the responsibility of the provider.

3.6 Postage Adjustment for Faulty or Misregistering PSD

If the registered user requests a postage adjustment for a faulty or misregistering PSD, then the PSD must be withdrawn from service and must be in the possession of the provider for examination. The provider will examine the PSD in comparison with the data from the registered user's log files. After examining a PSD withdrawn from service for apparent faulty operation affecting the ascending or descending registers, the provider must report the malfunction to the manager of Postage Technology Management, USPS Headquarters. The report must contain all applicable documentation (including a copy of the registered user's log files) and a recommendation for the appropriate postage adjustment. At the same time the report is made to the Postal Service, the provider must notify the registered user of the proposed postage adjustment. A registered user may appeal a postage adjustment to the manager of Postage Technology Management, USPS Headquarters, within 60 calendar days of the date that the provider submitted the postage adjustment recommendation to the Postal Service.

3.7 Periodic Examinations

The registered user must reset the PSD at least once every 3 months. A zero-value reset meets this requirement. The Postal Service reserves the right to examine PSDs by remote access or otherwise.

3.8 Amount of Postage Available

The descending register of the PSD, which shows the amount of postage remaining, is programmed not to exceed a specified amount established by the Postal Service, for a given registered user at any time.

4.0 INDICIA

4.1 Designs

The indicia designs (types, sizes, and styles) must be those that the provider specified when the postage evidencing system was approved by the Postal Service for production and distribution (see Exhibit 4.1).

[Exhibit 4.1, which shows all approved indicia designs, will be included when these regulations are published in final form in the Domestic Mail Manual.]

* * * * *

4.2 Legibility

The indicia must be legible. Illegible indicia are not acceptable for the payment of postage. Should there be a need to place multiple indicia on an envelope (*e.g.,* for redate and/or postage correction) the indicia must not overlap each other. The address and POSTNET barcode must meet the specifications listed in C840. Reflectance measurements of the indicia and the background material must meet the standards in C840.5.

4.3 On an Adhesive Label

A label used to apply information-based indicia to a mailpiece for postage evidencing must be approved by the manager of Postage Technology Management, USPS Headquarters. Failure to use a USPS-approved label may result in revocation of the user registration for the postage evidencing system. The label must meet the following requirements:

a. The label must be a pressure-sensitive, permanent label. The label is subject to the corresponding standards in C810.6.2 for minimum peel adhesion. The applied label must adhere well enough that it cannot be removed in one piece. A face stock/liner, or ''sandwich,'' label must not be used for printing information-based indicia.

b. The label must meet the reflectance requirements in C840.5.0.

c. The label must be large enough to contain the entire information-based indicia.

d. Information-based indicia printed on a label must be the same as the indicia approved by the manager of Postage Technology Management for printing directly on an envelope. The label must not include any image or text other than that required by the IBI performance criteria or as required or recommended by Postal Service regulation.

e. For labels applied to standard letter-sized envelopes and postcards sent as First-Class Mail, the label must have fluorescent striping that meets the following requirements:

(1) A stripe along the right side (leading edge) of the label that is ¼ inch wide and extends a minimum of ½ inch and a maximum of 1½ inches from the top of the label.

(2) A stripe along the top edge of the label that is ¼ inch wide and extends a minimum of ½ inch and a maximum of 1½ inches from the right edge of the label.

(3) All stripes must have a minimum fluorescent emission intensity of at least 20 phosphor meter units (PMU), with a maximum of 70 PMU. The visible color of the fluorescent tagging may be any color that meets the fluorescence requirements.

(4) The fluorescent tagging shall exhibit no noticeable change (*i.e.,* no more than 10 percent) in its emission when exposed to elevated temperature and/or high humidity conditions.

f. The label must be placed on the envelope such that the position of the indicia meets the requirements in 4.4.

g. If the label is applied to an envelope that already has a FIM, then the existing FIM cannot be covered by the label.

4.4 Position

The indicia must be printed or applied in the upper right corner of the envelope. The indicia must be at least ¼ inch from the right edge of the mailpiece and ¼ inch from the top edge of the mailpiece. The barcode in the indicia must be horizontally oriented. If a FIM is printed with the indicia, the position of the FIM must meet the requirements in C100.5.0. The indicia must not infringe on the areas reserved for the FIM, POSTNET barcode, or optical character reader (OCR) clear zone.

4.5 Content and Format

The boundaries of the indicium are defined by the right-hand edge of the envelope, the top edge of the envelope, the bottom edge of the two-dimensional barcode or any indicium element below the barcode, and the left-most edge of the two-dimensional barcode or any indicium element to the left of the barcode. A ½ inch clear zone, within which nothing shall be printed by the postage evidencing system, must surround the indicium boundaries to

the left of and below all elements of the indicium.

The manager of Postage Technology Management, USPS Headquarters, must approve the contents and format of all indicia that will be produced by a postage evidencing system. This approval shall include all elements in the indicium required by the IBI performance criteria and/or Postal Service regulations and applies to the entire area within the indicium boundaries. The USPS-approved indicia supplied by the provider consist of human-readable information and two-dimensional barcoded information. For the contents of indicia used for prepaid reply mail, see 1.7; for the contents of redate indicia, see 4.8; and for the contents of postage correction indicia, see 4.9. The contents of other indicia is as follows:

a. Unless otherwise approved by the manager of Postage Technology Management, USPS Headquarters, the required human-readable information must show, at a minimum, the city, state, and 5-digit ZIP Code of the registration post office; the postal security device ID; date of mailing; endorsement or mail class; the words ''US Postage''; and the postage amount. The Arial font must be used for this information. The postage amount must use at least 10-point type size. For all other required information, the type size must be at least 8 points. The mail class or endorsement, the postage amount, and the words ''US Postage'' must be in bold type and all letters must be capital letters. The remaining required information (city, state and 5-digit ZIP Code, the date, and the postal security device ID) need not be capitalized or bold. The type size used for all other information printed in the indicia must be no greater than 8 points and must not be in bold type.

b. As an alternative to the city, state, and 5-digit ZIP Code of the registration post office, the indicia may show the ZIP Code rather than the city and state designation. In this case, the words ''Mailed From ZIP Code'' and the ZIP Code of the registration post office may appear in place of the city and state, respectively.

c. When it is necessary to print multiple indicia on a given mailpiece, the human-readable information showing the registration post office must be included in each.

d. The requirements for the data elements of the two-dimensional barcode are found in the performance criteria for the given postage evidencing system.

4.6 Complete Date

The month, day, and year must be shown in human-readable form in the indicia. The year must be represented by four digits.

4.7 Date Accuracy

The date of mailing in the indicium must be the actual date of deposit, except that mail deposited in a collection box after the day's last scheduled collection may bear the actual date of deposit or the date of the next scheduled collection.

If the registered user knows the mail will not be tendered to the Postal Service on the date of mailing shown in the indicium, the user should use a date correction indicium (see 4.8) or have the postage evidencing system advance the date and print the intended date of deposit in the indicium.

4.8 Date Correction

If date correction is required, indicia showing only the actual date of mailing and the word ''REDATE'' instead of the postage amount shall be used. On letter-sized mail, date correction indicia must be placed on the nonaddress side at least ¾ inch from the bottom edge of the mailpiece and not on an envelope flap. On flats or parcels, it must be placed next to the original indicium. Date correction indicia must not include the FIM or the two-dimensional barcode. The redate indicium may be printed on a USPS-approved label instead of directly on the mailpiece.

4.9 Postage Correction

Indicia for additional postage may be placed on a shortpaid mailpiece to correct postage. On letter-size mail, correction indicia must be printed on the nonaddress side at least ¾ inch from the bottom edge of the mailpiece and not on an envelope flap. On flats or parcels, it must be placed next to the original indicium. The postage correction indicium must contain all of the elements required for the indicium in 4.5 except for the destination delivery point. The word ''CORRECTION'' must be added to the human readable information. Postage correction indicia must not include the FIM. To meet two-dimensional barcode readability requirements, postage correction indicia may be printed on a USPS-approved label instead of directly on the mailpiece.

4.10 Use of Indicia

Valid information-based indicia produced by postage evidencing systems shall be used only to show evidence of payment for postage or postal services. In any illustration of information-based indicia, or for any other non-postal use, the two-dimensional barcode shall be rendered unreadable, for example by printing ''VOID'' or similar text across the barcode.

4.11 Other Printed Matter

An approved indicium shall include within its boundaries only postal markings and text required or recommended by Postal Service regulation, except that the indicium may identify the product service provider. Other printed matter may be printed only outside the boundaries of the clear zone (see 4.5) surrounding the indicium. Such printed matter may not be obscene, defamatory of any person or group, or deceptive, and it must not advocate any unlawful action.

4.12 Postal Markings

Postal markings related to the mail class, subclass, or category of mail are required in the indicia.

4.13 Facing Identification Mark (FIM)

The facing identification mark (FIM) serves to orient and separate certain types of First-Class Mail during the facing and canceling process. Letter-sized First-Class Mail with the IBI printed directly on the envelope must bear a USPS-approved FIM D unless it is courtesy reply mail. The FIM must meet the dimensions, print quality, and placement specified in the C100.5.

5.0 MAILINGS

5.1 Preparation of IBI Mail

Mail is subject to the preparation standards that apply to the class of mail and rate claimed.

5.2 Where to Deposit

Single-piece rate First-Class Mail (including Priority Mail), Standard Mail (B), and expedited mail may be deposited in any street collection box or other place where mail is accepted and that is served by the registration post office. International mail weighing less than 16 ounces may be deposited in any street collection box in accordance with the regulations for domestic mail. Limited quantities (*i.e.*, a handful) of single-piece rate First-Class Mail including Priority Mail, expedited mail, and international mail may be deposited at offices other than the registration post office to expedite dispatch, with the following exceptions:

a. Certain Special Postal Services require that the mail be presented directly to a Postal Service employee (see S900).

b. A registered user authorized to use an APO or FPO as the registration post

office shall deposit mail only at the registration APO or FPO.

c. All other registered users who have Postal Service approval to use a postage evidencing system that generates IBI outside the country shall deposit mail only at their domestic registration post office.

d. International mail that requires a customs declaration, or that weighs 16 ounces or over, must be given directly to a Postal Service employee at the registration post office or other location designated by the postmaster. Otherwise, the mail will be returned to the sender for proper entry and acceptance. See the International Mail Manual for additional information.

6.0 AUTHORIZATION TO PRODUCE AND DISTRIBUTE POSTAGE EVIDENCING SYSTEMS THAT GENERATE INFORMATION-BASED INDICIA (IBI)

Title 39, Code of Federal Regulations, part 502, contains information concerning authorization to produce and distribute postage evidencing systems that generate information-based indicia (IBI), the suspension and revocation of such authorization; performance standards, test plans, testing, and approval; required production security measures; and standards for distribution and maintenance. Further information may be obtained from the manager of Postage Technology Management, USPS Headquarters.

List of Subjects in 39 CFR Part 502

Administrative practice and procedure, Postal Service.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed amendments to the Code of Federal Regulations. For the reasons set out in this document, the Postal Service proposes to add 39 CFR part 502 as follows:

PART 502—AUTHORITY TO PRODUCE AND DISTRIBUTE POSTAGE EVIDENCING SYSTEMS THAT GENERATE INFORMATION—BASED INDICIA (IBI)

Sec.

502.1 Applicability of regulations.
502.2 Description of postage evidencing systems that generate information-based indicia (IBI).
502.3 Definition and use of PC Postage trademark.
502.4 Product service provider qualifications.
502.5 Provider authorization.
502.6 Changes in ownership or control.
502.7 Burden of proof standard.
502.8 Suspension and revocation of authorization.
502.9 Information-based indicia program (IBIP) performance criteria.
502.10 Product submission procedures and testing.
502.11 Security testing.
502.12 Postage evidencing system approval.
502.13 Conditions for approval.
502.14 Suspension and revocation of approval.
502.15 Reporting.
502.16 Administrative sanction on reporting.
502.17 Materials and workmanship.
502.18 Destruction of information-based indicia.
502.19 Inspection of new postage evidencing systems.
502.20 Distribution facilities.
502.21 Distribution controls.
502.22 Administrative sanction.
502.23 Postage evidencing system maintenance.
502.24 Access or changes to secure components.
502.25 Inspection of postal security devices (PSDs) in use.
502.26 PSDs not located.
502.27 Electronic Funds Resetting System (EFRS).
502.28 Indicia quality assurance.
502.29 Refunds for postage evidencing systems that generate information-based indicia.
502.30 Registered user information.
502.31 Intellectual Property.

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 410, 2601, 2605; Inspector General Act of 1978, as amended (Pub. L. 95–452, as amended), 5 U.S.C. App 3.

§ 502.1 Applicability of regulations.

The regulations in this section apply to all postage evidencing systems that print information-based indicia (IBI) to show payment of postage.

§ 502.2 Description of postage evidencing systems that generate information-based indicia (IBI).

(a) Postage evidencing systems that generate IBI are secure systems that print USPS-authorized, digitally-signed indicia as evidence of payment of postage. Indicia consist of a USPS-approved two-dimensional barcode and certain human-readable information. Authorized postage evidencing systems are available from authorized, commercial product service providers.

(b) These postage evidencing systems include as a primary component a postal security device (PSD) that performs core security functions such as digital signature generation and verification, as well as the management of postage registers. The component of these postage evidencing systems that controls the registered user infrastructure for system authorization, system audits, remote postage resetting, and production of the indicia is called the client system. The PSD and the client system interact to generate the indicia. The PSD is remotely set with postage value and requires the user to initiate payment to the Postal Service sufficient to cover the desired postage increment before initial setting or resetting.

§ 502.3 Definition and use of PC Postage trademark.

(a) ''PC Postage'' is the Postal Service trademark for Postal Service-approved, secure, postage evidencing systems that generate information-based indicia and allow registered users to purchase and print postage using their personal computers and the Internet.

(b) Use of the PC Postage trademark on USPS-approved postage evidencing systems and other products must be specifically approved by the manager of Postage Technology Management (PTM), USPS Headquarters. The provider must sign a trademark licensing agreement with the Postal Service for each product the Postal Service authorizes to use the PC Postage trademark.

§ 502.4 Product service provider qualifications.

For authorization from the Postal Service to produce and/or lease PSDs and postage evidencing systems that generate information-based indicia (IBI) for use by registered users under Domestic Mail Manual P050, a potential provider must:

(a) Satisfy the Postal Service of its integrity and fiscal responsibility.

(b) Obtain approval of at least one postage evidencing system incorporating all the features and safeguards specified in § 502.9, in accordance with the procedures outlined in § 502.10.

(c) Have, or establish, and keep under its supervision and control adequate production facilities suitable to carry out the provisions of §§ 502.17 through 502.19, to the satisfaction of the Postal Service. The production facilities must be subject to unannounced inspection by representatives of the Postal Service. If the production facilities are established by the provider outside the customs territory of the United States, the provider shall be responsible for all costs incurred by the Postal Service to conduct the inspections.

(d) Have, or establish, and keep under its supervision and control adequate facilities for the control, distribution, and maintenance of postage evidencing systems that generate IBI, and their

replacement or secure disposal or destruction when necessary.

§ 502.5 Provider authorization.

An applicant meeting the qualifications in § 502.4 may be authorized in writing by the manager of Postage Technology Management, USPS Headquarters, as a provider of postage evidencing systems that generate IBI and will be allowed to lease authorized PSDs and systems to users registered by the Postal Service. The written authorization defines the conditions under which the postage evidencing system may be marketed and distributed.

§ 502.6 Changes in ownership or control.

Any person, entity, or concern wanting to acquire ownership or control of a provider of an authorized postage evidencing system must provide the Postal Service with satisfactory evidence of that person's, entity's, or concern's integrity and financial responsibility.

§ 502.7 Burden of proof standard.

The burden of proof is on the Postal Service in adjudications of suspensions and revocations under § 502.8 and § 502.14 and administrative sanctions under § 502.16 and § 502.22. Except as otherwise indicated in those sections, the standard of proof shall be the preponderance-of-evidence standard.

§ 502.8 Suspension and revocation of authorization.

(a) The Postal Service may suspend and/or revoke authorization to provide and/or distribute any or all of a provider's postage evidencing systems if the provider engages in any unlawful scheme or enterprise, fails to comply with any provision in this part 502, or fails to implement instructions issued in accordance with any final decision issued by the Postal Service within its authority over the IBI program.

(b) The decision to suspend or revoke a provider's authorization shall be based on the nature and circumstances of the violation (*e.g.,* whether the violation was willful, whether the provider voluntarily admitted to the violation, whether the provider cooperated with the Postal Service, or whether the provider implemented successful remedial measures) and on the provider's performance history. Before determining whether a provider's authorization to produce and/or distribute postage evidencing systems should be revoked, the procedures in paragraph (c) of this section shall be followed.

(c) Suspension in all cases shall be as follows:

(1) Upon determination by the Postal Service that a provider is in violation of the provisions in this part 502, the Postal Service shall issue a written notice of proposed suspension citing deficiencies for which suspension of authorization to produce and/or distribute a specific postage evidencing system, or a family of system models, may be imposed under paragraph (c)(2) of this section. The notification is in writing and is sent certified mail, return receipt requested. Except in cases of willful violation, the provider shall be given an opportunity to correct deficiencies and achieve compliance with all requirements within a time limit, determined by the Postal Service, corresponding to the potential risk to postal revenue.

(2) In cases of willful violation, or if the Postal Service determines that the provider has failed to correct cited deficiencies within the specified time limit, the Postal Service shall issue a written notice setting forth the facts and reasons for the decision to suspend and the effective date if a written defense is not presented as provided in paragraph (d) of this section. The notification is in writing and is sent certified mail, return receipt requested.

(3) If, upon consideration of the defense as provided in paragraph (e) of this section, the Postal Service deems that the suspension is warranted, the suspension shall remain in effect for up to 90 days unless withdrawn by the Postal Service, as provided in paragraph (c)(4)(iii) of this section.

(4) At the end of the 90-day suspension, the Postal Service may:

(i) Extend the suspension to allow more time for investigation or to allow the provider to correct the problem;

(ii) Make a determination to revoke authorization to provide and/or distribute the provider's postage evidencing systems that generate IBI in part or in whole; or

(iii) Withdraw the suspension based on identification and implementation of a satisfactory solution to the problem. Provider suspensions may be withdrawn before the end of the 90-day period if the Postal Service determines that the provider's solution and implementation are satisfactory.

(d) The provider may present the Postal Service with a written defense to any suspension or revocation determination within 30 calendar days after receiving or refusing to receive the written notice, unless a shorter period is deemed necessary. The defense must include all supporting evidence and specify the reasons for which the order should not be imposed.

(e) After receipt and consideration of the defense, the Postal Service shall advise the provider of the decision and the facts and reasons for it. The decision shall be effective on receipt unless it provides otherwise. The decision shall also advise the provider that it may appeal that determination within 30 calendar days after the provider receives or refuses to receive written notification of the decision, unless a shorter period is deemed necessary, as specified therein. The appeal must include all supporting evidence and specify the reasons the provider believes that the decision is erroneous.

(f) An order or final decision under this section does not preclude any other criminal or civil statutory, common law, or administrative remedy that is available by law to the Postal Service, the United States, or any other person or concern.

§ 502.9 Information-based indicia program (IBIP) performance criteria.

(a) The performance criteria applicable to the given postage evidencing system relate to the data contents and format of the indicia, the PSD (which implements digital signature technology for the creation and verification of digital signatures), the client system (which supports the creation of the indicia and the interface with the PSD and the provider), and cryptographic key management.

(b) The information-based indicia program (IBIP) performance criteria describe required system elements that include the provider infrastructure and the registered user infrastructure, and their interface to the Postal Service infrastructure. The Postal Service infrastructure supports user registration, postage evidencing system audit, postage resetting, total population management, key management support, financial reconciliation, PSD life cycle tracking, lost and stolen/irregularity management functions and other reporting. The provider infrastructure will support all IBIP functions. The registered user infrastructure will consist of the PSD and a client system. The Postal Service will evaluate and test postage evidencing systems for compliance with this infrastructure. Contact the manager of Postage Technology Management, USPS Headquarters for these criteria.

§ 502.10 Product submission procedures and testing.

(a) Each postage evidencing system that generates IBI is submitted for Postal Service approval and will be tested and evaluated in accordance with the requirements and provisions of the most

current postage evidencing product submission procedures. Particular attention must be given to the requirement to submit identical postage evidencing systems simultaneously to the Postal Service and to a laboratory accredited under the National Voluntary Laboratory Accreditation Program (NVLAP) for FIPS 140–1 certification. Contact the manager of Postage Technology Management, USPS Headquarters for these requirements. Information pertaining to these procedures may be accessed through the USPS website.

(b) The indicia design must be approved by the manager of Postage Technology Management, USPS Headquarters, and must comply with the requirements in the Domestic Mail Manual and the applicable IBI performance criteria.

(c) Any change to an approved postage evidencing system must be submitted to the Postal Service for evaluation in accordance with the most current postage evidencing product submission procedures.

(d) Where complete evaluation of all security-related components of a postage evidencing system requires USPS review of data located outside the customs territory of the United States, the provider shall be responsible for all costs incurred by the USPS in conducting that review.

§ 502.11 Security testing.

The Postal Service reserves the right to require or conduct additional examination and testing at any time, without cause, of any postage evidencing system submitted to the Postal Service for approval or previously approved by the Postal Service for production and distribution.

§ 502.12 Postage evidencing system approval.

As provided in § 502.15, the provider has a duty to report security weaknesses to the Postal Service to ensure that every postage evidencing system in service protects the Postal Service against loss of revenue at all times. An approval of a system does not constitute an irrevocable determination that the Postal Service is satisfied with its revenue-protection capabilities and all other features of the system. After approval is granted to produce and distribute a postage evidencing system, no change affecting the features or safeguards may be made except as authorized or required by the Postal Service in writing.

§ 502.13 Conditions for approval.

(a) The Postal Service may require, and reserves future rights to require, that production models of approved postage evidencing systems, as well as the current design documentation, user manuals, and specifications applicable to such systems and any revisions thereof, be submitted to the manager of Postage Technology Management, USPS Headquarters.

(b) Upon request by the Postal Service, additional postage evidencing systems must be submitted to the Postal Service for testing, at the expense of the provider.

§ 502.14 Suspension and revocation of approval.

(a) The Postal Service may suspend approval of a postage evidencing system under § 502.12 if the Postal Service has probable cause to believe that the postage evidencing system or the family of system models poses an unacceptable risk to postal revenue. Suspension of approval to produce or distribute a postage evidencing system or a family of system models, in whole or in part, shall be based on the potential risk to postal revenue. Before determining whether approval of a postage evidencing system or a family of system models, should be revoked, the procedures in paragraph (b) of this section shall be followed.

(b) Suspension procedures:

(1) Upon determination by the Postal Service that a postage evidencing system poses an unacceptable risk to postal revenue, the Postal Service shall issue a written notice of proposed suspension citing deficiencies for which suspension may be imposed under paragraph (b)(2) of this section. The notification is in writing and is sent certified mail, return receipt requested. The provider shall be given an opportunity to correct deficiencies and achieve compliance with all requirements within a time limit determined by the Postal Service, corresponding to the potential risk to postal revenue.

(2) If the Postal Service determines that the provider has failed to correct cited deficiencies within the USPS-specified time limit, the Postal Service shall issue a written notice setting forth the facts and reasons for the decision to suspend and the effective date if a written defense is not presented as provided in paragraph (c) of this section. The notification is in writing and is sent certified mail, return receipt requested.

(3) If, upon consideration of the defense as provided in paragraph (d) of this section, the Postal Service deems that the suspension is warranted, the suspension shall remain in effect for up to 90 days unless withdrawn by the Postal Service, as provided in paragraph (b)(4)(iii) of this section.

(4) At the end of the 90-day suspension, the Postal Service may:

(i) Extend the suspension to allow more time for investigation or to allow the provider to correct the problem;

(ii) Make a determination to revoke the approval of the provider's postage evidencing system or family of system models, or

(iii) Withdraw the suspension based on identification and implementation of a satisfactory solution to the problem. Provider suspensions may be withdrawn before the end of the 90-day period if the Postal Service determines that the provider's solution and implementation are satisfactory.

(c) The provider may present the Postal Service with a written defense to any suspension or revocation determination within 30 calendar days after receiving or refusing to receive notice, unless a shorter period is deemed necessary. The defense must include all supporting evidence and specify the reasons for which the order should not be imposed.

(d) After receipt and consideration of the written defense, the Postal Service shall advise the provider of the decision and the facts and reasons for it. The decision shall be effective on receipt unless it states otherwise. The decision shall also advise the provider that it may appeal that determination within 30 calendar days after the provider receives or refuses to receive written notice, unless a shorter period is deemed necessary, as specified therein. The appeal must include all supporting evidence and specify the reasons that the provider believes that the decision is erroneous.

(e) An order or final decision under this section does not preclude any other criminal or civil statutory, common law, or administrative remedy that is available by law to the Postal Service, the United States, or any other person or concern.

§ 502.15 Reporting.

(a) For purposes of this section, ''provider'' refers to an entity authorized under § 502.5 and its foreign or domestic affiliates, subsidiaries, assigns, dealers, independent dealers, employees, and parent corporations.

(b) Each provider authorized under § 502.5 must submit a preliminary report to notify the Postal Service promptly (in no event more than 21 calendar days of discovery) of the following:

(1) All findings or results of any testing known to the provider concerning the security or revenue

protection features, capabilities, or failings of any postage evidencing system or PSD sold, leased, or distributed by the provider that has been approved for sale, lease, or distribution by the Postal Service or by any foreign postal administration; or have been submitted for approval by the provider to the Postal Service or to a foreign postal administration.

(2) All potential security weaknesses or methods of system tampering of the postage evidencing systems that the provider distributes, of which the provider knows or should know, and the system or model subject to each weakness or method. These potential security weaknesses include, but are not limited to suspected equipment defects, suspected abuse by a registered user or provider employee, suspected security breaches of the Electronic Funds Resetting System, cryptographic key compromises, occurrences outside normal performance, or any repeatable deviation from normal postage evidencing system performance (within the same model family and/or by the same registered user).

(c) Within 45 calendar days of the preliminary notification to the Postal Service under § 502.15(b), the provider must submit a written report to the Postal Service. The report must include the circumstances, proposed investigative procedure, and the anticipated completion date of the investigation. The provider must also provide periodic status reports to the Postal Service during subsequent investigation and, on completion, must submit a summary of the investigative findings.

(d) The provider must establish and adhere to timely and efficient procedures for internal reporting of potential security weaknesses. The provider is required to submit a copy of internal reporting procedures and instructions to the Postal Service for review.

§ 502.16 Administrative sanction on reporting.

(a) Notwithstanding any act, admission, or omission by the Postal Service, an authorized provider may be subject to an administrative sanction for failing to comply with § 502.15.

(b) The Postal Service shall determine all costs and revenue losses measured from the date that the provider knew, or should have known, of a potential security weakness, including, but not limited to, administrative and investigative costs and documented revenue losses that result from any postage evidencing system for which the provider failed to comply with any provision in § 502.15. The provider shall be responsible to the Postal Service for all such costs and losses (net of any amount collected by the Postal Service from the registered users) with interest when the Postal service issues a written notice to the provider setting forth the facts and reasons on which the determination to impose the sanction is based. The notification is in writing and is sent certified mail, return receipt requested. The notice shall advise the provider of the date that the action takes effect if a written defense is not presented within 30 calendar days of receipt of the notice.

(c) The provider may present the Postal Service with a written defense to the proposed action within 30 calendar days after receiving or refusing to receive notification. The defense must include all supporting evidence and specify the reasons for which the sanction should not be imposed.

(d) After receipt and consideration of the defense, the Postal Service shall advise the provider of the decision and the facts and reasons for it; the decision shall be effective on receipt unless it states otherwise. The notification of the decision is in writing and is sent certified mail, return receipt requested. The decision shall also advise the provider that it may, within 30 calendar days of receiving the decision, appeal that determination as specified therein.

(e) The provider may submit a written appeal to the Postal Service within 30 calendar days of receiving or refusing to receive notification of the decision. The appeal must include all supporting evidence and specify the reasons that the provider believes that the administrative sanction was erroneously imposed. The submission of an appeal stays the effectiveness of the sanction.

(f) The imposition of an administrative sanction under this section does not preclude any other criminal or civil statutory, common law, or administrative remedy that is available by law to the Postal Service, the United States, or any other person or concern.

§ 502.17 Materials and workmanship.

All postage evidencing systems that generate IBI must continuously maintain the quality in materials and workmanship of the production model approved by the Postal Service.

§ 502.18 Destruction of information-based indicia.

All indicia created in the process of testing the postage evidencing system by the provider, or its agent, must be collected and securely controlled or destroyed by the provider to prevent unauthorized use.

§ 502.19 Inspection of new postage evidencing systems.

The provider shall inspect all new postage evidencing systems that generate IBI to ensure proper functioning of all operational capabilities of each system before distribution.

§ 502.20 Distribution facilities.

(a) An authorized provider must keep adequate facilities for and records of the distribution, control, maintenance, replacement, and disposal or destruction of all PSDs throughout their entire life cycle. Recordkeeping is required for all PSDs, including newly produced PSDs, active leased PSDs and inactive, unleased PSDs, as well as lost and stolen PSDs. All such facilities and records are subject to inspection by Postal Service representatives.

(b) If the provider uses a third party to control, distribute, maintain, replace, repair, or dispose of PSDs or postage evidencing systems, all aspects of the arrangement between the parties must be specifically authorized in writing by the manager of Postage Technology Management, USPS Headquarters.

(1) The third party relationship shall not compromise any security element of the postage evidencing system. The functions of the third party with respect to these systems are subject to the same scrutiny as the functions of the provider.

(2) Any authorized third party must keep adequate facilities for and records of PSDs and postage evidencing systems in accordance with the USPS-authorized arrangement with the provider. All such facilities and records are subject to inspection by Postal Service representatives, in so far as they are used to control, distribute, store, maintain, replace, repair, or dispose of PSDs or postage evidencing systems.

(3) The Postal Service holds the provider fully responsible for any deficiencies found in third party facilities, records, or procedures and can require termination of the third party arrangement if deficiencies are found.

§ 502.21 Distribution controls.

Each authorized provider must do the following:

(a) Hold title permanently to all PSDs that print U.S. postage, except those purchased by the Postal Service.

(b) On behalf of applicants, electronically transmit information required to apply for a user registration to the designated Postal Service central registration processing facility.

(c) On behalf of users registered to use their postage evidencing systems, forward to the Postal Service any changes to user registration information when the user submits such changes to the provider. The provider must follow authorized USPS procedures for moving the system when a registered user changes the registration post office. The provider must also notify the Postal Service following any event that indicates the need to update registered user information, such as the return of an invoice or the inability to communicate with the user.

(d) Lease PSDs only to parties that have valid user registrations issued by the Postal Service to use a postage evidencing system.

(e) Unless otherwise authorized by the Postal Service, immediately withdraw from service any PSD that the registered user no longer wants, or that is to be removed from service for any other reason. The provider shall retrieve any withdrawn PSD that is in the possession of the registered user. All resetting requests for a withdrawn PSD must be denied. The provider must keep in its possession for at least 1 year from the date of withdrawal a copy of the information on the registered user's PS Form 3601–C, Postage Evidencing System Activity Report.

(f) Retrieve any misregistering, faulty, or defective PSD and withdraw it from service within 3 business days of being notified by the registered user of the defect. The provider must examine each PSD withdrawn from service for apparent faulty operation affecting the ascending or the descending register, or for other failure to record its operations correctly and accurately. After examining the withdrawn PSD, the provider must compile a written report explaining the malfunction to the manager of Postage Technology Management, USPS Headquarters. The report must include an explanation of the malfunction that resulted in the faulty operation or other failure to record operations correctly and accurately, all applicable system documentation, including log files, and a recommendation for the appropriate postage adjustment, if applicable. At the same time the report is made to the Postal Service, the provider must notify the registered user of the proposed postage adjustment. The provider may supply the registered user with a replacement PSD only if the faulty PSD is in the provider's possession.

(g) Report promptly the loss or theft of any PSD, the recovery of any PSD previously reported as lost or stolen, or the scrapping of any PSD by the provider. The provider must notify the Postal Service by completing a standardized Lost and Stolen Postage Evidencing System Incident Report and filing it with the Postal Service by the tenth day of the month following when a PSD is scrapped or the provider determines the loss, theft, or recovery of a PSD. For lost or stolen PSDs, the provider must complete all preliminary location activities specified in § 502.26 before including a given incident on this report.

(h) Provide to the Postal Service upon request an electronic file or database of all postage evidencing systems in service, including the PSD identification number, the registered user's name and address, the date that the system was placed in service, and the ZIP Code of the registration post office. This information is to be provided to the Postal Service in USPS-specified format, at times to be determined by the Postal Service.

(i) Keep accurate records and reconcile differences between their records and Postal Service databases.

(j) Keep at provider's headquarters an electronic file or database with a complete record of all PSDs produced, showing all movements of each from the time that the PSD is produced until it is scrapped. The records shall be organized by PSD identification number and shall include the reading on the ascending register each time the PSD is authorized for a new registered user or is withdrawn from service. These records must be available for inspection by Postal Service officials at any time during normal business hours. The record for each PSD must be maintained for 3 years after the PSD is scrapped.

(k) Submit other reports as required by the Postal Service.

(l) Cancel a lease agreement with any lessee whose registration to use a postage evidencing system is revoked by the Postal Service.

(m) Promptly withdraw from service any PSD that the Postal Service indicates should be withdrawn from service for revocation of user registration or for any other reason, and retrieve the PSD if it is in the possession of the registered user. When a user registration is revoked, the provider must retrieve all PSDs in the possession of the registered user and must withdraw from service all PSDs employed by the registered user.

(n) Take reasonable precautions in the transportation and storage of PSDs to prevent use by unauthorized individuals. Providers must ship all PSDs by Postal Service Priority Mail unless given written permission by the Postal Service to use another method.

(o) Communicate to all registered users of a postage evidencing system the required cautionary statements that provide the registered user with basic reminders that the postal security device is leased, the actions needed on relocation of the postage evidencing system, and warnings against system misuse.

(1) The cautionary statements must be visually presented to the registered user upon each start-up of the postage evidencing system. The user must actively acknowledge the statements before proceeding with system use. In addition, the statements shall be included prominently in the user documentation provided with each system. PSDs that are in the possession of a user shall include the cautionary statements on a label attached to the PSD, to the housing of the PSD, or to the postage evidencing system containing the PSD, if the physical dimensions of the equipment will accommodate them. Postage evidencing systems provided to registered users without this cautionary information shall not be authorized for use.

(2) In every presentation of the cautionary statements to the registered user, the words shown below in capital letters should be emphasized. If the cautionary statement can be placed on the PSD or other equipment, it shall be placed in a conspicuous and highly visible location. The minimum width of the text block containing the statement should be 3.25 inches, and the minimum height should be 1.75 inches. The statement shall read as follows:

POSTAL SERVICE NOTICE

LEASED POSTAGE EVIDENCING SYSTEM—NOT FOR SALE

PROPERTY OF [NAME OF PROVIDER]

Use of this system is permissible only under a U.S. Postal Service postage evidencing system user registration.

Call [NAME OF PROVIDER] at phone number ### ###–#### to relocate or return this Postage Evidencing System.

WARNING! POSTAGE EVIDENCING SYSTEM TAMPERING OR MISUSE IS A FEDERAL OFFENSE.

IF YOU SUSPECT POSTAGE EVIDENCING SYSTEM TAMPERING, CALL INSPECTOR GENERAL'S HOTLINE AT 1–800–654–8896 OR YOUR LOCAL POSTAL INSPECTOR.

REWARD UP TO $50,000 for information leading to the conviction of any person who misuses a postage evidencing system resulting in the Postal Service not receiving correct postage payments.

(3) Exceptions to the formatting of required cautionary labeling are determined on a case-by-case basis. The manager of Postage Technology Management, USPS Headquarters, must

approve, in writing, any deviation from the standard labeling requirements.

§ 502.22 Administrative sanction.

The Postal Service holds providers responsible for the entire life cycle of their postage evidencing systems, including control, distribution, operation, maintenance, replacement, and secure disposal.

(a) ''Postage evidencing system,'' for purposes of this section, means any system that is produced by a provider authorized under § 502.5 that is not owned or leased by the Postal Service.

(b) An authorized provider that, without just cause, fails to conduct or perform adequately any of the controls required by § 502.21, to follow standardized lost and stolen incident reporting in § 502.26, or to conduct the inspections required by § 502.25 in a timely fashion is subject to an administrative sanction based on the investigative and administrative costs and documented revenue losses (net of any amount collected by the Postal Service from the registered user), with interest per occurrence measured from the date on which the cost and/or loss occurred, as determined by the Postal Service. Sanctions shall be based on the costs and revenue losses that result from the provider's failure to comply with these requirements.

(c) The Postal Service may impose an administrative sanction under this section by issuing a written notice to the provider setting forth the facts and reasons on which the determination to impose the sanction is based. The notification is in writing and is sent certified mail, return receipt requested. The Postal Service shall determine all costs and losses. The notice shall advise the provider of the date that the action shall take effect if a written defense is not presented within 30 calendar days of receipt of the notice.

(d) The provider may present to the Postal Service a written defense to the proposed action within 30 calendar days of receiving or refusing to receive the notice. The defense must include all supporting evidence and specify the reasons for which the sanction should not be imposed.

(e) After receipt and consideration of the written defense, the Postal Service shall advise the provider of the decision and the facts and reasons for it. The decision shall be effective on receipt unless it states otherwise.

(f) The provider may submit a written appeal of the decision within 30 calendar days of receiving or refusing to receive the decision, addressed to the manager of Postage Technology Management, USPS Headquarters. The appeal must include all supporting evidence and specify the reasons that the provider believes that the administrative sanction was erroneously imposed. The submission of an appeal stays the effectiveness of the sanction.

(g) The imposition of an administrative sanction under this section does not preclude any other criminal or civil statutory, common law, or administrative remedy that is available by law to the Postal Service, the United States, or any other person or concern.

§ 502.23 Postage evidencing system maintenance.

(a) The provider must keep its postage evidencing systems that generate IBI in proper operating condition by maintaining or replacing them when necessary or desirable to prevent electronic failure, malfunction, expiration of the life of the battery for the clock or timer, or mechanical breakdown.

(b) The provider must provide the registered users with modifications reflecting rate changes and must implement new rates as of the effective date for the new rates established by the Postal Service.

§ 502.24 Access or changes to secure components.

Postage evidencing system maintenance involving access or changes to secure components must be done only within a secure facility under the provider's direct control and supervision. PSDs must be withdrawn from service before any such maintenance is performed.

§ 502.25 Inspection of postal security devices (PSDs) in use.

(a) The provider must conduct an audit of each PSD at least once every 3 months in conjunction with the postage value resetting requirements in § 502.27. A zero-value reset will satisfy this requirement. The PSD must have a lock-out feature that prevents use of the system if an audit is not completed in accordance with this regulation.

(b) Postage evidencing systems that generate IBI, other than PC Postage, shall be inspected by the provider every 2 years. Registered user mail-in of indicia may substitute for the provider inspection, with Postal Service approval. The provider shall inspect or sample PC Postage products under special circumstances, as directed by the Postal Service. The Postal Service examines postage evidencing systems when warranted by special circumstances.

§ 502.26 PSDs not located.

Upon learning that one or more of its PSDs in service cannot be located, the provider must undertake reasonable and timely efforts to locate the PSD by following a series of Postal Service-specified actions designed to locate the PSDs. If these efforts are unsuccessful and a PSD is determined to be lost or stolen, the provider must notify the Postal Service in accordance with § 502.21.

(a) If a user registered to use a postage evidencing system cannot be located, the provider must, at a minimum, complete the following actions:

(1) Call the registered user's last known telephone number.

(2) Call directory assistance for the user's new telephone number.

(3) Contact the registered user's local post office for current change of address information.

(4) Contact Postage Technology Management to verify the location of the PSD and the registered user as currently maintained in Postal Service records.

(5) Contact the rental agency responsible for the property where the registered user was located, if applicable.

(6) Visit the registered user's last known address to see whether the building superintendent or a neighbor knows the user's new address.

(7) Mail a certified letter with return receipt to the registered user at the last known address with the endorsement ''Forwarding and Address Correction Requested''.

(8) If new address information is obtained during these steps, any missed or delinquent scheduled PSD audit must be completed immediately.

(b) If a PSD is reported to be lost or stolen by the registered user, the provider must, at a minimum, complete the following actions:

(1) Discontinue postage value downloads to the lost or stolen PSD.

(2) Ensure that the registered user has filed a police report for a stolen PSD and that copies have been provided to the appropriate Inspection Service Contraband Postage Identification Program (CPIP) specialist.

(3) Withhold issuance of a replacement PSD until the missing PSD has been properly reported to the police and to the appropriate Inspection Service CPIP specialist.

(c) If the provider later learns that the PSD has been located and/or recovered, the provider must take the following actions before returning the PSD to service or allowing a postage value download:

(1) Submit a new Lost and Stolen Postage Evidencing System Incident

Report that references the initial report and outlines the details of how the PSD was recovered, in accordance with § 502.21. The provider is responsible for keeping records of these reports as submitted to the Postal Service for a minimum of 3 years after submission.

(2) Retrieve the recovered PSD from the registered user and examine it for apparent faulty operation that could affect its ability to record its operations correctly and result in a questionable accurate registration.

(3) Recommend a postage adjustment or refund, if appropriate.

(4) Withdraw the PSD from service if a replacement PSD has been supplied to the registered user or if there is an issue of questionable accurate registration.

(d) Any authorized provider that fails to comply with standardized lost and stolen reporting procedures and instructions is subject to an administrative sanction under § 502.22, as determined by the Postal Service.

§ 502.27 Electronic Funds Resetting System (EFRS).

(a) *Description.* A remote resetting system permits registered users to reset their PSDs at places of business and/or homes via modem or network interface. The Electronic Funds Resetting System (EFRS) is the Postal Service system that processes system resetting data for postage value downloads submitted by providers of postage evidencing systems that generate IBI. The Postal Service processes the data separately from data processed under the Computerized Meter Resetting System (CMRS), which is used for traditional postage meters.

(b) *Resetting a PSD.* To reset a PSD, the registered user connects to the provider and provides specified identifying data and PSD audit data for the postage value download. Before proceeding with the transaction, the provider must verify all the data, conduct the system audit, and ascertain whether payment to the Postal Service sufficient to cover the desired postage value download was initiated by the registered user. If payment was initiated and the system audit was successful, the provider may complete the postage value download.

(c) *Payment to the Postal Service.*

(1) The only acceptable methods used for postage payments for postage evidencing systems that generate IBI are credit cards and Automated Clearinghouse (ACH) debit. The providers must publicize these payment options to all registered IBI users. When publicizing these options, the provider must provide a clear and concise description of each.

(i) *Credit Cards.* The provider must offer the registered user the option to use all of the credit cards approved for use by the Postal Service for payment for postage. Each provider must receive authorization from the Postal Service to offer credit card options to registered users and must sign a vendor credit card pilot test agreement, a legal agreement with the Postal Service on credit card payment, which addresses security requirements, payment of transaction costs, reconciliation requirements, and retrieval and chargeback requests. The provider must use a certified credit card payment process approved for use by the Postal Service's designated card processor. All credit card transactions must be sent through the designated Postal Service card processor, with each provider working as an agent with the Postal Service as the merchant of record.

(ii) *ACH Debit.* All ACH debit payments for postage must be electronically transferred directly from the registered user's account resident in a financial institution that is neither owned, nor controlled, nor contracted, nor arranged for by a product service provider or its affiliate. The funds must be transferred directly into an account at a financial institution designated by the Postal Service.

(2) A registered user is required to initiate payment to the Postal Service sufficient to cover the desired postage value download contemporaneously with a download being made. The details of this payment requirement are covered in the Postage Payment Agreement.

(3) Each provider is required to incorporate the Postage Payment Agreement into its postage evidencing system lease agreement with each registered user, as follows:

POSTAGE PAYMENT AGREEMENT

By signing this postage evidencing system lease agreement you agree to initiate payment for postage using either a USPS-approved credit card or ACH debit. If you use ACH debit, you agree to transfer funds directly to the Postal Service through a financial institution, as specified by the Postal Service, for the purpose of prepayment of postage. If you use a credit card, you agree to use only those credit cards approved for use for payment for postage by the Postal Service.

You understand that the provider and its affiliates shall not hold, or contract with or otherwise arrange for any third party to hold, your funds intended for the purchase of postage. You will be bound by all terms and conditions of this Postage Payment Agreement as it may be amended periodically by the Postal Service.

(4) The provider must require each registered user who requests a postage value download to provide the PSD identification number, the registered user account number, and the ascending and descending register readings on the PSD at the time of the request. The provider must verify that the information entered by the registered user is accurate and matches the provider's records. Providers must also verify that the registered user has initiated payment to the Postal Service sufficient to cover the postage value download requested before proceeding with the resetting transaction. Immediately following the completion of each transaction, the provider must give the user a statement documenting the transaction.

(d) *Revenue protection.* The Postal Service shall conduct periodic audits and reviews of the EFRS revenue protection safeguards employed by each provider and shall reserve the right to revoke a provider's authorization if they do not meet all EFRS requirements set forth by the Postal Service. In addition, the Postal Service shall reserve the right to suspend the operation of the provider, as provided in § 502.14, for any serious operational deficiency that may result in the loss of funds to the Postal Service.

(e) *Financial operation.* The Postal Service shall establish a separate account at its designated financial institution to handle the funds for payment for postage received from registered users. The provider may not establish an account to handle the funds of registered users intended for the purchase of postage. Payment Technologies, Office of the Treasurer, USPS, will coordinate the implementation of the ACH debit process with the provider.

(f) *Reports.* The provider must submit a daily financial transaction for each postage value download or postage refill according to established EFRS procedures. The provider must provide other reports as required by the Postal Service.

(g) *Inspection of records and facilities.* The provider must make its facilities that handle the operation of the EFRS and all records about the operation of the system available for inspection by representatives of the Postal Service at all reasonable times.

§ 502.28 Indicia quality assurance.

The provider shall implement a mailpiece quality assurance program to ensure the quality and readability of the indicia and shall instruct the registered user on the submission of the required mailpieces. The registered user is required to forward a mailpiece to the provider for evaluation when the system is installed and at least once every 6

months thereafter. If the user fails to comply with this requirement, the provider must notify the user that all future postage value resettings will be denied. The provider must analyze these mailpieces for quality and readability and is required to provide guidance to the registered user to correct any deficiencies that are discovered. The provider must notify the Postal Service of all noncompliant registered users, so that the Postal Service can initiate revocation of the user's registration.

§ 502.29 Refunds for postage evidencing systems that generate information-based indicia (IBI).

The Postal Service provides refunds for readable, valid, unused postage on an unmailed envelope or label, and for any balance remaining on a PSD withdrawn from service and in the possession of the provider, in accordance with established refund procedures. Postage losses to the registered user due to system malfunctions and the refund of any non-postal fees are the responsibility of the provider. Registered users submit refund requests to the provider in accordance with Domestic Mail Manual (DMM) P014. The following procedures apply, depending on the type of refund requested:

(a) *Refund for unused postage*

(1) The provider shall acknowledge the refund request and confirm that the appropriate supporting materials have been received, including Postal Service Form 3533–PCP–X, Refund Request for Unused IBI Postage, in accordance with the requirements in DMM P014.

(2) The provider shall scan the two-dimensional barcode in the submitted indicium, analyze the data to ensure the indicium is valid, and verify the following:

(i) The PSD used in producing the indicium is the expected PSD.

(ii) The unused postage is presented by the user to whom the PSD that produced the indicium is registered.

(iii) The date of mailing shown in the indicium is not more than 10 days before the date on which the registered user mailed the indicium for refund. The date is checked by postmark.

(iv) The human-readable data matches the corresponding data in the two-dimensional barcode.

(v) The PSD certificate has not been revoked.

(vi) The indicium has not been submitted before.

(3) The provider shall submit the indicium data electronically to the Certificate Authority for verification of the digital signature.

(4) The provider shall ensure there is no evidence that the mailpiece has been processed by the Postal Service.

(5) The provider shall annotate Postal Service Form 3533–PCP–X, Refund Request for Unused IBI Postage, and notify both the registered user and the manager of Postage Technology Management, USPS Headquarters, of any instances where the refund request for a given, unused indicium will be denied.

(6) Upon successful signature verification and completion of all other required checks listed above, the provider shall either:

(i) Issue an immediate refund to the registered user from the provider's own funds, or

(ii) Issue the refund to the registered user within 5 business days of receiving reimbursement from the Postal Service.

(7) No more frequently than once per week, the provider shall submit to the Postal Service a refund request for unused postage, using the format in Postal Service Form PCP–X, Provider Refund Request for Information-Based Indicia.

(8) The Postal Service shall remit a check made payable to the provider for the total amount of the refund request for unused postage.

(9) The Postal Service reserves the right to audit the provider's refund processing and the unused mailpieces submitted for refund. Providers are required to maintain the following records:

(i) The unused envelopes and labels submitted for refund, and any other correspondence related to the refund request, attached to a copy of the associated Form 3533 PCP–X, Refund Request for Unused IBI Postage, and organized by the date of the provider's refund request. The Postal Service will destroy the unused mailpieces after the completion of the audit.

(ii) Electronic copies of the scanned indicia organized by date submitted for refund. These are maintained until the Postal Service completes its audit.

(iii) Postal Service Form 3533–PCP–X (printed copy) submitted by the registered user to the provider. The printed copy shall be kept for 1 year. An electronic, scanned version with the registered user's signature shall be kept for 3 years after the destruction of the printed copy.

(iv) A copy of each Postal Service Form PCP–X, Provider Refund Request for Information-Based Indicia, submitted by the provider to the Postal Service. This form shall be maintained by the provider until completion of the Postal Service audit.

(v) A refund count (by number of pieces and postage amount) for each PSD. This information shall be maintained until completion of the first Postal Service audit following the withdrawal of the PSD from service.

(b) *Refund for postage balance remaining on a PSD that is withdrawn from service and is in the possession of the provider.*

(1) The registered user informs the provider of the intention to withdraw the PSD from service and has the postage evidencing system generate a refund request indicium for transmittal to the provider. The means by which this is accomplished is at the provider's discretion. The transmittal of the refund request indicium is the last activity that is permitted for the PSD. If the registered user has physical possession of the PSD, the registered user returns the withdrawn PSD to the provider, in accordance with regulations for returning PSDs.

(2) Upon receipt of the refund request indicium and the PSD (where applicable), the provider shall scan the two-dimensional barcode in the submitted indicium, analyze the data to ensure the indicium is valid, and verify the following:

(i) The descending register value in the refund request indicium is $0.00.

(ii) The PSD used in producing the indicia is the expected PSD.

(iii) The refund request indicium is presented by the registered user of the PSD.

(iv) The PSD certificate has not been revoked.

(v) There is no evidence of tampering with the PSD.

(3) The provider shall submit the refund request indicium data electronically to the Certificate Authority for digital signature verification.

(4) Under no circumstances may a provider issue a refund for a withdrawn PSD unless the PSD is in the provider's possession.

(5) The provider shall not issue a refund if there is any question as to the remaining postage value on the PSD without first consulting with the manager of Postage Technology Management, USPS Headquarters. The provider shall notify both the registered user and the manager of Postage Technology Management of any instances where the refund request will be denied.

(6) The provider shall generate a form equivalent to Postal Service Form 3601–C, Postage Evidencing System Activity Report, for withdrawal of the PSD. The form will include the refund request indicium.

(7) Upon successful signature verification and completion of all other required checks listed above, the provider shall initiate a PSD withdrawal as specified by Postal Service procedures and shall revoke the PSD certificate. Then the provider shall either:

(i) Issue an immediate refund to the registered user from the provider's own funds; or

(ii) Issue the refund to the registered user within 5 business days of receiving reimbursement from the Postal Service.

(8) No more frequently than once per week, the provider shall submit to the Postal Service a refund request for withdrawn PSDs, including a listing of the refund requested by each registered user, using the format in Postal Service Form PCP–X, Provider Refund Request for Information-Based Indicia.

(9) The Postal Service shall remit a check made payable to the provider for the total amount of the refund request for postage value remaining on withdrawn PSDs.

(10) The Postal Service reserves the right to audit the provider's refund processing and the refund request indicia. Providers are required to maintain the following records:

(i) An electronic copy of a form equivalent to Postal Service Form 3601–C, Postage Evidencing System Activity Report, which includes the refund request indicia, organized by the date of the provider's refund request, shall be kept for 2 years, or until the completion of the Postal Service audit, whichever is longer.

(ii) Any other correspondence that is related to the refund request must be retained by the provider until the Postal Service completes its audit.

(iii) A copy of each Postal Service Form PCP–X, Provider Refund Request for Information-Based Indicia, submitted by the provider to the Postal Service shall be maintained by the provider until completion of the Postal Service audit.

§ 502.30 Registered user information.

(a) Providers are required to collect registration information and transaction records from registered users on behalf of the Postal Service and to transmit the data to the Postal Service as part of the registration process, the postage payment process; and, for IBI open systems, the mailpiece generation process. Although the Postal Service does not require the provider to retain registered user information, the provider may choose to do so for its own purposes, subject to the following limitations:

(1) A provider that retains personal information regarding a registered user must issue a privacy policy that informs the registered user of the information to be retained and its intended uses.

(2) The provider is strictly prohibited from disclosing any list of applicants or registered users, or any identifying information about any given applicant or registered user, to any other entity, for any purpose, without prior notification to the customer.

(3) The provider must offer the applicant or registered user the option to not have their personal information disclosed to any other entity.

(b) As stated in § 502.21, providers are required to electronically transmit information required to apply for a user registration to the designated Postal Service central registration processing facility, on behalf of applicants.

(c) The Postal Service shall use the registered user information in accordance with the purposes and routine uses published in the Privacy Act system of records USPS 140.020, Postage-Postage Evidencing System Records. The Postal Service may use applicant information in the administration of postage evidencing systems and mailing activities, and to communicate with customers who may no longer be visiting a traditional USPS retail outlet. The Postal Service will also use applicant information to communicate with USPS customers through any new retail channels, and for the following purposes:

(1) To issue (including reregistration, renewal, transfer, revocation, or refusal, as applicable) a user registration to a customer and to communicate with respect to the status of such registration.

(2) To disclose to a provider the identity of any PSD and any related user registration data for any PSDs required to be removed from service by that provider as the result of revocation of a user registration, questioned accurate registration or other failure of the PSD to record its operations correctly and accurately, or decertification by the Postal Service of any particular postage evidencing system that generates IBI or family of such models.

(3) To track the movement of postage evidencing systems between a provider and registered users and to communicate to a provider (but not to any third party other than the applicant/registered user) concerning such movement. The term ''provider'' includes a provider's dealers and agents.

(4) To transmit general information to all registered users concerning rate and rate category changes implemented or proposed for implementation by the Postal Service.

(5) To advertise Postal Service services relating to the acceptance, processing and delivery of or postage payment for mail using information-based indicia.

(6) To allow the Postal Service to communicate with USPS customers on products, services, and other information otherwise available to USPS customers through traditional retail outlets.

(7) To support any internal use by Postal Service personnel, including identification and monitoring activities relating to postage evidencing systems, provided that such use by the Postal Service does not result in the disclosure of applicant information to any third party and will not enable any third party to use applicant information for its own purposes; except that the applicant information may be disclosed to other governmental agencies for law enforcement purposes as provided by law.

(8) To identify authorized product service providers or announce de-authorization of an authorized product service provider, or provide currently available public information, where an authorized provider is identified.

(9) To promote and encourage the use of information-based indicia as a form of postage evidencing, provided that the same information is provided to all registered users, and no particular provider will be recommended by the Postal Service.

(10) To contact registered users in cases of revenue fraud or revenue security, except that any registered user suspected of fraud shall not be identified to other users.

(11) To disclose to a provider applicant information pertaining to that provider's customers that the Postal Service views as necessary to enable the Postal Service to carry out its duties and purposes.

(12) To transmit to a provider all applicant and system information pertaining to that provider's customers and systems that may be necessary to permit such provider to synchronize its registered user and PSD database with information contained in the computer files of the Postal Service, including but not limited to computerized data that reside in Postal Service postage evidencing system management databases.

(13) Subject to the conditions stated herein, to communicate in oral or written form with any or all applicants and registered users any information that the Postal Service views as necessary or desirable to enable the Postal Service to carry out its duties and purposes under this part 502.

§ 502.31 Intellectual Property

(a) None of the following shall constitute a grant of authorization or consent by the Postal Service or the United States to a provider or any other person to manufacture or use any patented invention or to infringe any copyright, under 28 U.S.C. 1498 or otherwise:

(1) The publication of performance criteria, or

(2) The granting of authorization to a provider under part 501 or this part 502, or

(3) The granting of approval to a provider to market or distribute a postage evidencing system.

(b) A provider must reimburse the Postal Service for any compensation or other costs or damages (other than the Postal Services' own attorneys' fees and other costs of defense) that the Postal Service or the U.S. Government is required, by final order of a court of competent jurisdiction which is either not subject to appeal or as to which the time to appeal has already passed, to pay on a claim of infringement or unauthorized use of a U.S. patent or U.S. copyright, under any legal theory, based on either:

(1) The manufacture, use, sale or importation of provider's postage evidencing system, whether or not such manufacture, use, sale or importation is alleged to be pursuant to authorization or consent provided under 28 U.S.C. 1498;

(2) The use of provider's postage evidencing system by mailers in a manner specified or intended by Provider to create postage indicia, apply such indicia to mail, and/or deposit such mail with the USPS; or

(3) The granting by the Postal Service to provider of government authorization or consent, under 28 U.S.C. 1498 or otherwise, to make or use a patented invention or infringe a copyright in connection with the manufacture, use or sale of provider's postage evidencing system, or the activities of provider pursuant to such grant of authorization and consent.

(c) The Postal Service may suspend approval of a postage evidencing system on 60 days' notice to provider if a court of competent jurisdiction determines that the manufacture or use of the postage evidencing system, or the creation or validation of the indicia produced thereby, infringes, induces or contributes to the infringement of, or otherwise violates any person's or entity's rights under a U.S. patent or U.S. copyright. The Postal Service shall reinstate approval of such postage evidencing system if and so long as:

(1) Such judicial determination is vacated or reversed; or

(2) The provider duly licenses or otherwise procures and maintains in effect (for the benefit of itself, users and the Postal Service as may be necessary) the right to conduct, with respect to provider's postage evidencing device and the indicia created thereby, the activities that the court has determined to be infringing.

(d) A determination that the validating of an indicia by the Postal Service infringes a patent or copyright shall not be a basis for suspending provider's approval if the provider can establish that alternative, non-infringing means of performing such validation are available to the Postal Service with respect to the indicia created by provider's postage evidencing device so long as such means fully comply with the performance criteria under which the postage evidencing device and indicia have been approved.

(e) The Postal Service may provide additional requirements relating to intellectual property in the product submission procedure, performance criteria or both (''IP Requirements'') and may condition the granting or maintenance of approval of a postage evidencing system on provider's compliance with those IP Requirements. When IP Requirements are imposed on a provider, they shall control over any conflicting provision in this § 502.31.

(f) The requirements of this § 502.31 shall apply to all aspects of a provider's postage evidencing device and the indicia created thereby, including those aspects required or specified under applicable performance criteria.

(g) Notwithstanding § 502.1 to the contrary, this § 502.31 shall apply to any postage evidencing system approved by the Postal Service under part 501, part 502 or otherwise and to any performance criteria whether directed to IBI or other forms of postage evidence.

Appropriate amendments to 39 CFR parts 111 and 502 to reflect these changes will be published if the proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 00–25090 Filed 9–29–00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NY39–208, FRL–6879–8]

Approval and Promulgation of Implementation Plans; New York; Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by New York. This revision consists of a demonstration of the effectiveness of New York's enhanced motor vehicle inspection and maintenance (I/M) program decentralized testing network, to satisfy the requirements of section 348 of the National Highway Systems Designation Act (NHSDA). This revision also consists of the corrections to six de minimus deficiencies related to the Clean Air Act (CAA) requirements for enhanced I/M. Therefore, EPA is also proposing to remove all of the de minimus conditions related to EPA's approval of New York's I/M program under the NHSDA. In addition, EPA is proposing to approve New York's test method, NYTEST, as being 95 percent as effective as IM240 in reducing hydrocarbon emissions, 99 percent as effective as IM240 in reducing carbon monoxide emissions and 99 percent as effective as IM240 in reducing nitrogen oxide emissions. The effect is to propose full approval of New York's enhanced I/M program.

DATES: Comments must be received on or before November 1, 2000. Public comments on this action are requested and will be considered before taking final action.

ADDRESSES: All comments should be addressed to Raymond Werner, Branch Chief, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866 and New York State Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: Judy-Ann Mitchell, Air Programs

Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION:

I. Background

On November 27, 1996, (61 FR 60242) EPA proposed conditional interim approval of New York's enhanced I/M program. New York submitted revisions to the existing program on March 27, 1996 to satisfy applicable requirements of the CAA and the NHSDA. In this submittal, the State included a ''good faith estimate'' to support its claim for 81 percent of the credit for its decentralized, test-and-repair network, when compared to a centralized, test-only network. In the State's September 4, 1997 15 Percent and Rate of Progress Plans submittal, New York claimed additional credit for its test-and-repair network as follows:

- 88 percent as effective for HC emission reductions
- 84 percent as effective for CO emission reductions
- 86 percent as effective for NO_X emission reductions

New York's ''good faith estimate'' was based upon data collected on the State's previous I/M program. However, the State has made many program enhancements which support higher emission reduction credit claims.

There remained six de minimus deficiencies related to the CAA requirements for enhanced I/M in the State's submittal. In order to address these de minimus deficiencies, New York needed to:

(1) Submit quality control measures in accordance with the requirements set forth in 40 CFR 51.359.

(2) Complete the development of the inspector training and certification program.

(3) Finalize plans for its data collection system.

(4) Complete the public information program, including the repair station report card.

(5) Commit to perform on-road testing in accordance with the requirements set forth in section 51.371 of the federal I/M regulation.

(6) Complete the development of the quality assurance program.

The NHSDA directs EPA to grant interim approval for a period of 18 months to approvable I/M submittals. The de minimus deficiencies did not affect the interim approval status of the State's I/M program. On October 24, 1997, (64 FR 32411) EPA published a final interim approval of New York's enhanced I/M program with an effective date of November 24, 1997. Therefore, the interim approval lapsed on May 24, 1999. The NHSDA directs EPA and the states to review the interim program results at the end of the 18-month period and to make a determination as to the effectiveness of the decentralized program. The State must also submit corrections to the de minimus deficiencies at the end of the interim period.

In addition, on March 6, 1996, the State of New York proposed to amend existing regulations 6NYCRR Part 217, ''Motor Vehicle Emissions,'' and 15NYCRR part 79, ''Motor Vehicle Inspection Regulations.'' EPA required the State to submit final revised and adopted regulations by the end of the 18-month interim period.

II. Summary of New York's Submittal

New York began phasing in the implementation of the enhanced I/M program in January 1998. In November 1998 the enhanced I/M testing started. By April 1999, approximately 3500 inspection stations were brought into the enhanced I/M program. New York submitted its enhanced I/M program evaluation report to EPA on May 24, 1999 including data collected from November 1998 through to April 1999 from the State's decentralized I/M program network. This submittal also contains information addressing the de minimus deficiencies identified by EPA in the final interim approval rulemaking. Due to issues raised in litigation against the State during this time, New York was prevented from removing those inspection stations from the I/M program who did not have all of the required equipment. Therefore, the data collected during this time was predominantly idle test data which was insufficient for a complete analysis of the effectiveness of the program. Additional data was required to further evaluate the I/M program's effectiveness.

On October 7, 1999, New York made a supplemental submittal to EPA which included enhanced I/M program data from approximately 4,000 inspection stations. EPA needed clarification of some aspects of this data and the State addressed these issues in a letter to EPA dated October 29, 1999.

III. EPA Review of the SIP Revision

A. NHSDA Demonstration

New York chose three elements of the enhanced I/M program to evaluate the effectiveness of the decentralized network.

(1) Comparison of Network Design

Table 3 in New York's October 7, 1999 submittal shows the failure rate observed during the Instrumentation/Protocol Assessment (IPA) Pilot Study in comparison to test-and-repair enhanced I/M failure rates. The IPA Study data can be used as a surrogate for test-only in this analysis. The failure rate for the IPA was 8.42 percent. The failure rate for the test-and-repair network was 6.44 percent. The test-and-repair failure rate indicates that the State's test-and-repair network may not be failing as many vehicles as that in a test-only network but the failure rate is comparable and consistent with the amount of credit that was claimed by New York. The State has substantially demonstrated their claim.

(2) Comparison of Pre- and Post-Repair Data

Table 2 in New York's October 7, 1999 submittal shows the enhanced I/M test data recorded from a percentage of the fleet before and after repair. The data does show that emission reductions were obtained as a result of the repairs. The data obtained from the IPA Study could not be used here because no repair data was collected.

(3) Site Audits

The State's enforcement program covers four areas; desk and computer audits, overt audits, covert/surveillance audits, and investigation of complaints. New York evaluated the data from the enforcement program during the period beginning January 1, 1999 through September 1, 1999.

There were 358 desk audits and 2,176 computer audits performed. This process involves auditors performing computer searches for enhanced I/M testing abnormalities. Of the desk and computer audits performed, 2,176 resulted in administrative stops where stations were stopped from doing inspections until further evaluation was performed or the problem was corrected.

There were 1,697 overt audits performed. This process involves the auditors visiting inspection stations and reviewing their inspection data and history. Of the overt audits performed, 198 received notices of violations and five resulted in hearings.

There were 135 covert audits performed. As a result of the covert audits, 40 notices of violation were issued and 55 hearings resulted.

As a result of complaints about certain inspection facilities received from motorists and New York State employees, the State chose to perform surveillance of those inspection stations. There were 202 complaints made which resulted in 58 notices of violation and 25 hearings.

As of September 1, 1999, there were still a number of hearings pending. Of those completed, four inspection stations had their licenses suspended and two had their licenses revoked. These factors taken together show that New York is aggressively overseeing the enhanced I/M program. This enforcement system will continue to identify and address I/M program issues.

B. Comparison of the NYTEST to Other Test Types

In 1996, the State approached EPA with a proposal to use a new technical method to measure transient, mass-based tailpipe emissions using less expensive analytical equipment than a traditional IM240 test required. The State's desire to do this was based on their analysis of steady-state, concentration-based Acceleration Simulation Mode (ASM) emissions test correlation data that indicated the ASM test was not adequate to meet New York's air quality objectives. However, the cost of IM240 equipment was prohibitive since the New York program was a decentralized network design. Therefore, the State began work to develop a low cost, mass-based emission measurement system that used the IM240 speed vs. time profile as its drive trace. The test was named the New York Transient Emissions Short Test (NYTEST). The performance goal New York sought to achieve with NYTEST was above a 90 percent excess emission identification rate while maintaining false failures below 4 percent.

The preliminary proof-of-concept data provided by the state to EPA consisted of 34 emissions tests on 14 vehicles.[1] Simultaneous emissions were measured using a Vehicle Mass Analysis System (VMAS) prototype unit and an IM240 analytical bench. Analysis of hydrocarbons (HC) and carbon monoxide (CO) from these tests yielded regression coefficients of 0.94 and 0.98 respectively. Both the State and EPA viewed these results as very encouraging and additional studies were planned on larger data sets to confirm these results and gain information on the nitrogen oxide (NO) correlation.

A 99-vehicle study was undertaken by New York that provided further support of the VMAS technology with respect to NYTEST program objectives.[2] The VMAS unit used was still a prototype unit. Regression coefficients for HC, CO and NO were 0.95, 0.99, and 0.99 respectively.

At the 9th Annual Coordinating Research Council On-Road Vehicle Emission Workshop, New York presented preliminary data from their IPA Study. Correlation data on 299 vehicles that were part of the IPA Study indicated very good correlation between NYTEST and the IM240. This data was collected by parallel sampling of vehicle exhaust using both the VMAS analytical system and an IM240. Correlation coefficients were 0.90 for HC, 0.98 for CO, and 0.97 for NO. The VMAS units used in this study were not prototype instruments but actual field units from each of the three vendors supplying emissions inspection equipment to New York.

Originally, the IPA Study was to involve over 15,000 tests on 5100 vehicles using actual production model VMAS units; however, a number of QA/QC issues arose during the data collection process that have reduced this number. As a result, the IPA Study provides 2,312 simultaneous NYTEST/IM240 emission tests. This data provides further evidence supporting NYTEST as a suitable alternative to the IM240.

On June 7, 2000, New York State proposed an effectiveness for the NYTEST of 98 percent of IM240 credit. As result of the IPA study and data analysis, EPA determined that the NYTEST will receive emissions test credit as follows:

- 95 percent of IM240 credit for HC
- 99 percent of IM240 credit for CO
- 99 percent of IM240 credit for NO_X

EPA will continue to evaluate the data on the NYTEST as it becomes available.

C. Correction of the De minimus Deficiencies

New York's May 24, 1999 submittal contains a new appendix 11 to the March 1996 SIP submittal that addresses the six de minimus deficiencies. The State has completed the development of its quality assurance and quality control measures. Plans for the data collection system and the public information program have been finalized. New York has committed to performing on-road testing as per 40 CFR 51.371. And, New York has included inspector training and certification into the State's Automotive Technician Training Program.

D. Final Program Regulations

Prior to the State's May 24, 1999 submittal, New York submitted the final revised and adopted regulations for the enhanced I/M program consisting of 6NYCRR part 217, subparts 217–1, 217–2, and 217–4, and 15NYCRR part 79, sections 79.1 through 79.3, 79.6 through 79.9, 79.11 through 79.15, 79.17, 79.20, 79.21, 79.24, and 79.25. These revisions were previously reviewed by EPA as part of the March 27, 1996 submittal, at which time, the State had not completed their adoption. EPA's review at that time, indicated that they would satisfy the requirements of the Clean Air Act once these revised regulations were finalized. There are no significant changes to the final regulations. The revised subparts of 6NYCRR part 217 and sections of 15NYCRR part 79 became effective on April 22, 1997 and June 4, 1997 respectively.

IV. Proposed Action

Today's action proposes the following:

(1) On the basis of the data collected from the operation of the State's enhanced I/M program and the fact that the State has implemented the program enhancements described in their good faith estimate, EPA is proposing to find that New York has substantially demonstrated that its decentralized I/M program network is as effective as a centralized program network in achieving emission reductions according to the following:

- 88 percent as effective for HC emission reductions
- 84 percent as effective for CO emission reductions
- 86 percent as effective for NO_X emission reductions

By proposing to approve New York's NHSDA demonstration, EPA has not reduced or eliminated the State's obligation to conduct ongoing enhanced I/M program evaluations under 40 CFR 51.351.

(2) EPA is proposing to afford emissions test credit to the NYTEST as follows:

- 95 percent of IM240 credit for HC
- 99 percent of IM240 credit for CO
- 99 percent of IM240 credit for NO_X

(3) EPA is proposing to find that New York's SIP revision submittal adequately remedies the six de minimus deficiencies previously identified.

(4) EPA is proposing to approve the latest revisions to the enhanced I/M program regulations. Specifically, these are found at 6NYCRR part 217, subparts 217–1, 217–2, and 217–4 and portions of 15NYCRR part 79 that became effective on April 22, 1997 and June 4, 1997 respectively.

(5) EPA is proposing to replace the interim designation to the EPA approval of the State's enhanced I/M program and find that the State has an approved

[1] Evaluation of NYTEST–Sensors HC & CO Composite GPM Data vs IM240 Compliant Composite HC & CO GPM Data; July 9, 1997.

[2] Evaluation of Real-Time and Composite Mass Emissions Data from a VMAS Concept Unit: Comparison to IM240 Data and VMAS Feasibility in the NY Enhanced IM Program; Whitby & Mo; NY DEC; September 11, 1998.

enhanced I/M program satisfying the requirements of the Clean Air Act.

V. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is 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, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's 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 rule.

D. Executive Order 13132

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 approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because this rule does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental

relations, Ozone, Volatile organic compounds.

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

Dated: September 1, 2000.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 00–25228 Filed 9–29–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6877–6]

RIN 2060–AH17

National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes national emission standards for hazardous air pollutants (NESHAP) for leather finishing operations. The EPA has identified these facilities as major sources of hazardous air pollutant (HAP) emissions such as glycol ethers, toluene, and xylene. These HAP are associated with a variety of adverse health effects. These adverse health effects include chronic health disorders (*e.g.,* effects on the central nervous system, blood, and heart) and acute health disorders (*e.g.,* irritation of eyes, throat, and mucous membranes and damage to the liver and kidneys). These proposed NESHAP will implement section 112(d) of the Clean Air Act (CAA) by requiring all leather finishing facilities that are major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). The EPA estimates that these proposed NESHAP will reduce nationwide emissions of HAP from leather finishing operations by approximately 375 tons per year (tpy). In addition, the proposed NESHAP would reduce non-HAP emissions of volatile organic compounds (VOC) by 750 tpy. The emissions reductions achieved by these proposed NESHAP, when combined with the emission reductions achieved by other similar standards, will provide protection to the public and achieve a primary goal of the CAA.

DATES: *Comments.* Submit comments on or before December 1, 2000.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by October 23, 2000, a public hearing will be held on November 1, 2000.

ADDRESSES: *Comments.* Submit written comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–99–38, Room M–1500, 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 in **FOR FURTHER INFORMATION CONTACT.**

Public Hearing. If a public hearing is held, it will be held at 10:00 a.m. in the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina, or at an alternate site nearby.

Docket. Docket No. A–99–38 contains supporting information used in developing the standards. The docket is located at the U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460 in room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: For information about the proposed NESHAP, contact Mr. William Schrock, Organic Chemicals Group, Emission Standards Division, (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5032; facsimile number (919) 541–3470; electronic mail address ''schrock.bill@epa.gov.''

SUPPLEMENTARY INFORMATION:

Comments. Comments and data may be submitted by electronic mail (e-mail) to: a-and-r-docket@epa.gov. Comments submitted by e-mail must be submitted as an ASCII file to avoid the use of special characters and encryption problems. Comments will also be accepted on disks in WordPerfect(R) version 5.1, 6.1, or 8 file format. All comments and data submitted in electronic form must note the docket number: A–99–38. 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: Mr. William Schrock, c/o OAQPS Document Control Officer (Room 740B), U.S. Environmental Protection Agency, 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.

Public Hearing. A request for a public hearing must be made by the date specified under the **DATES** section. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact: Ms. Maria Noell, Organic Chemicals Group, Emission Standards Division, (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5607 at least 2 days in advance of the public hearing. Persons interested in attending the public hearing must also call Ms. 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.

Docket. The docket is an organized and complete file of all the information considered 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.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of today's proposed rule will also be available on the WWW through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules 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 those listed in Table 1 of this preamble.

TABLE 1.—REGULATED CATEGORIES AND ENTITIES

Category	SIC	NAICS	Examples of regulated entities
Industry	3111	3161	Leather finishing operations.
Federal government			Not affected.
State/local/tribal government			Not affected.

This table is not intended to be exhaustive, but rather a guide 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 § 63.5285 of the proposed NESHAP. 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. Background
A. What is the source of authority for development of NESHAP?
B. What criteria are used in the development of NESHAP?
C. What are the health effects associated with the pollutants emitted from leather finishing operations?
D. How were the proposed NESHAP developed?
II. Summary of the Proposed NESHAP
A. What source categories and subcategories are affected by these proposed NESHAP?
B. What are the primary sources of emissions and what are the baseline emissions?
C. What is the affected source?
D. What are the emission limits, operating limits and other standards?
E. When must I comply with these proposed NESHAP?
F. What are the continuous compliance provisions?
G. What are the notification, recordkeeping and reporting requirements?
III. Rationale for Selecting the Proposed Standards
A. How did we select the source category?
B. How did we select any subcategories?
C. How did we select the affected source?
D. How did we determine the basis and level of the proposed standards for existing and new sources?
E. Did we consider control options more stringent than the MACT floor?
F. How did we select the form of the standards?
G. How did we select the test methods for determining compliance with these proposed NESHAP?
H. How did we select the notification, recordkeeping and reporting requirements?
I. What is the relationship of these proposed NESHAP to other rules?
IV. Summary of Environmental, Energy and Economic Impacts
A. What are the secondary and energy impacts associated with these standards?
B. What are the cost impacts?
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V. Administrative Requirements
A. Executive Order 12866, Regulatory Planning and Review
B. Executive Order 13132, Federalism
C. Executive Order 13084, Consultation and Coordination with Indian Tribal Governments
D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
E. Unfunded Mandates Reform Act of 1995
F. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
G. Paperwork Reduction Act
H. National Technology Transfer and Advancement Act of 1995

I. Background

A. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. As specified in section 112(a) of the CAA, major sources of HAP are those that have the potential to emit greater than 10 tpy of any one HAP or 25 tpy of any combination of HAP. On July 16, 1992, we published an initial list of source categories to be regulated (57 FR 31576). The Leather Tanning and Finishing Operations source category was not included on the initial list but was added by an update to the list on June 4, 1996 (61 FR 28207). Today's proposed rule modifies the listing of this source category by deleting tanning facilities from the definition and renaming the source category Leather Finishing Operations. We propose this change because our data indicate there are no stand-alone tanning facilities that are major sources of HAP, and that tanneries collocated at finishing facilities do not constitute a significant emission point for HAP that requires control. This proposal to delete tanning facilities does not preclude us from relisting tanning facilities in the future should a situation arise that tanning facilities become a major source of HAP emissions.

B. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP 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 nonair quality health and environmental impacts, and energy requirements. This level of control is commonly referred to as the MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. The MACT floor is established at a level to assure that all major sources achieve a level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. 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 MACT 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 in the category or subcategory (or the best-performing 5 sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also 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, nonair quality health and environmental impacts, and energy requirements.

C. What Are the Health Effects Associated With the Pollutants Emitted From Leather Finishing Operations?

These proposed NESHAP protect air quality and promote the public health by reducing emissions of HAP listed in section 112(b)(1) of the CAA. The predominate HAP emitted by leather finishing operations include glycol ethers, toluene, and xylene. Exposure to these compounds has been demonstrated to cause a variety of adverse health effects. Acute (short-term) exposure in humans to high levels of glycol ethers results in narcosis, pulmonary edema, and severe liver and kidney damage. Chronic (long-term) exposure to glycol ethers may result in neurological and blood effects, including fatigue, nausea, tremor, and anemia. No information is available on the reproductive, developmental, or carcinogenic effects of glycol ethers in humans. Animal studies have reported reproductive and developmental effects, including testicular damage, reduced fertility, maternal toxicity, early embryonic death, birth defects, and delayed development.

Acute inhalation of toluene by humans may cause effects to the central nervous system (CNS), such as fatigue, sleepiness, headache, and nausea, as well as irregular heartbeat. Humans that are chronic inhalation abusers of toluene have reported adverse CNS effects after exposure to high levels of toluene. Symptoms include tremors, decreased brain size, involuntary eye movements, and impaired speech, hearing, and vision. Chronic inhalation exposure of humans to lower levels of toluene also causes irritation of the upper respiratory tract, eye irritation, sore throat, nausea, dizziness, headaches, and difficulty with sleep. Studies of children exposed to toluene or to mixed solvents inhalation during their mother's pregnancy have reported CNS problems, facial and limb abnormalities, and delayed development. However, these effects may not be attributable to toluene alone.

Acute 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. Chronic inhalation of xylenes in humans may result in 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.

The EPA does not have the type of current detailed data on each leather finishing operation covered by the proposed rule, and the people living around the facilities, that would be necessary to conduct an analysis to determine the actual population exposures to the HAP emitted from these facilities and the potential for resultant health effects. Therefore, the EPA does not know the extent to which the adverse health effects described above occur in the populations surrounding these facilities. However, to the extent the adverse effects do occur, the proposed rule will reduce emissions and subsequent exposures.

D. How Were the Proposed NESHAP Developed?

We consulted many representatives of the leather finishing industry, State and Federal representatives, and coating suppliers in developing the proposed NESHAP. We held a series of stakeholder meetings over a period of nearly 3 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 from 18 sources, of which 16 will be affected by this proposed subpart. We also conducted site visits, made telephone contacts, and reviewed operating permits.

II. Summary of the Proposed NESHAP

A. What Source Categories and Subcategories Are Affected by These Proposed NESHAP?

Today's proposed NESHAP apply only to the Leather Finishing Operations source category. Operations that finish leather through a solvent degreasing process, such as in the manufacture of leather chamois, are already subject to the Halogenated Solvent Cleaning NESHAP (40 CFR part 63, subpart T). Those degreasing operations are not subject to today's proposed NESHAP. There are no subcategories for the Leather Finishing Operations source category.

B. What Are the Primary Sources of Emissions and What Are the Baseline Emissions?

The primary sources of HAP emissions at leather finishing operations are process vents associated with spray booth operations and the drying of the leather following coating. Total baseline HAP emissions from all 16 affected sources are 731 tons/yr.

C. What Is the Affected Source?

The affected source for leather finishing operations is the collection of all equipment and activities used for the application of film-forming materials to a leather substrate to provide desired material properties. The affected source includes, but is not limited to, all equipment that emits HAP, such as process vents, storage vessels, wastewater, and fugitive sources. The affected source also includes other auxiliary equipment that is necessary to make the operation run but may not emit HAP.

D. What Are the Emission Limits, Operating Limits and Other Standards?

As provided under the authority of CAA section 112(d), we are proposing the requirements in this rule in the form of a mass emission limit standard. For this proposed rule, the MACT performance level is an emission limit for finishing operations expressed in terms of HAP emissions per quantity of leather processed over a rolling 12-month compliance period. All facilities currently involved in leather finishing operations limit their HAP emissions through the use of low-HAP content coatings. Depending upon the intended use of the final leather product, different coatings with different HAP contents must be used. Therefore, a different emission limit has been established for the four primary products produced: (1) Upholstery with finish add-on greater than or equal to 4 grams per square foot, (2) upholstery with finish add-on less than 4 grams per square foot, (3) water-resistant leather, and (4) nonwater-resistant leather.

E. When Must I Comply With These Proposed NESHAP?

Leather finishing operations categorized as an existing affected source must comply with the emission standards for existing sources no later than 3 years from the effective date of the promulgated subpart. New or reconstructed affected sources that startup before the effective date of the promulgated subpart must comply with the emission standards for new and reconstructed sources no later than the effective date of the promulgated subpart. New or reconstructed affected sources that startup after the effective date of the promulgated subpart must comply with the emission standards for

new and reconstructed sources upon startup of your affected source.

F. What Are the Continuous Compliance Provisions?

To demonstrate compliance, you must perform the following: (1) Develop a plan for demonstrating compliance; (2) maintain monthly records of finish usage, HAP content of all finishes, and quantity of leather finished; (3) comply with the HAP emission limits, expressed as pounds of HAP emissions per 1,000 square feet of leather processed for each leather product process operation; (4) submit the necessary notifications; and (5) submit the necessary reports.

G. What Are the Notification, Recordkeeping and Reporting Requirements?

1. What Notifications Must I Submit?

If you are an existing major source, you must submit an ''initial notification'' no later than 120 calendar days after the effective date of the promulgated subpart. You must provide a brief description of your source including the types of leather product process operations that are performed and the nominal operating capacity of your source. This initial submission notifies the Administrator that you have an affected source and must comply with the rule as promulgated. These NESHAP do not apply to area sources. If you are a new or reconstructed source, you must make several notifications during the process of construction and startup according to § 63.9 of the General Provisions.

You must also submit a notification of compliance status no later than 60 calendar days after determining your initial 12-month compliance ratio. The notification of compliance status identifies your affected source, lists the types of leather product process operations processed, and certifies the compliance status of your affected source.

You must submit a notification of intent to conduct an applicable performance test at least 60 calendar days before the performance test is scheduled to begin.

2. What Is a Plan for Demonstrating Compliance?

Most leather finishing sources currently use reliable methods in determining the quantity of HAP emissions lost to the atmosphere and the quantity of leather processed. For example, the quantity of HAP emissions from an affected source may be based on direct volumetric or mass measurements of the amounts of each solvent type applied to leather substrates and the HAP content of each solvent type provided on material safety data sheets (MSDS). Therefore, today's proposed NESHAP do not require you to change the method of measurement, but do require you to document each method of measurement and to consistently follow each documented method. You must develop a plan for demonstrating compliance which describes in detail how you will determine your finish usage, HAP content of each finish, and the quantity of leather processed in each product process operation. The plan for demonstrating compliance must be developed by the compliance date and must be kept on site and available for inspection.

3. What Data Must I Record?

You must record all of the data necessary to determine your compliance ratio on a monthly basis. This includes all records used to determine the monthly and 12-month rolling sum of finish usage, HAP content of each finish applied, and quantity of leather processed. If you use an emission control device to comply with these proposed NESHAP, then you must also record all necessary data from monitoring the emission control device as specified at 40 CFR part 63, subpart SS. The frequency in which you measure and record necessary information must be specified in your plan for demonstrating compliance.

The proposed NESHAP require you to keep records in a form suitable and readily available for review. You must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record. Records must remain on site for at least 2 years and then can be maintained offsite for the remaining 3 years.

4. What Reports Must I Submit?

The proposed NESHAP require you to submit an annual report certifying the compliance status of your affected source. The first annual compliance status certification is due 1 year after the submittal of your notification of compliance status.

If your compliance ratio exceeds one, you must submit a deviation report by the fifteenth of the following month in which you determined the deviation.

III. Rationale for Selecting the Proposed Standards

A. How Did We Select the Source Category?

As noted in section I.B, today's proposed NESHAP revise the definition of the source category. Leather tanning operations have been deleted from the definition of the source category. We took this action after reviewing the data from the facilities engaged in leather tanning operations.

B. How Did We Select Any Subcategories?

We reviewed the available information on the leather finishing operations industry and determined that the industry did not warrant subcategorization. We found that, in general, the raw materials, emissions, and process steps are similar.

However, we observed differences in achievable emission levels between the types of leather products produced. Four product process operations were established for these NESHAP because of differences in finish properties and coating formulations which affect the achievable level of HAP emissions. The four leather product process operations established for the leather finishing source category are described in the following paragraphs.

1. Upholstery leather with finish add-on greater than or equal to 4 grams per square foot. The coatings used in this product process operation are typically aqueous-based acrylic resins with surfactants and aqueous-based polyurethane dispersions. These coatings produce a leather that exhibits good abrasion resistance, thermal stability, and ultraviolet light stability, as well as excellent adhesion properties.

2. Upholstery leather with finish add-on less than 4 grams per square foot. The typical coatings used to produce leather in this product process operation are nitrocellulose or cellulose acetate butyrate. The desired properties of this type of leather are primarily aesthetic, and only these types of coatings produce the desired effect.

3. Water-resistant leather (able to pass 5,000 or more American Society for Testing and Materials (ASTM) Maeser Flexes). Leather in this product process operation requires the use of solvent-based finishes to achieve the required water resistance. Due to the nature of this product being water resistant, substitution of a water-based coating is not an option.

4. Nonwater-resistant leather (unable to pass 5,000 ASTM Maeser Flexes). Finishes used in this product process operation can either be solvent-based or aqueous-based depending on the use of the leather. Most leather producers make a variety of products that require the use of both types of finishes.

For the prior mentioned reasons, we have not established subcategories, but rather we have established four different

performance standards for the various leather products produced. Thus, an affected source may consist of any combination of the four product process operations located at a major source site.

C. How Did We Select the Affected Source?

In selecting the affected source for the Leather Finishing Operations source category, we included all equipment that emits HAP, such as process vents, storage vessels, wastewater, and fugitive sources. In addition, because ''reconstruction,'' as defined in § 63.2 of the General Provisions, is calculated based on the affected source, we also included other auxiliary equipment that is necessary to make the operation run, but which may not emit HAP. Thus, we are defining the affected source broadly to include the sum of all operations engaged in the finishing of the leather product.

A broadly-defined affected source provides owners and operators with more flexibility to comply using emissions averaging. In addition, we defined the affected source broadly because emissions from the sum of all operations are better documented than emissions from individual process lines or emission points.

D. How Did We Determine the Basis and Level of the Proposed Standards for Existing and New Sources?

For these proposed NESHAP, the MACT performance level is an emission limit for finishing operations expressed in terms of pounds of HAP emission per 1,000 square feet of leather processed over a rolling, 12-month compliance period. For each of the four product process operations, we determined an overall finishing operation performance level based on 1 year of monthly data relating HAP emissions to leather processing rates.

We used statistical procedures to address variability observed in monthly data used in the MACT floor determinations. Customer and consumer preferences for different types of leather finishing products vary from month-to-month, thus affecting finishing operations and HAP emissions. One year of emission and process information is not sufficient to characterize the long-term impacts of customer and consumer finishing preferences. The never-to-be-exceeded format of these proposed NESHAP required us to statistically examine variability and make adjustments to the HAP loss performance level of each product process operation in order to establish numerical limits that are achievable across the source category.

For existing sources, we determined the MACT floor for each product process operation based on the performance levels corresponding to the five top-performing operations since there are fewer than 30 sources in each product process operation. For new sources, we determined the MACT floor for each product process operation based on the performance level corresponding to the top ranking product process operation of each type. The new source MACT floor for each product process operation is more stringent than the corresponding existing source MACT floor.

E. Did We Consider Control Options More Stringent Than the MACT Floor?

We considered a regulatory alternative more stringent than the MACT floor, but rejected it because of a significantly higher cost per ton of emissions reductions. The more stringent option would require the installation of a thermal oxidizer to control HAP emissions in the combined exhaust streams from spray stations and finish dryers. At present, no leather finishing facility has installed such emission controls on spray station exhausts or finish dryers.

F. How Did We Select the Form of the Standards?

We evaluated two predominant possibilities for the form of the standards. In our data collection efforts, we requested State rules that apply to the types of leather finishing activities we are regulating by this proposal. The State standards are expressed either in the form of a limit on the HAP content in the coatings used or a HAP emissions limit per unit area of leather coated. One State uses a combination of the two forms. Most States limit the HAP content in the coatings. However, there is nearly an equal number of facilities covered by each form of the standards.

We decided to express the standards as a HAP emissions limit per unit area of leather finished for the following reasons: (1) This form of the standard simplified the data collection efforts necessary to determine the MACT floor, (2) facilities within the source category are already tracking HAP usage and amount of leathered processed, and (3) this form of the standard provides facilities more compliance flexibility.

G. How Did We Select the Test Methods for Determining Compliance With These Proposed NESHAP?

The reference test method for measuring the HAP content of leather 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 that we approve.

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 for ensuring, by any means that you choose such as periodic testing, or 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.

H. How Did We Select the Notification, Recordkeeping and Reporting Requirements?

The selection of notification requirements was based on the notification requirements listed in the General Provisions (40 CFR part 63, subpart A). These notification requirements provide the minimum necessary information to inform the EPA that a facility will be subject to the promulgated rule during normal operations and assure EPA that a facility will be subject to the promulgated rule during site-specific testing conditions and during construction/reconstruction conditions.

Recordkeeping is limited to information required for determining finish usage and resulting HAP emissions. An inventory log of finish applications is required to satisfy monitoring requirements of the proposed rule. The required information is as follows: finish usage, HAP content of the finish, date, time, operator, and leather product process operation. Additional information may be required depending on the nature of the facility. For example, density and volume determinations may have to be recorded so that an actual finish weight may be calculated.

After submitting initial notifications and developing a plan for demonstrating compliance, the source will be required to file an annual statement certifying compliance status. The annual compliance status certificate is due 12

months from the anniversary of the last compliance status certificate.

I. What Is the Relationship of These Proposed NESHAP to Other Rules?

1. NESHAP for Halogenated Solvent Cleaning (40 CFR part 63, subpart T)

Operations that finish leather through a solvent degreasing process, such as the manufacture of leather chamois, are already subject to the provisions in 40 CFR part 63, subpart T. Since leather finishing operations involving a degreasing process are already subject to the NESHAP for Halogenated Solvent Cleaning, those operations involving leather degreasing are, therefore, not subject to today's proposed NESHAP. At least one facility that is involved in the finishing of leather into chamois is subject to subpart T, which covers the same types of operations as this proposed rule.

2. Relationship Between Operating Permit Program and the Proposed Standards

Under the operating permit program codified at 40 CFR parts 70 and 71, a major source subject to standards under section 111 or 112 of the CAA must obtain an operating permit (§ 70.3(a)(1) and §71.3(a)(1)). Therefore, every major source subject to these proposed NESHAP must obtain an operating permit. Area sources in this industry are not regulated by these proposed NESHAP, and, therefore, would not be required to obtain an operating permit because of these proposed NESHAP.

Some leather finishing facilities may be major sources based solely on their potential to emit, even though their actual emissions are below the major source level. These leather finishing facilities 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 by placing 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 prior to the compliance date of the promulgated rule. These operating limits will then be federally enforceable under 40 CFR 70.6(b).

IV. Summary of Environmental, Energy and Economic Impacts

A. What Are the Secondary and Energy Impacts Associated With These Standards?

We do not expect any significant secondary air emission, wastewater, solid waste, or energy impacts resulting from the proposed rule. The emissions reduction techniques that will be used to comply with the NESHAP are pollution-prevention techniques such as greater efficiency with finish transfer technologies and chemistry changes from solvent-based finishes to aqueous-based finishes. More details on the secondary and energy impacts can be found in the memorandum entitled ''Environmental and Energy Impacts for Leather Tanning and Finishing MACT Floor Regulatory Option'' (Docket A–99–38).

B. What Are the Cost Impacts?

We determined the total capital cost associated with the MACT floor level of control to be approximately $5.6 million which corresponds to a total annualized cost of approximately $440,000 per year. The total annualized costs also include the costs associated with compliance monitoring, recordkeeping, and reporting.

We determined the overall cost effectiveness associated with the MACT floor level of control to be $1,300 per ton of HAP reduced. This level of control will reduce HAP emissions from existing sources by approximately 375 tpy, a reduction of approximately 51 percent.

C. What Are the Economic Impacts?

The total annualized costs associated with these proposed NESHAP are approximately $440,000 in 1997 dollars. This cost represents only 0.014 percent of total industry revenues based on 1996 value of shipments. Because the total annualized costs associated with complying with the proposed NESHAP are such a small percentage of total market revenues (value of shipments), it is unlikely market prices or production will change as a result of these proposed NESHAP. As an alternative to performing a market analysis, we evaluated the cost impacts on facility and firm revenues. The calculation of cost-to-sales ratios shows that only one firm (owning one facility) shows an impact that is greater than 1 percent of revenues (1.52 percent). All other firms have impacts well below 1/10th of 1 percent and range from 0.00 percent to 0.09 percent of firm revenues. Given that overall costs represent a small fraction of industry revenues, and individual firm revenues experience minimal impacts, we conclude that economic impacts associated with this proposed rule will be negligible.

V. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether the regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB). The Executive 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 obligation 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.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a ''significant regulatory action'' because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. 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. This is because the proposed rule applies to affected sources in the leather finishing industry, not to States or local governments. Nor will State law be preempted, or any mandates be imposed on States or local governments. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule. The EPA notes, however, that although not required to do so by this Executive Order (or otherwise), it did consult with State governments during development of this proposed rule.

C. 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. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this proposed rule.

D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that 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 Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it is based solely on technology performance. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Additionally, this proposed rule is not ''economically significant'' as defined under Executive Order 12866.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 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 proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The total annual cost of this proposed rule for any 1 year has been estimated at $440,000 per year. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, 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. Therefore, today's proposed rule is not subject to the requirements of section 203 of the UMRA.

F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute 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 organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed rule on small entities, 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; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, we certify that this action will not have a significant economic impact on a substantial number of small entities. There are currently a total of 16 facilities that are major sources of HAP emissions and affected by this proposed rule. The industry is characterized as having some finishing operations that are relatively small, often specializing in the manufacture of leather with unique attributes, while others employ several hundred people and produce a wide variety of leathers. However, many of the smaller leather finishing operations are owned by ultimate parent firms that are classified as large corporations. Also, this industry typically operates with more than 300 establishments, so only a small fraction of the firms in the industry are impacted by the proposed rule. We determined that the 16 affected facilities are owned by 14 parent firms, and only 3 of these firms are classified as small by the previously mentioned definition. Nearly all of the firms (small and large) have very minimal impacts which range from 0.00 percent to 0.09 percent of firm revenues. Only one firm of the 14 will experience compliance costs that exceed 1 percent of firm revenues (1.52 percent), and this firm is a small business. This impact, however, is not considered significant for this industry. Typical profit margins for the leather industry average 3.5 percent.

Although this proposed rule will not have a significant economic impact on a substantial number of small entities, we nonetheless have tried to reduce the impact of this proposed rule on small entities. We have worked closely with the Leather Industry of America in determining the form of the standard and establishing methods for minimizing the compliance burden. This outreach included a series of meetings over a 2-year period and our attendance at the industries annual regulatory meeting of the Leather Industry of America. These meetings and outreach provided updates to the industry on the progress of the proposed rule and also forecasting the timeline for compliance with the proposed rule. In addition, these meetings provided us with useful information that we used in developing the proposed rule. For instance, currently no facilities use add-on control devices and we anticipate that no facilities will need to install a device to achieve compliance with the proposed rule. This will minimize costs to achieve compliance as well as simplify demonstrating compliance since already maintained purchase and usage records are all that will be needed to demonstrate compliance. We are also proposing that compliance demonstrations be conducted monthly, rather than on a daily basis which we believe will reduce the amount of records necessary to demonstrate compliance with the proposed rule. Furthermore, we are proposing the minimum monitoring, recordkeeping, and reporting requirements specified in the General Provisions. 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.

G. Paperwork Reduction Act

The information collection requirements in this proposed rule will be submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The EPA has prepared an Information Collection Request (ICR) document 1985.01, and you may obtain a copy from Sandy Farmer by mail at the U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Avenue NW, Washington, DC 20460, by email at farmer.sandy@epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at http://www.epa.gov/icr. The information requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to EPA policies set forth in 40 CFR part 2, subpart B.

The annual monitoring, reporting, and recordkeeping burden for this collection, as averaged over the first 3 years after the effective date of the rule, is estimated to be 485 labor hours per year at a total annual cost of $21,600. This estimate includes a one-time plan for demonstrating compliance, annual compliance certificate reports, notifications, and recordkeeping. Total labor burden associated with the monitoring requirements over the 3-year period of the ICR are estimated at $64,700.

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. The OMB 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 through the use of automated collection techniques. Send comments on the ICR to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., 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 October 2, 2000, a comment to OMB is best assured of having its full effect if OMB receives it by November 1, 2000. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

H. National Technology Transfer and Advancement Act of 1995

Under section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public L. No. 104–113), all Federal agencies are required to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards such as, 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 the OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

Consistent with the NTTAA, the EPA conducted a search for EPA's Method 311 (Analysis of Hazardous Air Pollutant Compounds in Paints and Coatings by Direct Injection into a Gas Chromatograph) and found no candidate voluntary consensus standards for use in identifying glycol ethers, toluene, and xylene. This proposal references the 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). Since there are no new technical standard requirements resulting from specifying subpart SS in this proposed rule, and no candidate consensus standards were identified for EPA Method 311 (glycol ethers, toluene, and xylene) in this proposal, EPA is not proposing/adopting any voluntary consensus standards in this rulemaking.

The EPA takes comment on proposed compliance demonstration requirements proposed in this rulemaking and specifically invites the public to identify potentially-applicable voluntary consensus standards. Commenters should also explain why this regulation should adopt them 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).

Section 63.2854 (b)(1) of the proposed standards list EPA Method 311, which has been used by States and industry for approximately 5 years. Nevertheless, under § 63.7(f), the proposal allows any State or source to apply to EPA for permission to use an alternative method in lieu of EPA Method 311 listed in § 63.2854(b)(1).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 20, 2000.

Carol M. Browner,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of the 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 TTTT to read as follows:

Subpart TTTT—National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations

What This Subpart Covers

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63.5280 What is the purpose of this subpart?
63.5285 Am I subject to this subpart?
63.5290 What parts of my facility does this subpart cover?
63.5295 When do I have to comply with this subpart?

Standards

63.5305 What emission standards must I meet?

Compliance Requirements

63.5320 How does my affected major source comply with the HAP emission standards?
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63.5335 How do I determine the actual HAP loss?
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Testing and Initial Compliance Requirements

63.5375 When must I conduct a performance test or initial compliance demonstration?
63.5380 How do I conduct performance test methods?
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63.5390 How do I measure the HAP content of a finish?
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Notifications, Reports, and Records

63.5415 What notifications must I submit and when?
63.5420 What reports must I submit and when?
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Figures

Figure 1 to Subpart TTTT—Example Logs for Recording Leather Finish Use and HAP Content

Tables

Table 1 to Subpart TTTT—Leather Finishing HAP Emission Limits for Determining the Allowable HAP Loss
Table 2 to Subpart TTTT—Applicability of General Provisions to Subpart TTTT

Subpart TTTT—National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations

What This Subpart Covers

§ 63.5280 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) for leather finishing operations. These standards limit HAP emissions from specified leather finishing operations. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission standards.

§ 63.5285 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a leather finishing operation that is a major source of hazardous air pollutants (HAP) emissions or that is located at, or is part of, a major source of HAP emissions. A leather finishing operation is defined in § 63.5460. In general, it is a single process or group of processes used for the application of film-forming materials to a leather substrate to provide desired properties.

(b) You are a major source of HAP emissions if you own or operate a plant site that emits or has the potential to emit any single HAP at a rate of 10 tons (9.07 megagrams) or more per year or any combination of HAP at a rate of 25 tons (22.68 megagrams) or more per year.

§ 63.5290 What parts of my facility does this subpart cover?

(a) This subpart applies to each new, reconstructed, or existing affected source at leather finishing operations.

(b) The affected source subject to this subpart is the collection of all equipment and activities used for the application of film-forming materials to a leather substrate to provide desired material properties. This subpart applies to the leather finishing operations listed in paragraphs (b)(1) through (4) of this section and as defined in § 63.5460, whether or not the operations are collocated with leather tanning operations:

(1) Upholstery leather with greater than or equal to 4 grams finish add-on per square foot of leather;

(2) Upholstery leather with less than 4 grams finish add-on per square foot of leather;

(3) Water-resistant leather; and

(4) Nonwater-resistant leather.

(c) An affected source does not include portions of your leather finishing operation that are listed in paragraphs (c)(1) and (2) of this section:

(1) A leather finishing operation affected source does not include equipment used solely with leather tanning operations.

(2) A leather finishing operation affected source does not include that portion of your leather finishing operation using a solvent degreasing process, such as in the manufacture of leather chamois, that is already subject to the Halogenated Solvent Cleaning NESHAP (40 CFR part 63, subpart T).

(d) An affected source is a new affected source if you commenced construction of the affected source after October 2, 2000, and you meet the applicability criteria at the time you commenced construction.

(e) An affected source is reconstructed if you meet the criteria as defined in § 63.2.

(f) An affected source is existing if it is not new or reconstructed.

§ 63.5295 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source, you must comply with this subpart according to paragraphs (a)(1) and (2) of this section:

(1) If you startup your affected source before the effective date of the subpart, then you must comply with the emission standards for new and reconstructed sources in this subpart no later than the effective date of the subpart.

(2) If you startup your affected source after the effective date of the subpart, then you must comply with the emission standards for new and reconstructed sources in this subpart upon startup of your affected source.

(b) If you have an existing affected source, you must comply with the emission standards for existing sources no later than 3 years from the effective date of this subpart.

(c) If you have an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP and an affected source subject to this subpart, paragraphs (c)(1) and (2) of this section apply.

(1) An area source that meets the criteria of a new affected source as specified at § 63.5290(d) or a reconstructed affected source as specified at § 63.5290(e) must be in compliance with this subpart upon becoming a major source.

(2) An area source that meets the criteria of an existing affected source as specified at § 63.5290(f) must be in compliance with this subpart no later than 3 years after it becomes a major source.

(d) You must meet the notification requirements in § 63.5415 and in subpart A of this part. Some of the notifications must be submitted before you are required to comply with the emission standards in this subpart.

Standards

§ 63.5305 What emission standards must I meet?

The emission standards limit the number of pounds of HAP lost per square foot of leather processed. You must meet each emission limit in Table 1 of this subpart that applies to you.

Compliance Requirements

§ 63.5320 How does my affected major source comply with the HAP emission standards?

(a) All affected sources must be in compliance with the requirements of this subpart at all times, including periods of startup, shutdown and malfunction.

(b) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(c) You must perform all of the items listed in paragraphs (c)(1) through (10) of this section:

(1) Submit the necessary notifications in accordance with § 63.5415.

(2) Develop and implement a plan for demonstrating compliance in accordance with § 63.5325.

(3) Submit the necessary reports in accordance with § 63.5420.

(4) Keep a finish inventory log to record monthly the pounds of each type of finish applied for each leather product process operation and the mass fraction of HAP in each applied finish as specified at § 63.5335(b). You may be required to start recordkeeping prior to the compliance dates specified at § 63.5295.

(5) Keep a leather processed inventory log to record monthly the surface area of leather processed in 1,000's of square feet for each product process operation as specified at § 63.5430(f). You may be required to start recordkeeping prior to the compliance dates specified at § 63.5295.

(6) Determine the actual HAP loss from your affected source in accordance with § 63.5335.

(7) Determine the allowable HAP loss for your affected source in accordance with § 63.5340.

(8) Determine the compliance ratio for your affected source each month as specified at § 63.5330. The compliance ratio compares your actual HAP loss to your allowable HAP loss for the previous 12 months.

(9) Maintain the compliance ratio for your affected source at or below 1.00 in accordance with § 63.5330.

(10) Maintain all the necessary records you have used to demonstrate compliance with this subpart in accordance with § 63.5430.

§ 63.5325 What is a plan for demonstrating compliance and when must I have one in place?

(a) You must develop and implement a written plan for demonstrating compliance that provides the detailed procedures you will follow to monitor

and record data necessary for demonstrating compliance with this subpart. Procedures followed for quantifying HAP loss from the source and amount of leather processed vary from source to source because of site-specific factors such as equipment design characteristics and operating conditions. Typical procedures include one or more accurate measurement methods such as weigh scales and volumetric displacement. Because the industry does not have a uniform set of procedures, you must develop and implement your own site-specific plan for demonstrating compliance not later than the compliance date for your source. You must also incorporate the plan for demonstrating compliance by reference in the source's title V permit. The plan for demonstrating compliance must include the items listed in paragraphs (a)(1) through (7) of this section:

(1) The name and address of the owner or operator.

(2) The physical address of the leather finishing operation.

(3) Provide a detailed description of all methods of measurement your source will use to determine your finish usage, HAP content of each finish, quantity of leather processed, and leather product process operation type.

(4) Specify when each measurement will be made.

(5) Provide examples of each calculation you will use to determine your compliance status. Include examples of how you will convert data measured with one parameter to other terms for use in compliance determination.

(6) Provide example logs of how data will be recorded.

(7) Provide a quality assurance/quality control plan to ensure that the data continue to meet compliance demonstration needs.

(b) You may be required to revise your plan for demonstrating compliance. We may require reasonable revisions if the procedures lack detail, are inconsistent, or do not accurately determine finish usage, HAP content of each finish, quantity of leather processed, or leather product process operation type.

§ 63.5330 How do I determine the compliance ratio?

(a) When your source has processed leather for 12 months, you must determine the compliance ratio for your affected source by the fifteenth of each month for the previous 12 months.

(b) You must determine the compliance ratio using equation 1 of this section as follows:

$$\text{Compliance Ratio} = \frac{\text{Actual HAP Loss}}{\text{Allowable HAP Loss}} \qquad \text{(Eq. 1)}$$

Where:

Actual HAP Loss = Pounds of actual HAP loss for the previous 12 months, as determined in § 63.5335.

Allowable HAP Loss = Pounds of allowable HAP loss for the previous 12 months, as determined in § 63.5340.

(1) If the value of the compliance ratio is less than or equal to 1.00, your affected source was in compliance with the applicable HAP emission limits of this subpart for the previous month.

(2) If the value of the compliance ratio is greater than 1.00, your affected source was deviating from compliance with the applicable HAP emission limits of this subpart for the previous month.

§ 63.5335 How do I determine the actual HAP loss?

(a) This section describes the information and procedures you must use to determine the actual HAP loss from your leather finishing operation. By the fifteenth of each month, you must determine the actual HAP loss in pounds from your leather finishing operation for the previous month.

(b) Use a finish inventory log to record the pounds of each type of finish applied for each leather product process operation and the mass fraction of HAP in each applied finish. Figure 1 of this subpart shows an example log for recording the minimum information necessary to determine your finish usage and HAP loss. The finish inventory log must contain, at a minimum, the information for each type of finish applied listed in paragraphs (b)(1) through (7) of this section:

(1) Finish type.

(2) Pounds (or density and volume) of each finish applied to the leather.

(3) Mass fraction of HAP in each applied finish.

(4) Date of the recorded entry.

(5) Time of the recorded entry.

(6) Name of the person recording the entry.

(7) Product process operation type.

(c) To determine the pounds of HAP loss for the previous month, you must first determine the pounds of HAP loss from each finish application.

(1) For facilities not using add-on emission control devices, the entire HAP content of the finishes are assumed to be released to the environment. Using the finish inventory log, multiply the pounds of each recorded finish usage by the corresponding mass fraction of HAP in the finish. The result is the HAP loss in pounds from each finish application. Sum the pounds of HAP loss from all finish applications recorded during the previous month to determine the total monthly HAP loss in pounds from your finishing operation.

(2) For facilities using add-on emission control devices, the finish inventory log and the emission reduction efficiency of the add-on control device can be used to determine the net HAP loss in pounds. The emission reduction efficiency for a control device must be determined from a performance test conducted in accordance with §§ 63.5375 and 63.5380. Using the finish inventory log, multiply the pounds of each recorded finish usage by the corresponding mass fraction of HAP in the finish. The result is the gross HAP loss in pounds from each finish application prior to the add-on control device. Multiply the gross HAP loss by the percent emission reduction achieved by the add-on control device and then subtract this amount from the gross HAP loss. The result is the net HAP loss in pounds from each finish application. Sum the pounds of net HAP loss from all finish applications recorded during the previous month to determine the total monthly net HAP loss in pounds from your finishing operation.

(d) After collecting HAP loss data for 12 months, you must also determine by the fifteenth of each month the annual HAP loss in pounds by summing the monthly HAP losses for the previous 12 months. The annual HAP loss is the ''actual HAP loss,'' which is used in Equation 1 of § 63.5330 to calculate your compliance ratio, as described in § 63.5330.

§ 62.5340 How do I determine the allowable HAP loss?

(a) By the fifteenth of each month, you must determine the allowable HAP loss in pounds from your leather finishing operation for the previous month.

(b) To determine the allowable HAP loss for your leather finishing operation, you must select the appropriate HAP emission limit, expressed in pounds of HAP loss per 1,000 square feet of leather

processed, from Table 1 of this subpart, for each type of leather product process operation performed during the previous 12 months. Under the appropriate existing or new source column, select the HAP emission limit that corresponds to each type of product process operation performed during the previous 12 months. Next, determine the annual total of leather processed in 1,000's of square feet for each product process operation in accordance with § 63.5400. Then, multiply the annual total of leather processed in each product process operation by the corresponding HAP emission limit to determine the allowable HAP loss in pounds for the corresponding leather product process operation. Finally, sum the pounds of HAP loss from all leather product process operations performed in the previous 12 months. Equation 1 of this section illustrates the calculation of allowable HAP loss as follows:

$$\text{Allowable HAP Loss} = \sum_{i=1}^{n} \left(\begin{array}{c} \text{Annual Total} \\ \text{of Leather} \\ \text{Processed}_i \end{array} * \begin{array}{c} \text{HAP} \\ \text{Emission} \\ \text{Limit}_i \end{array} \right) \qquad \text{(Eq. 1)}$$

Where:

Annual Total of Leather Processed = 1,000's of square feet of leather processed in the previous 12 months in product process operation ''i''.

HAP Emission Limit = From Table 1 of this subpart, the HAP emission limit in pounds of HAP loss per 1,000 square feet of leather processed for product process operation ''i''.

n = Number of leather product process operation types performed during the previous 12 months.

(c) The resulting ''allowable HAP loss'' is used in Equation 1 of § 63.5330 to calculate your compliance ratio, as described in § 63.5330.

§ 62.5345 How do I distinguish between the two upholstery product process operations?

(a) Product process operations that finish leather for use in automobile and furniture seat coverings are categorized as an upholstery product process operation. There are two upholstery product process operations subject to the requirements of this subpart—operations with less than 4 grams of finish add-on per square foot, and operations with 4 grams or more of finish add-on per square foot. You must distinguish between the two upholstery product process operations so that you can determine which HAP emission limit in Table 1 of this subpart applies to your affected source.

(b) You must determine finish add-on by calculating the difference in mass before and after the finishing process. You may use an empirical method to determine the amount of finish add-on applied during the finishing process, as described in paragraphs (b)(1) through (4) of this section:

(1) Weigh a one square foot representative section of polyester film or equivalent material substrate to be finished. This will provide a baseline mass and surface area prior to starting the finishing process.

(2) Use a scale with an accuracy of at least 5 percent of the mass in grams of the representative section of polyester film.

(3) Upon completion of these measurements, process the polyester film on the finishing line as you would for a typical section of leather.

(4) After the finishing and drying process, weigh the representative section of polyester film to determine the final mass. Divide the net mass in grams gained by the representative section of polyester film by its surface area in square feet to determine grams per square foot of finish add-on. Equation 1 of this section illustrates this calculation, as follows:

$$\text{Finish Add-On} = \frac{\left(\begin{array}{c} \text{Final} \\ \text{Mass} \end{array} - \begin{array}{c} \text{Initial} \\ \text{Mass} \end{array} \right)}{(\text{Surface Area})} \qquad \text{(Eq. 1)}$$

Where:

Finish Add-On = Grams per square foot of finish add-on applied to a representative section of polyester film.

Final Mass = Final mass in grams of representative section of polyester film, after finishing and drying.

Initial Mass = Initial mass in grams of representative section of polyester film, prior to finishing.

Surface Area = Surface area in square feet of a representative section of polyester film.

(c) Any appropriate engineering units may be used for determining the finish add-on. However, finish add-on results must be converted to the units of grams of finish add-on per square foot of leather processed. If multiple representative leather sections are analyzed, then use the average of these measurements for selecting the appropriate product process operation.

§ 63.5350 How do I distinguish between the water-resistant and nonwater-resistant leather product process operations?

(a) Product process operations that finish leather for nonupholstery use are categorized as either water-resistant or nonwater-resistant product process operations. You must distinguish between the water-resistant and nonwater-resistant product process operations so that you can determine which HAP emission limit in Table 1 of this subpart applies to your affected source.

(b) To determine whether your product process operation produces water-resistant or nonwater-resistant leather, you must conduct the Maeser Flexes test method according to American Society for Testing and Materials (ASTM) Designation D2099–98 or a method approved by the Administrator.

(c) Statistical analysis of initial water penetration data performed to support ASTM Designation D2099–98 indicates that poor quantitative precision is associated with this testing method. Therefore, three sections of leather substrate from at least 12 sides of leather must be tested for a minimum of three times to determine the water-resistant characteristics of the leather. You must average the results of these tests to determine the final number of Maeser Flexes prior to initial water penetration.

(d) Results from leather samples indicating an average of 5,000 Maeser Flexes or more is considered a water-resistant product process operation, and results indicating less than 5,000 Maeser Flexes is considered nonwater-resistant product process operation.

§ 63.5355 How do I monitor and collect data to demonstrate continuous compliance?

(a) You must monitor and collect data according to this section.

(b) You must collect data at all required intervals as specified in your plan for demonstrating compliance as specified at § 63.5325.

(c) For emission control devices, except for monitor malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span

adjustments), you must monitor continuously (or collect data at all required intervals) at all times that the affected source is operating.

(d) You may not use data recorded during monitoring malfunctions, associated repairs, and required quality assurance or control activities in data averages and calculations used to report emission or operating levels, nor may such data be used in fulfilling a minimum data availability requirement, if applicable. You must use all the data collected during all other periods in assessing the compliance ratio, and, if an emission control device is used, in assessing the operation of the control device.

§ 63.5360 How do I demonstrate continuous compliance with the emission standards?

(a) You must demonstrate continuous compliance with the emission standards in § 63.5305 by following the requirements in paragraphs (a)(1) and (2) of this section:

(1) You must collect and monitor data according to the procedures in your plan for demonstrating compliance as specified in § 63.5325.

(2) If you use an emission control device, you must collect the monitoring data according to 40 CFR part 63, subpart SS.

(3) You must maintain your compliance ratio less than or equal to 1.00, as specified at § 63.5330.

(b) You must report each instance in which you did not meet the emission standards in § 63.5305. This includes periods of startup, shutdown, and malfunction. These deviations must be reported according to the requirements in § 63.5420(b).

(c) You must conduct the initial compliance demonstration before the compliance date that is specified for your source in § 63.5295.

Testing and Initial Compliance Requirements

§ 63.5375 When must I conduct a performance test or initial compliance demonstration?

You must conduct performance tests after the installation of any emission control device that reduces HAP emissions and can be used to comply with the HAP emission requirements of this subpart. You must complete your performance tests not later than 60 calendar days before the end of the 12-month period used in the initial compliance determination.

§ 63.5380 How do I conduct performance test methods?

(a) Each performance test must be conducted according to the requirements in § 63.7(e) and the procedures of § 63.997(e)(1) and (2).

(b) You may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1).

(c) You must conduct three separate test runs for each performance test required in this section, as specified in § 63.7(e)(3). Each test run must last at least 1 hour.

§ 63.5385 How do I measure the quantity of finish applied to the leather?

(a) To determine the amount of finish applied to the leather, you must measure the mass, or density, and volume of each applied finish.

(b) Determine the mass of each applied finish with a scale calibrated to an accuracy of at least 5 percent of the amount measured. The quantity of all finishes used for finishing operations must be weighed or have a predetermined weight.

(c) Determine the density and volume of each applied finish according to the criteria listed in paragraphs (c)(1) through (3) of this section:

(1) Determine the density of each applied finish in pounds per gallon in accordance with § 63.5395. The finish density will be used to convert applied finish volumes from gallons into mass units of pounds.

(2) Volume measurements of each applied finish can be obtained with a flow measurement device. For each flow measurement device, you must perform the items listed in paragraphs (c)(2)(i) through (v) of this section:

(i) Locate the flow sensor and other necessary equipment such as straightening vanes in or as close to 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 semiannually.

(v) At least monthly, inspect all components for integrity, all electrical connections for continuity, and all mechanical connections for leakage.

(3) Volume measurements of each applied finish can be obtained with a calibrated volumetric container with an accuracy of at least 5 percent of the amount measured.

§ 63.5390 How do I measure the HAP content of a finish?

(a) To determine the HAP content of a finish, the reference method is EPA Method 311 of appendix A of 40 CFR part 63. You may use EPA Method 311, an alternative method approved by the Administrator, 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. If the HAP content is provided on a MSDS or a manufacturer's data sheet as a range of values, then the highest HAP value of the range must be used for the determination of compliance to this standard. This value must be entered on the finish log for each type of finish applied. You are not required to test the materials that you use, but the Administrator may require a test using EPA Method 311 (or another approved method) to confirm the reported HAP content. However, 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.

(b) You may use the weighted average of the HAP content analysis as determined in § 63.5390(a) for each finish when you perform one of the actions listed in paragraphs (b)(1) and (2) of this section:

(1) Mix your own finishes on site.

(2) Mix new quantities of finish with previous quantities of finish that may have a different HAP content.

§ 63.5395 How do I measure the density of a finish?

(a) To determine the density of a finish, the reference method is EPA Method 24 of appendix A of 40 CFR part 60. You may use EPA Method 24, an alternative method approved by the Administrator, or any other reasonable means for determining the density of a finish. Other reasonable means of determining density include, but are not limited to, an MSDS or a manufacturer's hazardous air pollutant data sheet. If the density is provided on a MSDS or a manufacturer's data sheet as a range of values, then the highest density value of the range must be used for the determination of compliance to this standard. This value must be entered on the finish log for each type of finish applied. You are not required to test the materials that you use, but the Administrator may require a test using EPA Method 24 (or another approved method) to confirm the reported density. However, if the results of an analysis by EPA Method 24 are different from the density determined by another means, the EPA Method 24 results will govern compliance determinations.

(b) You may use the weighted average of finish densities as determined in

§ 63.5395(a) for each finish when you perform one of the actions listed in paragraphs (b)(1) and (2) of this section:

(1) Mix your own finishes on site.

(2) Mix new quantities of finish with previous quantities of finish that may have different densities.

(c) Equation 1 of this section may be used to determine the weighted average of finish densities. Equation 1 of this section follows:

$$\text{Average Weighted Density} = \frac{\sum_{i=1}^{n}\left(\text{Mass}_i * \text{Density}_i\right)}{\sum_{i=1}^{n}\left(\text{Mass}_i\right)} \qquad \text{(Eq. 1)}$$

Where:

Average Weighted Density = The average weighted density of applied finishes in pounds per gallon.

Mass = Pounds of finish ''i'' applied.

Density = The density of finish ''i'' in pounds per gallon.

n = Number of finish types applied.

§ 63.5400 How do I measure the quantity of leather processed?

(a) This section describes the information and procedures you must use to determine the quantity of leather processed at your affected source. By the fifteenth of each month, you must determine the quantity of leather processed in 1,000's of square feet for each product process operation during the previous month. After collecting data on the amount of leather processed for 12 months, you must also determine by the fifteenth of each month the annual total of leather processed in 1,000's of square feet for each product process operation by summing the monthly quantities of leather processed in each product process operation for the previous 12 months. The ''annual total of leather processed'' in each product process operation is used in Equation 1 of § 63.5340 to calculate your allowable HAP loss as described in § 63.5340. Your allowable HAP loss is then subsequently used to calculate your compliance ratio as described in § 63.5330.

(b) To determine the surface area of leather processed at your source for each product process operation, you must use one of the methods listed in paragraphs (b)(1) and (2) of this section:

(1) Premeasured leather substrate sections being supplied by another manufacturer as an input to your finishing process.

(2) Measure the surface area of each piece of processed leather with a computer scanning system accurate to 0.1 square feet. The computer scanning system must be initially calibrated for minimum accuracy to the manufacturer's specifications. For similar leather production runs, use an average based on a minimum of 500 pieces of leather in lieu of individual measurements.

Notifications, Reports, And Records

§ 63.5415 What notifications must I submit and when?

(a) In accordance with §§ 63.7(b) and (c) and 63.9(b) and (h) of the General Provisions, you must submit the one-time notifications listed in paragraphs (b) through (g) of this section.

(b) As specified in § 63.9(b)(2), if you startup your affected source before the effective date of this subpart, you must submit an Initial Notification not later than 120 calendar days after the effective date of this subpart.

(c) In the Initial Notification, include the items in paragraphs (c)(1) through (4) of this section:

(1) The name and address of the owner or operator.

(2) The physical address of the leather finishing operation.

(3) Identification of the relevant standard, such as the Leather Finishing Operations NESHAP, and compliance date.

(4) A brief description of the source including the types of leather product process operations and nominal operating capacity.

(d) As specified in § 63.9(b)(1) and (2), if you start up your new or reconstructed affected source on or after the effective date of this subpart, you must submit an Initial Notification not later than 120 calendar days after you become subject to this subpart.

(e) If you are required to conduct a performance test, you must submit a Notification of Intent to Conduct a Performance Test at least 60 calendar days before the performance test is scheduled to begin as required in § 63.7(b)(1).

(f) You must submit a Notification of Compliance Status report not later than 60 calendar days after determining your initial 12-month compliance ratio. The notification of compliance status must contain the items in paragraphs (f)(1) through (5) of this section:

(1) The name and address of the owner or operator.

(2) The physical address of the leather finishing operation.

(3) Each type of leather product process operation performed during the previous 12 months.

(4) Each HAP identified under § 63.5390 in finishes applied during the 12-month period used for the initial compliance determination.

(5) A compliance status certification indicating whether the source complied with all of the requirements of this subpart throughout the 12-month period used for the initial source compliance determination. This certification must include a certification of the items in paragraphs (f)(5)(i) through (iii) of this section:

(i) The plan for demonstrating compliance, as described in § 63.5325, is complete and available on site for inspection.

(ii) You are following the procedures described in the plan for demonstrating compliance.

(iii) The compliance ratio value was determined to be less than or equal to 1.00, or the value was determined to be greater than 1.00.

(g) If your source becomes a major source on or after the effective date of this subpart, you must submit an initial notification not later than 120 days after you become subject to this subpart.

§ 63.5420 What reports must I submit and when?

(a) You must submit the first annual compliance status certification 12 months after you submit the Notification of Compliance Status. Each subsequent annual compliance status certification is due 12 months after the previous annual compliance status certification. The annual compliance status certification provides the compliance status for each month during the 12-month period ending 60 days prior to the date on which the report is due. Include the information in paragraphs (a)(1) through (5) of this section in the annual certification:

(1) The name and address of the owner or operator.

(2) The physical address of the leather finishing operation.

(3) Each type of leather product process operation performed during the 12-month period covered by the report.

(4) Each HAP identified under § 63.5390 in finishes applied during the 12-month period covered by the report.

(5) A compliance status certification indicating whether the source complied with all of the requirements of this subpart throughout the 12-month period covered by the report. This certification must include a certification of the items in paragraphs (a)(5)(i) and (ii) of section:

(i) You are following the procedures described in the plan for demonstrating compliance.

(ii) The compliance ratio value was determined to be less than or equal to 1.00, or the value was determined to be greater than 1.00.

(b) You must submit a Deviation Notification Report for each compliance determination you make in which the compliance ratio exceeds 1.00, as determined under § 63.5330. Submit the deviation report by the fifteenth of the following month in which you determined the deviation from the compliance ratio. The Deviation Notification Report must include the items in paragraphs (b)(1) through (4) of this section:

(1) The name and address of the owner or operator.

(2) The physical address of the leather finishing operation.

(3) Each type of leather product process operation performed during the 12-month period covered by the report.

(4) The compliance ratio comprising the deviation. You may reduce the frequency of submittal of the Deviation Notification Report if the responsible agency of these NESHAP does not object, as provided in § 63.10(e)(3)(iii).

§ 63.5425 When must I start recordkeeping to determine my compliance ratio?

(a) If you have a new or reconstructed affected source, you must start recordkeeping to determine your compliance ratio according to one of the schedules listed in paragraphs (a)(1) and (2) of this section:

(1) If the startup of your new or reconstructed affected source is before the effective date of this subpart, then you must start recordkeeping to determine your compliance ratio no later than the effective date of this subpart.

(2) If the startup of your new or reconstructed affected source is after the effective date of this subpart, then you must start recordkeeping to determine your compliance ratio upon startup of your affected source.

(b) If you have an existing affected source, you must start recordkeeping to determine your compliance ratio no later than 2 years after the effective date of this subpart.

(c) If you have a source that becomes a major source of HAP emissions after the effective date of the subpart, then you must start recordkeeping to determine your compliance ratio immediately upon submitting your Initial Notification as required at § 63.5415(g).

§ 63.5430 What records must I keep?

(a) You must keep the plan for demonstrating compliance as required at § 63.5325 on-site and readily available as long as the source is operational. If you make any changes to the plan for demonstrating compliance, then you must keep all previous versions of the plan and make them readily available for inspection for at least 5 years after each revision.

(b) You must keep a copy of each notification and report that you are required to submit in accordance with this subpart.

(c) You must keep records of performance tests in accordance with this subpart.

(d) You must record and maintain a continuous log of finish usage as specified at § 63.5335(b).

(e) You must maintain all necessary records to document the methods you used and the results of all HAP content measurements of each applied finish.

(f) For each leather product process operation, you must maintain a monthly log of the items listed in paragraphs (f)(1) and (2) of this section:

(1) Dates for each leather product process operation.

(2) Total surface area of leather processed for each leather product process operation.

(g) If you use an emission control device, you must keep records of monitoring data as specified at 40 CFR part 63, subpart SS.

§ 63.5435 In what form and how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record according to § 63.10(b)(1). You can keep the records offsite for the remaining 3 years.

Other Requirements and Information

§ 63.5450 What parts of the General Provisions apply to me?

Table 2 of this subpart shows which parts of the General Provisions in §§ 63.1 through 63.13 apply to you.

§ 63.5455 Who administers this subpart?

(a) This subpart can be administered by us, the U.S. EPA, or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency has the primary authority to administer and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if the authority to implement and enforce this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities that will not be delegated to State, local, or tribal agencies are listed in paragraphs (c)(1) through (4) of this section:

(1) Approval of alternatives to the emission standards in § 63.5305 under § 63.6(g).

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.5460 What definitions apply to this subpart?

Terms used in this subpart are defined in:

(a) Clean Air Act; and

(b) 40 CFR 63.2, the NESHAP General Provisions; and

(c) This section as follows:

Area source means any stationary source of hazardous air pollutants that is not a major source as defined in this part.

Compliance ratio means the ratio of the actual HAP loss from the previous 12 months to the allowable HAP loss from the previous 12 months. Equation 1 in § 63.5330 is used to calculate this value. If the value is less than or equal to 1.00, the source is in compliance. If the value is greater than 1.00, the source is deviating from compliance.

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 limits or work practice standards.

(2) Fails to meet any emission limits, operating limits, or work practice standards in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Drying means the process of removing all but equilibrium moisture from the leather. Drying methods currently in use include: toggling, hanging, pasting, and vacuum drying.

Finish add-on means the amount of solid material deposited on the leather substrate due to finishing operations. Typically, the solid deposition is a dye or other chemical used to enhance the color and performance of the leather. Finish add-on is quantified as mass per surface area of substrate, such as grams of finish add-on per square foot of leather substrate.

Finishing means the application of film-forming materials to a leather substrate to provide abrasion resistance, stain resistance, enhanced color, and other desirable quality.

Hazardous air pollutants (HAP) means any substance or mixture of substances listed as a hazardous air pollutant under section 112(b) of the Clean Air Act.

Leather means the pelt or hide of an animal which has been transformed by a tanning process into a nonputrescible and useful material.

Leather substrate means a nonputrescible leather surface intended for the application of finishing chemicals and materials. The leather substrate may be a continuous piece of material such as side leather or may be a combination of smaller leather pieces and leather fibers, which when joined together, form a integral composite leather material.

Month means that all references to a month in this subpart refer to a calendar month.

Nonwater-resistant leather means nonupholstery leather that is not treated with any type of waterproof finish and, thus, cannot withstand 5,000 Maeser Flexes with a Maeser Flex Testing Machine or a method approved by the Administrator prior to initial water penetration. This leather is typically used for dress shoes, handbags, and garments.

Product process operation means any one of the four leather production classifications developed for ease of compliance with this subpart. The four leather product process operations are as follows: upholstery leather with greater than or equal to 4 grams finish add-on per square foot, upholstery leather with less than 4 grams finish add-on per square foot, water-resistant leather, and nonwater-resistant leather.

Upholstery leather (greater than or equal to 4 grams finish add-on per square foot) means an upholstery leather with a final finish add-on to leather ratio of 4 or more grams of finish per square foot of leather. These types of finishes are used primarily for automobile seating covers. These finishes tend to be aqueous-based.

Upholstery leather (less than 4 grams finish add-on per square foot) means an upholstery leather with a final finish add-on to leather ratio of less than 4 grams of finish per square foot of leather. These types of finishes are typically used for furniture seating covers. The finishes tend to be solvent-based and leave a thinner, softer, and more natural leather texture.

Water-resistant leather means nonupholstery leather that has been treated with one or more waterproof finishes such that the leather can withstand 5,000 or more Maeser Flexes with a Maeser Flex Testing Machine or a method approved by the Administrator prior to initial water penetration. This leather is used for outerwear, boots and outdoor applications.

Figure 1 to Subpart TTTT—Example Logs for Recording Leather Finish Use and HAP Content

Month: _____

Year: _____

FINISH INVENTORY LOG

Finish type	Finish usage (pounds)	HAP content (mass fraction)	Date and time	Operator's name	Product process operation

MONTHLY SUMMARY OF FINISH USAGE

	Upholstery leather (≥4 grams)	Upholstery leather (<4 grams)	Water resistant leather	Nonwater-resistant leather
Number of Entries				
Total Finish Usage (pounds)				
Total HAP Usage (pounds)				

TABLE 1 TO SUBPART TTTT—LEATHER FINISHING HAP EMISSION LIMITS FOR DETERMINING THE ALLOWABLE HAP LOSS

Type of leather product process operation	HAP emission limit (lb/1,000 square feet)	
	Existing sources	New sources
1. Upholstery Leather (≥4 grams add-on/square feet)	2.6	0.5
2. Upholstery Leather (<4 grams add-on/square feet)	7.1	2.9
3. Water-resistant Leather (≥5,000 Maeser Flexes)	5.9	4.9
4. Nonwater-resistant Leather (<5,000 Maeser Flexes)	3.4	2.1

TABLE 2 OF SUBPART TTTT—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART TTTT

General provisions citation	Subject of citation	Brief description of requirement	Applies to subpart	Explanation
§ 63.1	Applicability	Initial Applicability Determination; Applicability After Standard Established; Permit Requirements; Extensions, Notifications.	Yes.	
§ 63.2	Definitions	Definitions for part 63 standards	Yes	Except as specifically provided in this subpart.
§ 63.3	Units and Abbreviations.	Units and abbreviations for part 63 standards.	Yes.	
§ 63.4	Prohibited Activities and Circumvention.	Prohibited Activities; Compliance Date; Circumvention, Severability.	Yes.	
§ 63.5	Construction/Reconstruction.	Applicability; Applications; Approvals.	Yes	Except for subsections of § 63.5 as listed below.
§ 63.5(c)	[Reserved].			
§ 63.5(d) (1)(ii) (H)	Application for Approval.	Type and Quantity of HAP, Operating Parameters.	No	All sources emit HAP. Subpart TTTT does not require control from specific emission points.
§ 63.5(d) (1)(i)	[Reserved].			
§ 63.5(d) (1)(iii), (d)(2), (d)(3)(ii).		Application for Approval	No	The requirements of the application for approval for new and reconstructed sources are described in § 63.5320(b) of subpart TTTT. General provision requirements for identification of HAP emission points or estimates of actual emissions are not required. Descriptions of control and methods, and the estimated and actual control efficiency of such do not apply. Requirements for describing control equipment and the estimated and actual control efficiency of such equipment apply only to control equipment to which the subpart TTTT requirements for quantifying solvent destroyed by an add-on control device would be applicable.
§ 63.6	Applicability of GP	Applicability of GP	Yes	Except for subsections of § 63.6 as listed below.
§ 63.6(b)(1)–(3)	Compliance dates, new and reconstructed sources.		No	Section § 63.5283 of subpart TTTT specifies the compliance dates for new and reconstructed sources.
§ 63.6(b)(6)	[Reserved].			
§ 63.6(c)(3)–(4)	[Reserved].			
§ 63.6(d)	[Reserved].			
§ 63.6(e)	Operations and Maintenance Requirements.		Yes	Except for subsections of § 63.6(e) as listed below.
§ 63.6(e)(3)	Operation and Maintenance Requirements.	Startup, Shutdown, and Malfunction Plan Requirements.	No	Subpart TTTT does not have any startup, shutdown, and malfunction plan requirements.

TABLE 2 OF SUBPART TTTT—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART TTTT—Continued

General provisions citation	Subject of citation	Brief description of requirement	Applies to subpart	Explanation
§ 63.6(f)–(g)	Compliance with Nonopacity Emission Standards Except During SSM.	Comply with Emission Standards at All Time Except During SSM.	No	Subpart TTTT does not have nonopacity requirements.
§ 63.6(h)	Opacity/Visible Emission (VE) Standards.		No	Subpart TTTT has no opacity or visual emission standards.
§ 63.6(i)	Compliance Extension	Procedures and Criteria for Responsible Agency to Grant Compliance Extension.	Yes	
§ 63.6(j)	Presidential Compliance Exemption.	President may Exempt Source Category from Requirement to Comply with Subpart..	Yes	
§ 63.7	Performance Testing Requirements.	Schedule, Conditions, Notifications and Procedures..	Yes	Except for subsection of § 63.7 as listed below. Subpart TTTT requires performance testing only if the source applies additional control that destroys solvent. Section § 63.5311 requires sources to follow the performance testing guidelines of the General Provisions if a control is added.
§ 63.7(a)(2) (i) and (iii).	Performance Testing Requirements.	Applicability and Performance Dates.	No	Section § 63.5310(a) of subpart TTTT specifies the requirements of performance testing dates for new and existing sources.
§ 63.8	Monitoring Requirements.		No	Subpart TTTT does not require monitoring other than as specified therein.
§ 63.9	Notification Requirements.	Applicability and State Delegation	Yes	Except for subsections of $63.9 as listed below.
§ 63.9(e)	Notification of Performance Test.	Notify Responsible Agency 60 Days Ahead.	Yes	Applies only if performance testing is performed.
§ 63.9(f)	Notification of VE/Opacity Observations.	Notify Responsible Agency 30 Days Ahead.	No	Subpart TTTT has no opacity or visual emission standards.
§ 63.9(g)	Additional Notifications When Using a Continuous Monitoring System (CMS).	Notification of Performance Evaluation; Notification using COMS Data; Notification that Exceeded Criterion for Relative Accuracy.	No	Subpart TTTT has no CMS requirements.
§ 63.9(h)	Notification of Compliance Status.	Contents	No	Section § 63.5320(d) of subpart TTTT specifies requirements for the notification of compliance status.
§ 63.10	Recordkeeping/Reporting.	Schedule for Reporting, Record Storage.	Yes	Except for subsections of § 63.10 as listed below.
§ 63.10(b)(2)	Recordkeeping	Record Startup, Shutdown, and Malfunction Events.	No	Subpart TTTT has no recordkeeping requirements for startup, shutdown, and malfunction events.
§ 63.10(c)	Recordkeeping	Additional CMS Recordkeeping	No	Subpart TTTT does not require CMS.
§ 63.10(d)(2)	Reporting	Reporting Performance Test Results.	Yes	Applies only if performance testing is performed.
§ 63.10(d)(3)	Reporting	Reporting Opacity or VE Observations.	No	Subpart TTTT has no opacity or visible emission standards.
§ 63.10(d)(4)	Reporting	Progress Reports	Yes	Applies if a condition of compliance extension.
§ 63.10(d)(5)	Reporting	Startup, Shutdown, and Malfunction Reporting.	No	Subpart TTTT has no startup, shutdown, and malfunction reporting requirements.
§ 63.10(e)	Reporting	Additional CMS Reports	No	Subpart TTTT does not require CMS.
§ 63.11	Control Device Requirements.	Requirements for Flares	Yes	Applies only if your source uses a flare to control solvent emissions. Subpart TTTT does not require flares.
§ 63.12	State Authority and Delegations.	State Authority to Enforce Standards.	Yes.	
§ 63.13	State/Regional Addresses.	Addresses Where Reports, Notifications, and Requests are Sent.	Yes.	
§ 63.14	Incorporation by Reference.	Test Methods Incorporated by Reference.	Yes.	
§ 63.15	Availability of Information and Confidentiality.	Public and Confidential Information.	Yes.	

[FR Doc. 00–24671 Filed 9–29–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 206

Disaster Assistance; Insurance Requirements for the Public Assistance Program

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of findings for the advance notice of proposed rulemaking.

SUMMARY: We (FEMA) published an Advance Notice of Proposed Rulemaking (ANPR) on February 23, 2000 on insurance requirements, procedures and eligibility criteria with respect to buildings under the Public Assistance Program. The ANPR described a range of problems with the insurance element of the Public Assistance Program, listed possible options to address them, and finally, included several specific questions about how the Program could be improved. The overwhelming majority of comments responded to an aspect of insurance coverage for which our preferred option (referenced in the ANPR as Option 3) would condition Public Assistance grants for buildings on adequate property insurance being in place at the time of the disaster. Comments on other approaches to the insurance issues were received as well.

The deadline for comments was April 10, 2000. We received nearly 300 responses to the ANPR. The purpose of this notice is to provide a summary of these responses and an update on our process of developing a proposed rule on insurance requirements for the Public Assistance Program.

FOR FURTHER INFORMATION CONTACT: Curtis Carleton, (202) 646–4535.

SUPPLEMENTARY INFORMATION:

I. Background

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (Stafford Act), authorizes the President to pay at least 75 percent of the costs to repair public and certain eligible private non-profit infrastructure and buildings damaged by a presidentially declared major disaster. The Public Assistance Program provides grants to applicants—including State and local governments, Native Americans or authorized tribal organizations, Alaskan Native villages and organizations, as well as certain eligible private non-profit organizations—for emergency protective measures, for debris removal, and for disaster-damaged infrastructure and buildings.

We published the ANPR in the **Federal Register** at 65 FR 8927, February 23, 2000. As discussed in the ANPR, we believe that our current program regulations, 44 Code of Federal Regulations (CFR), Part 206, Subpart I—Public Assistance Insurance Requirements, are inadequate in meeting the insurance considerations of the Stafford Act, in particular, with respect to buildings. The ANPR was intended to surface what we consider to be the important issues, and to seek commentary and advice for program improvements. The issues address two major considerations. First, there is the matter of how best to encourage proactive risk management: this is where we discuss property insurance against major natural hazards for public buildings as a pre-disaster program eligibility requirement. And second, there is the failure of our current program regulation to adequately address:

- Guidance for State insurance commissioners' waivers of the post-disaster insurance purchase requirement;
- Whether the Public Assistance Program will fund insurance deductibles for buildings, and if so, how much do we fund; and
- How we define insurance (or what qualifies as insurance), among other issues.

The ANPR was entirely successful in meeting its objectives, and we are very grateful to the many respondents who provided needed information and thoughtful perspectives on the issues.

The substance and quantity of the ANPR comments were remarkable, and are cause for a full and deliberative analysis before continuing to the next stage of developing a proposed rule. Therefore, we wanted to give you an idea as to the nature of the ANPR responses, and advise you of where we stand in the analytical process.

II. ANPR Findings

We received 291 comments representing 32 States (including Guam and Puerto Rico). The distribution of responses is: 63 percent from California; 7 percent from Washington; 4 percent from Florida; and 26 percent representing the remaining 29 states that submitted comments.

The respondents offered a variety of perspectives, but many of them prefaced their comments with a statement to the effect that they agreed with the Public Assistance program's objective of seeking aggressive risk management on the part of public and private non-profit building owners.

While the comments address many issues, most are captured in the following topics.

Adequate Insurance

This area deals with the reasonableness of our schedule of eligibility criteria with respect to insurance.

The majority of comments focus on earthquake coverage. Many of these contend that the private insurance market does not have the capacity to provide adequate coverage, and that, because of the unpredictable and potentially catastrophic nature of earthquakes, insurance companies tend to exact high prices for their coverage. The result is that some entities can only get very limited coverage, and some find that the coverage that they can get makes little economic sense given the high premiums and deductibles required.

Earthquake coverage is separate and apart from all other property coverage. The insurance industry has trouble offering coverage for perils such as earthquakes that have no known probable frequencies; therefore, the insurance industry has limited its exposure in this area. The public entities tend to have little confidence that insurance companies will be willing or able to provide service at an acceptable price and shared concerns that the market will have the capacity to provide coverage to the levels outlined in the ANPR.

Over half of the comments were from California, and virtually all of these tell us that an eligibility requirement involving earthquake insurance is unreasonable. Some contend that money spent on earthquake premiums would reduce money available for seismic retrofits, and that the net effect would be counterproductive. Several writers suggest that our schedule of eligibility criteria in earthquake insurance coverage is biased against small entities, because those with less valuable buildings would need to have a higher percentage of them insured. (Note that this concern is expressed by the larger entities on behalf of the smaller entities; we received a very low number of responses from smaller entities.) Several also suggest that the $125 million cap is too high: it is hard to get that much coverage even in today's soft market for all but a few of the largest entities and pools.

We hear that, based on past experience, few insurers will be able to

fully indemnify earthquake policyholders after a major quake.

There was a suggestion that a requirement for an eligibility criterion on earthquake insurance would be viable only if FEMA were to promote a nationwide pool for earthquake coverage for public entities. This suggestion rests on the presumption that the commercial insurance market does not have the capacity to deal with the scope of the coverage needed. Along these lines, other writers suggest that we establish a National Earthquake Program, similar to the National Flood Insurance Program.

Other than the comments on earthquake insurance, there were questions about the meaning of ''highest-valued single location.'' There was also the suggestion that we provide for a cap on all risk insurance, just as we do for wind and earthquake in our insurance schedule.

Premium Thresholds

There was broad agreement with the need for a safety net provision in the form of a premium threshold. While some find it to be reasonable, most writers tell us that the $.30 per $100 is far too high, based on what they currently pay. For example, some entities are telling us that they pay just a few pennies per $100 for their hazard insurance. Many writers also point out that by using an absolute dollar threshold, insurance companies will quickly price their products to meet that threshold.

Quite a few writers suggest that a threshold based on a percentage of an entity's operating budget would be a better way of offering a safety net. No writer suggested an actual percentage to be used in this regard.

Self-Insurance

There is a lot of interest in this area. All comments support the idea that self-insurance be an option for all entities. Several writers suggest that there should be specific, stringent requirements for self-insurance—for example, the retention of a dedicated fund—but, most simply state that the self-insurance should be an option to commercial insurance. In many cases, writers felt that self-insurance is a more sensible risk management technique than commercial insurance.

In this context, quite a few writers speak to the ''all or nothing'' provision of Option 3. They refer to the notion that a failure to have adequate insurance in force would result in zero aid for a damaged building—the ''all or nothing'' provision. They suggest that this would be unreasonable, particularly for a very low probability hazard. The remedy put forth is to treat an uninsured building as self-insured, which would disqualify it for Public Assistance below our schedule of eligibility criteria coverage, but would allow it to remain qualified for Public Assistance above that amount.

Deductibles

This is one area where we received opposing viewpoints.

Some writers tell us that deductibles are, by their very nature, the responsibility of the insured, and should not be funded by FEMA. They point out that the size of the deductible is a major factor for the premium amount, and is a calculated business decision on the part of the building owner. It is their expression of risk tolerance or risk aversion, and should be their issue, not FEMA's. Other, more numerous writers are not only comfortable with the concept of deductibles being funded under the program, but offered suggestions for increasing the amounts. One person suggests increasing the deductible for blanket flood coverage from $25,000 to $100,000 if the loss limits exceed 150 percent of the NFIP maximum coverage. The suggestion is that this would encourage building owners to carry higher limit flood policies, and that it would better correspond to the actual deductibles associated with most blanket flood policies. Another person suggests that we eliminate the deductible cap of $100,000 for wind coverage, but reduce the amount that we would fund from 5 percent to 2 percent, which, the commenter tells us, is the industry standard.

The writers express concerns that if they had a higher deductible than the amount we would fund they would not be eligible for FEMA assistance. This misconception caused concerns similar to the concerns related to the ''all or nothing'' provision.

Incentives

There is strong support for some form of incentive regarding a provision to condition future Public Assistance on insurance being in place at the time of the disaster. Fifty-two respondents favor incentives for purchasing insurance. However, the vast majority limit their comments to broad statements in support of the concept, rather than spell out specific ways of implementing an incentive arrangement.

Administrative Burdens

Many respondents are concerned that an eligibility criterion for pre-disaster insurance will result in added delays and problems in obtaining Public Assistance grants. The thought is that FEMA would have to determine whether adequate property insurance is in effect on an applicant's buildings at the time of the disaster. This would require insurance experts, and would slow and complicate the process of awarding grants. Further, some respondents suggested that smaller Public Assistance applicants may not presently have property insurance on their buildings. A pre-disaster insurance eligibility criterion would necessitate them buying property insurance for the first time, and that, in so doing, they would encounter significant administrative burdens.

III. Next Steps

While we have received many valuable comments on this subject, we are still seeking information on the feasibility of encouraging new or expanded property insurance coverage as a means to improving risk management analysis and decisions about public and certain private non-profit buildings. For this reason, and in order to assist us in the evaluation of options, as well as to establish a benchmark for whatever criteria are eventually implemented, we plan to perform a study of public entity building insurance coverage.

Dated: September 20, 2000.

James L. Witt,

Director.

[FR Doc. 00–25017 Filed 9–29–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; FCC 00–332]

Federal-State Joint Board on Universal Service: Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rules.

SUMMARY: In this document, the Commission seeks additional comment on how to extend the enhanced Lifeline and Link Up measures to qualifying low-income consumers living in areas or communities that are ''near reservations.'' Specifically, the Commission seeks comment on how to define geographic areas that are adjacent to the reservations, consistent with our

goal of targeting enhanced Lifeline and Link Up support to the most underserved areas of our Nation.

DATES: Comments are due on or before October 12, 2000 and reply comments are due on or before October 27, 2000.

FOR FURTHER INFORMATION CONTACT: Paul Garnett, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking in CC Docket No. 96–45 released on August 31, 2000. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 Twelfth Street, S.W., Washington, D.C., 20554.

I. Introduction

1. We stay the implementation of enhanced Lifeline and Link Up support for low-income consumers living near reservations pending resolution of the issues discussed in the attached Further Notice of Proposed Rulemaking (FNPRM). In this document, we seek additional comment on how to extend the enhanced Lifeline and Link Up measures to qualifying low-income consumers living in areas or communities that are ''near reservations.'' Specifically, we seek comment on how to define geographic areas that are adjacent to the reservations, consistent with our goal of targeting enhanced Lifeline and Link Up support to the most underserved areas of our Nation. Finally, as described in greater detail, we extend until September 22, 2000, the date by which carriers may file data in order to receive support during the calendar year 2000 for enhanced Lifeline and Link Up services provided during the fourth quarter 2000.

II. Further Notice of Proposed Rulemaking

2. In this document, we seek additional comment on how to extend the enhanced Lifeline and Link Up measures to qualifying low-income consumers living in areas or communities that are near reservations. Specifically, we seek comment on how to define geographic areas that are adjacent to the reservations or are otherwise a part of the reservation's community of interest, in a manner that is consistent with our goal of targeting enhanced Lifeline and Link Up support to the most underserved segments of the Nation. We ask commenters to address whether the targeting of enhanced Lifeline and Link Up support to areas or communities that are ''near reservations,'' as that term is defined in section 20.1(r) of the BIA regulations, is an effective way to target support to the most isolated, impoverished, and underserved regions of the country. We also invite comment on alternative ways of defining the geographic areas that are near reservations to ensure that enhanced Lifeline and Link Up support is targeted to qualifying low-income consumers living in areas adjacent to, or near, reservations that share many of the same characteristics as the reservations. In addition, to the extent that using the BIA definition of ''near reservations'' to target support as intended in the *Twelfth Report and Order,* 65 FR 47941 (August 14, 2000), is not effective, we seek comment generally on how we might achieve our goal of serving geographically isolated, impoverished areas that are characterized by low subscribership.

3. Commenters are encouraged to provide detailed information to assist us in determining how enhanced Lifeline and Link Up support should be targeted. Such information should include the population of the geographical area, the number of income-eligible subscribers, the distance of each area from the nearest reservation, whether there is any legal recognition of that area by the BIA, whether the area includes or is part of a Metropolitan Statistical Area, and the level of telephone subscribership in the area. We especially seek input on these issues from the state members of the Federal-State Joint Board on Universal Service, and encourage the participation of tribal authorities and state commissions.

III. Procedural Matters

A. Paperwork Reduction Act

4. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 (PRA) and does not impose modified reporting and/or recordkeeping requirements or burdens on the public.

B. Initial Regulatory Flexibility Analysis

5. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this document. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the FNPRM. The Commission will send a copy of the FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the FNPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for, and Objectives of, the Proposed Rules

6. This document is being issued in order to ensure that enhanced Lifeline and Link Up support is targeted to the most underserved segments of our Nation. The Commission issues the Further Notice of Proposed Rulemaking contained herein as a part of its implementation of the Act's mandate that ''[c]onsumers in all regions of the Nation . . . have access to telecommunications and information services . . ..'' The FNPRM seeks comment on how to define geographic areas that are adjacent to the reservations or are otherwise a part of the reservation's community of interest, in a manner that is consistent with our goal of targeting enhanced Lifeline and Link Up support to the most underserved segments of the Nation. The FNPRM also seeks comment on whether the targeting of enhanced Lifeline and Link Up support to areas or communities that are ''near reservations,'' as that term is defined in section 20.1(r) of the BIA regulations, is an effective way to target support to the most isolated, impoverished, and underserved regions of the country. In addition, the FNPRM seeks comment on alternative ways of defining the geographic areas that are near reservations to ensure that enhanced Lifeline and Link Up support is targeted to qualifying low-income consumers living in areas adjacent to, or near, reservations that share many of the same characteristics as the reservations. Our objective is to fulfill section 254's mandate that ''all regions of the Nation . . . have access to telecommunications.''

2. Legal Basis

7. The legal basis for this FNPRM is contained in sections 1–4, 201–205, 254, 303(r), and 403 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. 1–4, 201–205, 254, 303(r), and 403.

3. Description and Estimate of the Number of Small Entities To Which Rules Will Apply

8. 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. 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 that: (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.'' Nationwide, as of 1992, there were approximately 275,801 small organizations. ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities. The new rules proposed in this FNPRM may affect all providers of interstate telecommunications and interstate telecommunications services. We further describe and estimate the number of small business concerns that may be affected by the rules proposed in this FNPRM.

9. The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees. We first discuss the number of small telephone companies falling within these SIC categories, then attempt to refine further those estimates to correspond with the categories of telecommunications companies that are commonly used under our rules.

10. The most reliable source of information regarding the total numbers of common carrier and related providers nationwide, including the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Trends in Telephone Service* report. According to data in the most recent report, there are 4,144 interstate carriers. These carriers include, *inter alia,* incumbent local exchange carriers, competitive local exchange carriers, competitive access providers, interexchange carriers, other wireline carriers and service providers (including shared-tenant service providers and private carriers), operator service providers, pay telephone operators, providers of telephone toll service, wireless carriers and services providers, and resellers.

11. We have included small incumbent LECs in this present RFA analysis. As noted, a ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

12. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census (''the Census Bureau'') reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not ''independently owned and operated.'' For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the rules proposed in this FNPRM.

13. *Wireline Carriers and Service Providers.* SBA has developed a definition of small entities for telephone communications companies other than radiotelephone companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the rules proposed in this FNPRM.

14. *Local Exchange Carriers, Interexchange Carriers, Competitive Access Providers, Operator Service Providers, and Resellers.* Neither the Commission nor SBA has developed a definition particular to small local exchange carriers (LECs), interexchange carriers (IXCs), competitive access providers (CAPs), operator service providers (OSPs), or resellers. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of these carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS). According to our most recent data, there are 1,348 incumbent LECs, 212 CAPs and competitive LECs, 171 IXCs, 24 OSPs, 388 toll resellers, and 54 local resellers. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,348 incumbent LECs, 212 CAPs and competitive LECs, 171 IXCs, 24 OSPs, 388 toll resellers, and 54 local resellers that may be affected by the rules proposed in this FNPRM.

15. *Wireless (Radiotelephone) Carriers.* SBA has developed a definition of small entities for radiotelephone (wireless) companies. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992. According to SBA's definition, a small

business radiotelephone company is one employing no more than 1,500 persons. The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned and operated. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that may be affected by the rules proposed in this FNPRM.

16. *Cellular, PCS, SMR and Other Mobile Service Providers.* In an effort to further refine our calculation of the number of radiotelephone companies that may be affected by the rules proposed herein, we consider the data that we collect annually in connection with the TRS for the subcategories Wireless Telephony (which includes Cellular, PCS, and SMR) and Other Mobile Service Providers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to these broad subcategories, so we will utilize the closest applicable definition under SBA rules—which, for both categories, is for telephone companies other than radiotelephone (wireless) companies. To the extent that the Commission has adopted definitions for small entities providing PCS and SMR services, we discuss those definitions. According to our most recent TRS data, 808 companies reported that they are engaged in the provision of Wireless Telephony services and 23 companies reported that they are engaged in the provision of Other Mobile Services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of Wireless Telephony Providers and Other Mobile Service Providers, except as described, that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 808 small entity Wireless Telephony Providers and fewer than 23 small entity Other Mobile Service Providers that might be affected by the rules proposed in this FNPRM.

17. *Broadband PCS Licensees.* The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added, and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These regulations defining ''small entity'' in the context of broadband PCS auctions have been approved by SBA. No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. However, licenses for Blocks C through F have not been awarded fully, therefore there are few, if any, small businesses currently providing PCS services. Based on this information, we estimate that the number of small broadband PCS licenses will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small PCS providers as defined by SBA and the Commissioner's auction rules.

18. *SMR Licensees.* Pursuant to § 90.814(b)(1) of the Commission's rules, the Commission has defined ''small entity'' in auctions for geographic area 800 MHz and 900 MHz SMR licenses as a firm that had average annual gross revenues of less than $15 million in the three previous calendar years. The definition of a ''small entity'' in the context of both 800 MHz and 900 MHz SMR has been approved by the SBA. Any rules proposed in this proceeding may apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of less than $15 million. We assume, for purposes of this IRFA, that all of the extended implementation authorizations may be held by small entities, that may be affected by the decisions and rule changes adopted in this proceeding.

19. The Commission recently held auctions for geographic area licenses in the 900 MHz SMR band. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. Based on this information, we estimate that the number of geographic area SMR licensees that may be affected by the decisions and rules in the order and order on reconsideration includes these 60 small entities. No auctions have been held for 800 MHz geographic area SMR licenses. Therefore, no small entities currently hold these licenses. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. The Commission, however, has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. There is no basis, moreover, on which to estimate how many small entities will win these licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz licensees can be made, we estimate, for purposes of this IRFA, that all of the licenses may be awarded to small entities, some of which may be affected by the rules proposed in this FNPRM.

20. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to Radiotelephone Communications companies. According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Therefore, if this general ratio continues to 1999 in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

21. *220 MHz Radio Service—Phase II Licensees.* The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the 220 MHz *Third Report and Order*, 62 FR 16004 (April 3, 1997), we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special

provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. An auction of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. 908 licenses were auctioned in 3 different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Companies claiming small business status won: One of the Nationwide licenses, 67 percent of the Regional licenses, and 54 percent of the EA licenses. As of January 22, 1999, the Commission announced that it was prepared to grant 654 of the Phase II licenses won at auction. A reauction of the remaining, unsold licenses was completed on June 30, 1999, with 16 bidders winning 222 of the Phase II licenses. As a result, we estimate that 16 or fewer of these final winning bidders are small or very small businesses.

22. *Narrowband PCS.* The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded by auction. Such auctions have not yet been scheduled, however. Given that nearly all radiotelephone companies have no more than 1,500 employees and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, we assume, for purposes of this IRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

23. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

24. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service. Accordingly, we will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA definition.

25. *Fixed Microwave Services.* Microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this IRFA, we will utilize the SBA's definition applicable to radiotelephone companies—*i.e.*, an entity with no more than 1,500 persons. We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies.

26. *Wireless Communications Services.* This service can be used for fixed, mobile, radio location and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and one that qualified as a small business entity. We conclude that the number of geographic area WCS licensees that may be affected by the rules proposed in this FNPRM includes these eight entities.

27. *Multipoint Distribution Systems (MDS).* The Commission has defined ''small entity'' for the auction of MDS as an entity that, together with its affiliates, has average gross annual revenues that are not more than $40 million for the preceding three calendar years. This definition of a small entity in the context of MDS auctions has been approved by the SBA. The Commission completed its MDS auction in March 1996 for authorizations in 493 basic trading areas (BTAs). Of 67 winning bidders, 61 qualified as small entities.

28. MDS is also heavily encumbered with licensees of stations authorized prior to the auction. The SBA has developed a definition of small entities for pay television services, which includes all such companies generating $11 million or less in annual receipts. This definition includes multipoint distribution systems, and thus applies to MDS licensees and wireless cable operators which did not participate in the MDS auction. Information available to us indicates that there are 832 of these licensees and operators that do not generate revenue in excess of $11 million annually. Therefore, for purposes of this IRFA, we find there are approximately 892 small MDS providers as defined by the SBA and the Commission's auction rules, some which may be affected by the rules proposed in this FNPRM.

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

29. The measures under consideration in this FNPRM may, if adopted, result in additional reporting or other compliance requirements. For example, changes to the geographic area within which enhanced Lifeline and Link Up support is directed may, if adopted, result in increased federal universal service support obligations for telecommunications carriers required to contribute to federal universal service support mechanisms. A modified definition of ''near reservation'' also may impact reporting requirements for carriers eligible to receive enhanced Lifeline and Link Up support. If, for example, the definition of ''near reservation'' is expanded to include a larger geographic area, eligible carriers may be required to submit data regarding an increased number of qualifying low-income consumers. Such increased reporting requirements would be offset by increased opportunities for receipt of enhanced Lifeline and Link Up support.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

30. The RFA requires an agency to describe any significant alternatives that

it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance and reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or part thereof, for small entities.

31. With respect to the possibility of increased universal service contribution requirements, the primary alternative to the proposals contained in the FNPRM, which would minimize the economic impact on small entities, would be to determine not to increase universal service support obligations. We observe that section 254(d) of the Act requires that all telecommunications carriers contribute to the federal universal service support mechanisms on ''an equitable and nondiscriminatory basis.'' As a result, the Commission may not propose alternatives specifically designed to minimize the economic impact on small entities. We note, however, that the Commission has established a *de minimis* exception from universal service contribution obligations for carriers whose interstate end-user telecommunications revenues in a given year are less than $10,000. This exception should lessen the burden on certain telecommunications carriers that meet the definition of small entities.

32. With respect to the additional reporting and compliance requirements for carriers that are eligible to receive enhanced Lifeline and Link Up support, the Commission does not seek comment on whether an exception for carriers meeting the definition of small entities is appropriate. In setting the standard for what services carriers designated as eligible telecommunications carriers must provide, the Commission has established a uniform, nationwide standard for the services to which all Americans should have access. The Commission's rules relating to the receipt of enhanced Lifeline and Link Up support apply equally to all eligible telecommunications carriers providing services to qualifying low-income consumers. The FNPRM is consistent with these standards. Individual carriers, however, may obtain a waiver of the Commission's rules if good cause is shown therefor.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

33. None.

C. Comment Dates and Filing Procedures

34. We invite comment on the issues and questions set forth in the Further Notice of Proposed Rulemaking and Initial Regulatory Flexibility Analysis contained herein. Pursuant to applicable procedures set forth in § 1.415 and § 1.419 of the Commission's rules, interested parties may comment on or before October 12, 2000, and reply comment on or before October 27, 2000. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24,121 (1998).

35. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic comments by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

36. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. Parties also should send three paper copies of their filing to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street, S.W., Room 5–B540, Washington, D.C. 20554.

37. Parties who choose to file by paper should also submit their comments on diskette to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street, S.W., Room 5–B540, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM-compatible format using Microsoft Word 97 for Windows or a compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read-only'' mode. The diskette should be clearly labeled with the commenter's name, proceeding, including the lead docket number in the proceeding (CC Docket No. 96–45), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase (''Disk Copy Not an Original.'') Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

IV. Ordering Clauses

38. Pursuant to the authority contained in sections 1–4, 201–205, 254, 303(r), and 403 of the Communications Act of 1934, as amended, and §§ 1.3 and 1.429(k) of the Commission's rules, this Further Notice of Proposed Rulemaking is adopted.

39. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–24636 Filed 9–29–00; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 000211040-0040-01; I.D. 092100C]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Proposed reallocation, request for comments.

SUMMARY: Based on currently available information, NMFS has determined that the trawl catcher/processor sector will not be able to harvest its entire share of the Pacific cod total allowable catch (TAC) in the Bering Sea and Aleutian Islands management area (BSAI). NMFS proposes to make the projected unused amount of the trawl catcher/processor sector share of the Pacific cod TAC available to the trawl catcher vessel sector. NMFS also is proposing to reallocate the projected unused amount of Pacific cod from the trawl catcher/processor sector to vessels using hook-and-line or pot gear in the BSAI. NMFS invites public comments, particularly from the trawl catcher vessel sector, on NMFS's proposal to reallocate the unused amount of Pacific cod from the trawl catcher/processor sector to vessels using hook-and-line and pot gear. The proposed action is necessary to allow the 2000 TAC of Pacific cod to be harvested.

DATES: Comments must be received at the following address no later than 4:30 p.m., Alaska local time, October 12, 2000.

ADDRESSES: Comments may be sent to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, 709 West 9th, room 453, Juneau, AK 99801 or P.O. Box 21668, Juneau, AK 99802, Attention: Lori Gravel.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907-586-7210.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(c)(3)(iii), the Final 2000 Harvest Specifications of Groundfish for the BSAI (65 FR 8282, February 18, 2000) established the amount of the 2000 Pacific cod TAC as 193,000 metric tons (mt). Pursuant to § 679.20(a)(7)(i)(A), 3,571 mt was allocated to vessels using jig gear, 91,048 mt to vessels using hook-and-line or pot gear, and 83,905 mt to vessels using trawl gear. The share of the Pacific cod TAC allocated to trawl gear was further allocated 50 percent to catcher vessels and 50 percent to catcher/processor vessels (§ 679.20 (a)(7)(i)(B)).

As of September 2, 2000, the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that 14,150 mt remain in the trawl catcher/processor sector share and projects that the trawl catcher/processor sector will not harvest 9,000 mt of that share during the remainder of 2000. The Regional Administrator has also determined that 864 mt remain in the trawl catcher sector share.

Pursuant to § 679.20 (a)(7)(ii)(A), NMFS is required to make the projected unused amount of the trawl catcher/processor sector share of Pacific cod available to the trawl catcher vessel sector before making it available to other gear types. From the years 1997 through 1999 after September 1, the trawl catcher vessel sector of the fishery has taken about 200 mt or less per year in the Pacific cod target and averaged about 800 mt of catch of Pacific cod in all targets. Current inseason data supports a projection of 800 mt for the catcher vessel sector. At the time of this proposal no evidence exists that trawl catcher vessel effort in the Pacific cod fishery will increase beyond what has occurred on the average during the last 3 years.

In accordance with § 679.20 (a)(7)(ii)(C), NMFS proposes to reallocate the projected unused amount (9,000 mt) of Pacific cod from the trawl catcher/processor sector to vessels using hook-and-line or pot gear.

NMFS invites public comments, particularly from the trawl catcher vessel sector, on (1) NMFS' determination that the trawl catcher/processor sector will not be able to harvest its share of the Pacific cod TAC, on (2) whether the catcher vessel sector would be able to harvest the projected unused catcher/processor sector share, and (3) NMFS' proposal to reallocate the unused amount of Pacific cod from the trawl catcher/processor sector to hook-and-line and pot gear sectors.

Classification

This action is taken under 50 CFR 679.20 and is exempt from Office of Management and Budget review under Executive Order 12866.

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

Dated: September 26, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–25170 Filed 9–27–00; 3:47 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 000627195-0195-01; I.D. 060500C]

RIN 0648-AN94

Fisheries of the Exclusive Economic Zone Off Alaska; Seasonal Adjustment of Closure Areas to Trawl Gear in the Central Regulatory Area of the Gulf of Alaska; Withdrawal of Proposed Rule

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

ACTION: Proposed rule; withdrawal.

SUMMARY: NMFS withdraws the July 3, 2000, proposed regulatory amendment that would implement a seasonal closure of a portion of the Central Regulatory Area of the Gulf of Alaska (GOA) to vessels using trawl gear and that would implement an inseason action to open directed fishing for pollock within 10 nautical miles of the Steller sea lion haulouts located at Gull Point and Cape Barnabas for research purposes. The proposed rule is withdrawn because of current litigation on the existing Steller sea lion protection measures.

DATES: This proposed rule is withdrawn on October 2, 2000.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson (907) 481-1780, fax (907) 481-1781.

SUPPLEMENTARY INFORMATION: A proposed rule was published on July 3, 2000 (65 FR 41044), that would impose a ban on all trawl fishing in the Chiniak Gully region on the east side of Kodiak Island and would authorize a temporary reopening of the 10-nm zones around Gull Point and Cape Barnabas to

directed fishing for pollock. These management measures would have been in effect annually during the period of August 1st to no later than September 20 in the years 2000-2003. Rationale for the proposed actions was provided in the preamble to the proposed rule and is not repeated here.

On July 19, 2000, the United States District Court for the Western District of Washington issued an order that granted a motion for a partial injunction of the North Pacific groundfish fisheries. *Greenpeace* v. *NMFS,* No. C98-4922. This motion, filed by Greenpeace, American Oceans Campaign, and the Sierra Club requested injunctive relief until NMFS issues a legally adequate biological opinion addressing the combined, overall effects of the North Pacific groundfish fisheries on Steller sea lions and their critical habitat pursuant to the Endangered Species Act (ESA). The comprehensive biological opinion on the impacts of the groundfish fisheries of the Bering Sea and Aleutian Islands and the Gulf of Alaska on listed species (including the western population of Steller sea lions) under the ESA will not be released until October 31, 2000. Therefore, NMFS is hereby withdrawing the proposed rule to allow time for a thorough review of the new biological opinion, when it becomes available, before reinitiating rulemaking for the pollock fishery in order to protect Steller sea lions and their habitat.

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

Dated: September 26, 2000.

William T. Hogarth,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–25222 Filed 9–29–00; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 65, No. 191
Monday, October 2, 2000

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. TB–00–21]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved information collection in support of the Dairy and Tobacco Adjustment Act of 1983 and the Tobacco Inspection Act and the Regulations Governing the Tobacco Standards.

DATES: Comments on this notice must be received by December 1, 2000 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact John W. Foster, Chief, Standardization and Review Branch, Tobacco Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 511 Annex Building, P. O. Box 96456, Washington, DC 20090–6456, Telephone (202) 205–0744 and Fax (202) 205–1191.

SUPPLEMENTARY INFORMATION:

Title: Reporting and Recordkeeping Requirements for 7 CFR Part 29.

OMB Number: 0581–0056.

Expiration Date of Approval: July 31, 2001.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The Tobacco Inspection Act (7 U.S.C. 511 *et seq.*) requires that all tobacco sold at designated auction markets in the U.S. be inspected and graded. Provision is also made for interested parties to request inspection and grading services on an as needed basis. Also, the Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 511r) requires the Secretary to inspect all tobacco offered for importation into the United States for grade and quality except cigar and oriental tobacco which must be certified by the importer as to kind and type, and in the case of cigar tobacco, that such tobacco will be used solely in the manufacture of cigars.

The information collection requirements authorized for the programs under the Tobacco Inspection Act and the Dairy and Tobacco Adjustment Act of 1983 include: application for inspection of tobacco, applications and other information used in the approval of new auction markets or the extension of services to designated tobacco markets, and information required to be provided in connection with auction sales.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.40 hours per response.

Respondents: Primarily tobacco companies, tobacco manufacturers, import inspectors, and small businesses or organizations.

Estimated Number of Respondents: 645.

Estimated Number of Responses per Respondent: 21.

Estimated Total Annual Burden on Respondents: 5,569.

Comments are invited on: (1) 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) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to John W. Foster, Chief, Standardization and Review Branch, Tobacco Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Rm. 511 Annex Building, P.O. Box 96456, Washington, DC 20090–6456 and will be available for public inspection in Room 511 Annex Building, 300 12th Street, S.W., Washington, D.C. 20250. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: September 26, 2000.

William O. Coats,

Acting Deputy Administrator, Tobacco Programs.

[FR Doc. 00–25137 Filed 9–29–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 00–041N]

Codex Alimentarius Commission: Meeting of the Codex Committees on Natural Mineral Waters and Cocoa Products and Chocolate

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), and the Food and Drug Administration (FDA), U.S. Department of Health and Human Services (HHS), are sponsoring a public meeting on October 17, 2000. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States positions that will be discussed at the following upcoming committee meetings.

- Seventh Session of the Codex Committee on Natural Mineral Waters (CCNMW) to be held in Fribourg, Switzerland, October 30–November 1, 2000
- Eighteenth Session of the Codex Committee on Cocoa Products and Chocolate (CCCPC) to be held in Fribourg, Switzerland, November 2–4, 2000.

The Under Secretary and FDA recognize the importance of providing

interested parties the opportunity to obtain background information on the Sessions of CCNMW and CCCPC and to address items on the agendas.

DATES: The public meeting is scheduled for Tuesday, October 17, 2000, from 9:00 a.m. to 12:00 Noon.

ADDRESSES: The public meeting will be held in Conference Room 1409, Federal Office Building 8, Food and Drug Administration, 200 C Street, SW., Washington, DC 20204. To receive copies of the documents referenced in this notice, contact the FSIS Docket Room, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102 Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. The documents will also be accessible via the World Wide Web at the following address: *http://www.fao.org/waicent/faoinfo/economic/esn/codex.* Submit one original and two copies of written comments to the FSIS Docket Room (address above) and include Docket 100–041N and the Codex document number on the written submission. All comments received in response to this notice will be considered part of the public record and will be available for viewing in the FSIS Docket Room between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Patrick J. Clerkin, Associate U.S. Manager for Codex, U.S. Codex Office, FSIS, Room 4861, South Building, 1400 Independence Avenue, SW., Washington, DC 20250–3700, Telephone (202) 205–7760; Fax (202) 720–3157. Persons requiring a sign language interpreter or other special accommodations should notify Mr. Clerkin at the above number.

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for protecting the health and economic interests of consumers and encouraging fair international trade in food. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled.

The Codex Committee on Natural Mineral Waters was established as a Regional (European) Codex Committee, but has been allocated the task of elaborating worldwide standards for natural mineral waters and other bottled/packaged waters. The Codex Committee on Cocoa Products and Chocolate was established to elaborate worldwide standards for cocoa products and chocolate. The Government of Switzerland hosts these Committees and will chair the Committee meetings.

Issues To Be Discussed at the Public Meeting

The U.S. Delegate for the Codex Committee on Natural Mineral Waters will discuss the following subjects at the public meeting from 9:00 a.m. to 10:30 a.m.

1. Matters Referred to the Committee, Document *CX/NMW 00/2*
2. Consideration of Proposed Draft General Standard for Bottled/Packaged Waters Other Than Natural Mineral Waters at Step 4, Document *ALINORM 99/20 Appendix II*
3. Codex Standard for Natural Mineral Waters: Limits for Health Related Substances, Document *CX/NMW 00/4*

The U.S. Delegate for the Codex Committee on Cocoa Products and Chocolate will discuss the following subjects at the public meeting from 10:30 a.m. to 12:00 Noon.

1. Matters Referred to the Committee, Document *CX/CCP 00/2*
2. Draft Revised Standards at Step 7 For
   (a) Cocoa Butters, Document *ALINORM 99/14 Appendix II*
   (b) Cocoa (cacao) Mass, Cocoa (Cacao/Chocolate Liquor) Cocoa Cake for Use in the Manufacture of Cocoa and Chocolate Products, Document *ALINORM 99/14 Appendix III*
   (c) Cocoa Powders (Cocoas) and Dry Cocoa-Sugar Mixtures, Document *ALINORM 99/14 Appendix IV*
3. Proposed Draft Standard for Chocolate and Chocolate products at Step 4, Document *ALINORM 99/14 Appendix V*

Additional Public Notification

Public Awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on-line through the FSIS web page located at http://www.fsis.usda.gov. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could effect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, farm, and consumer interest groups, allied health professionals and scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the FSIS Congressional and Public Affairs Office, at (202) 720–5704.

Done at Washington, DC on: September 27, 2000.

F. Edward Scarbrough,

U.S. Manager for Codex.

[FR Doc. 00–25223 Filed 9–29–00; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

National Urban and Community Forestry Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The National Urban and Community Forestry Advisory Council will meet in Lexington, Kentucky, October 12–14, 2000. The purpose of the meeting is to discuss emerging issues in urban and community forestry.

DATES: The meeting will be held October 12–14, 2000. A tour of local projects will be held on October 12, from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Holiday Inn Lexington North, 1950 Newtown Pike, Lexington, Kentucky.

Individuals who wish to speak at the meeting or to propose agenda items must send their names and proposals to Suzanne M. del Villar, Executive Assistant, National Urban and Community Forestry Advisory Council, 20628 Diane Drive, Sonora, CA 95370. Individuals also may fax their names and proposed agenda items to (209) 536–9089.

FOR FURTHER INFORMATION CONTACT: Suzanne M. del Villar, Cooperative Forestry Staff, at (209) 536–9201.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Council discussion is limited to Forest Service staff and Council members. However, persons who wish to bring urban and community forestry matters to the attention of the Council may file written

statements with the Council staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by October 6 will have the opportunity to address the Council at those sessions.

Dated: September 25, 2000.

Robin L. Thompson,

Associate Deputy Chief, State and Private Forestry.

[FR Doc. 00–25185 Filed 9–29–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Opal Creek Scenic Recreation Area (SRA) Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: An Opal Creek Scenic Recreation Area Advisory Council meeting will convene in Stayton, Oregon on Monday, October 17, 2000. The meeting is scheduled to begin at 6:00 p.m., and will conclude at approximately 8:30 p.m. The meeting will be held in the South Room of the Stayton Community Center; 400 West Virginia Street; Stayton, Oregon.

The Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996 (Opal Creek Act) (P.L. 104–208) directed the Secretary of Agriculture to establish the Opal Creek Scenic Recreation Area Advisory Council. The Advisory Council is comprised of thirteen members representing state, county and city governments, and representatives of various organizations, which include mining industry, environmental organizations, inholders in Opal Creek Scenic Recreation Area, economic development, Indian tribes, adjacent landowners and recreation interests. The council provides advice to the Secretary of Agriculture on preparation of a comprehensive Opal Creek Management Plan for the SRA, and consults on a periodic and regular basis on the management of the area. The tentative agenda includes:

(1) Continuing issue development and describing the desired future condition of the SRA, and (3) discussing the City of Salem's proposal for a water quality monitoring gauging station.

The public comment period is tentatively scheduled to begin at 8:00 p.m. Time allotted for individual presentations will be limited to 3 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits of the comment period. Written comments may be submitted prior to the October 17 meeting by sending them to Designated Federal Official Stephanie Phillips at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Stephanie Phillips; Willamette National Forest, Detroit Ranger District, HC 73 Box 320, Mill City, OR 97360; (503) 854–3366.

Dated: September 26, 2000.

Randy Dunbar,

Acting Forest Supervisor.

[FR Doc. 00–25142 Filed 9–29–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Willamette Provincial Advisory Committee (PAC)

AGENCY: Forest Service, USDA.

ACTION: Action of meeting.

SUMMARY: The Willamette Province Advisory Committee (PAC) will meet on Thursday, October 19, 2000. The meeting is scheduled to begin at 9 a.m., and will conclude at approximately 3 p.m. The meeting will be held at the Salem Office of the Bureau of Land Management; 1717 Fabry Road SE; Salem, Oregon; (503) 375–5646. The tentative agenda includes:

(1) Presentation of Integrated Natural Fuels Assessment, (2) Overview of President's Wildfire Action Plan, (3) County receipts legislation, (4) REO update, (5) Update on PAC rechartering and membership, (6) Roundtable information sharing.

The Public Forum is tentatively scheduled to begin at 10:30 a.m. Time allotted for individual presentations will be limited to 3–4 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits for the Public Forum. Written comments may be submitted prior to the October 19 meeting by sending them to Designated Federal Official Neal Forrester at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Neal Forrester; Williamette National Forest; 211 East Seventh Avenue; Eugene, Oregon 97401; (541) 465–6924.

Dated: September 25, 2000.

Darrel L. Kenops,

Forest Supervisor.

[FR Doc. 00–25141 Filed 9–29–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

National Defense Stockpile Market Impact Committee Request for Public Comments

AGENCY: Office of Strategic Industries and Economic Security, Bureau of Export Administration, U.S. Department of Commerce.

ACTION: Notice of request for public comment on the potential market impact of proposed disposals of excess commodities currently held in the National Defense Stockpile under the Fiscal Year 2002 Annual Materials Plan (AMP) and revisions to commodity disposals approved under the FY 2001 AMP.

SUMMARY: This notice is to advise the public that the National Defense Stockpile Market Impact Committee (co-chaired by the Departments of Commerce and State) is seeking public comment on the potential market impact of proposed disposals of excess materials from the National Defense Stockpile as set forth in Attachment 1 to this notice.

DATES: Comments must be received by November 1, 2000.

ADDRESSES: Written comments should be sent to Richard V. Meyers, Co-Chair, Stockpile Market Impact Committee, Office of Strategic Industries and Economic Security, Room 3876, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; FAX (202) 482–5650.

FOR FURTHER INFORMATION CONTACT: Richard V. Meyers, Office of Strategic Industries and Economic Security, U.S. Department of Commerce, (202) 482–3634; or Terri L. Robl, Office of International Energy and Commodity Policy, U.S. Department of State, (202) 647–3423; co-chairs of the National Defense Stockpile Market Impact Committee.

SUPPLEMENTARY INFORMATION: Under the authority of the Strategic and Critical Materials Stock Piling Act of 1979, as amended, (50 U.S.C. 98 *et seq.*), the Department of Defense (DOD), as National Defense Stockpile Manager, maintains a stockpile of strategic and critical materials to supply the military,

industrial, and essential civilian needs of the United States for national defense. Section 3314 of the Fiscal Year (FY) 1993 National Defense Authorization Act (NDAA) (50 U.S.C. 98h-1) formally established a Market Impact Committee (the Committee) to ''advise the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile * * *.'' The Committee must also balance market impact concerns with the statutory requirement to protect the Government against avoidable loss.

The Committee is comprised of representatives from the Departments of Commerce, State, Agriculture, Defense, Energy, Interior, Treasury, and the Federal Emergency Management Agency, and is co-chaired by the Departments of Commerce and State. The FY 1993 NDAA directs the Committee to ''consult from time to time with representatives of producers, processors and consumers of the types of materials stored in the stockpile.''

Attachment 1 lists the current FY 2001 AMP quantities (previously approved by the Committee), proposed revisions to the FY 2001 AMP quantities for 5 materials, and the proposed FY 2002 AMP. The Committee is seeking public comment on the potential market impact of the sale of these materials as proposed in the revised FY 2001 AMP and FY 2002 AMP.

The quantities listed in Attachment 1 are not sales target disposal quantities. They are only a statement of the proposed maximum disposal quantity of each listed material that may be sold in a particular fiscal year. The quantity of each material that will actually be offered for sale will depend on the market for the material at the time as well as on the quantity of each material approved for disposal by Congress.

The Committee requests that interested parties provide written comments, supporting data and documentation, and any other relevant information on the potential market impact of the sale of these commodities. Although comments in response to this Notice must be received by November 1, 2000, to ensure full consideration by the Committee, interested parties are encouraged to submit additional comments and supporting information at any time thereafter to keep the Committee informed as to the market impact of the sale of these commodities. Public comment is an important element of the Committee's market impact review process.

Public comments received will be made available at the Department of Commerce for public inspection and copying. Material that is national security classified or business confidential will be exempted from public disclosure. Anyone submitting business confidential information should clearly identify the business confidential portion of the submission and also provide a non-confidential submission that can be placed in the public file. Communications from agencies of the United States Government will not be made available for public inspection.

The public record concerning this notice will be maintained in the Bureau of Export Administration's Records Inspection Facility, Room 4525, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone (202) 482–5653. The records in this facility may be inspected and copied in accordance with the regulations published in Part 4 of Title 15 of the Code of Federal Regulations (15 CFR 4.1 *et seq.*).

Information about the inspection and copying of records at the facility may be obtained from Ms. Margaret Cornejo, the Bureau of Export Administration's Freedom of Information Officer, at the above address and telephone number.

Dated: September 27, 2000.

Daniel Hill,

Director, Office of Strategic Industries and Economic Security.

ATTACHMENT 1.—PROPOSED ANNUAL MATERIAL PLANS FOR FY 2001 REVISED AND FY 2002

Material	Units	Currently FY 2001 quantity	Revised FY 2001 quantity	Proposed FY 2002 quantity
Aluminum Oxide, Abrasive	ST	6,000	.....	6,000
Antimony	ST	5,000	.....	5,000
Bauxite, Metallurgical (Jamaican)	LDT	2,000,000	.....	2,000,000
Bauxite, Metallurgical (Surinam)	LDT	[1] 1,000,000	.....	[1] 1,000,000
Beryl Ore	ST	4,000	.....	4,000
Beryllium Metal	ST	40	.....	40
Beryllium Copper Master Alloy	ST	2,200	.....	2,200
Cadmium	LB	1,200,000	.....	1,200,000
Celestite	SDT	3,600	.....	3,600
Chromite, Chemical	SDT	[1] 100,000	.....	[1] 100,000
Chromite, Metallurgical	SDT	250,000	.....	[1] 100,000
Chromite, Refractory	SDT	100,000	.....	100,000
Chromium, Ferro	ST	150,000	.....	150,000
Chromium, Metal	ST	500	.....	500
Cobalt	LB Co	6,000,000	.....	6,000,000
Columbium, Carbide Powder	LB Cb	21,5001	.....	21,5001
Columbium Concentrates (Minerals)	LB Cb	375,000	450,000	450,000
Columbium Metal Ingots	LB Cb	20,000	.....	20,000
Diamond Stone	ct	1,000,000	.....	[1] 510,000
Fluorspar, Acid Grade	SDT	0	[1] 12,000	[1] 12,000
Fluorspar, Metallurgical	SDT	60,000	.....	60,000
Germanium	KG	8,000	.....	8,000
Graphite	ST	3,760	.....	3,760
Iodine	LB	1,000,000	.....	1,000,000
Jewel Bearings	PC	[1] 52,000,000	.....	[1] 52,000,000
Lead	ST	60,000	.....	60,000
Manganese, Battery Grade Natural	SDT	30,000	.....	30,000
Manganese, Battery Grade Synthetic	SDT	[1] 3,011	.....	0
Manganese, Chemical Grade	SDT	40,000	.....	40,000
Manganese, Ferro	ST	50,000	100,000	100,000
Manganese, Metal Electrolytic	ST	2,000	.....	2,000

ATTACHMENT 1.—PROPOSED ANNUAL MATERIAL PLANS FOR FY 2001 REVISED AND FY 2002—Continued

Material	Units	Currently FY 2001 quantity	Revised FY 2001 quantity	Proposed FY 2002 quantity
Manganese, Metallurgical Grade	SDT	250,000		250,000
Mica (All Types)	LB	4,000,000		4,000,000
Palladium	Tr Oz	300,000		300,000
Platinum	Tr Oz	125,000		95,000
Quinidine	Oz	750,000		750,000
Quinine	Oz	1,000,000		[1] 200,000
Rubber	LT	0	[1] 70,000	[1] 70,000
Sebacic Acid	LB	600,000		600,000
Silver (for coinage)	Tr Oz	10,000,000	13,000,000	5,000,000
Talc	ST	[1] 1,000		[1] 1,000
Tantalum Carbide Powder	LB Ta	4,000		4,000
Tantalum Metal Ingots	LB Ta	40,000		40,000
Tantalum Metal Powder	LB Ta	50,000		50,000
Tantalum Minerals	LB Ta	300,000	400,000	400,000
Tantalum Oxide	LB Ta	20,000		20,000
Thorium Nitrate [2]	LB	[1] 7,093,464		[1] 7,093,464
Tin	MT	12,000		12,000
Titanium Sponge	ST	5,000		5,000
Tungsten, Carbide Powder	LB W	1,000,000		1,000,000
Tungsten, Ferro	LB W	300,000		300,000
Tungsten, Metal Powder	LB W	150,000		150,000
Tungsten Ores & Concentrates	LB W	4,000,000		4,000,000
Vegetable Tannin Extract, Chestnut	LT	[1] 1,100		0
Vegetable Tannin Extract, Quebrac	LT	10,000		10,000
Vegetable Tannin Extract, Wattle	LT	[1] 6,500		[1] 6,500
Zinc	ST	50,000		50,000
Zirconium (Baddeleyite)	SDT	[1] 17,383		0

Notes

[1] FY 2001 entries (current or proposed revision) are an adjustment to available inventory. For FY 2002 entries, actual quantity will be limited to remaining sales authority or inventory.

[2] The radioactive nature of this material may restrict sales or disposal options.

[FR Doc. 00–25233 Filed 9–29–00; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of Antidumping and Countervailing Duty Administrative Reviews and requests for revocation in part.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department also received requests to revoke two antidumping duty orders in part.

EFFECTIVE DATE: October 2, 2000.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b)(2000), for administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates. The Department also received timely requests to revoke in part the antidumping duty orders for Cut-to-Length Carbon Steel Plate from Canada and Oil Country Tubular Goods from Mexico.

Initiation of Reviews

In accordance with sections 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than August 31, 2001.

	Period to be reviewed
Antidumping Duty Proceedings	
CANADA:	
Corrosion-Resistant Carbon Steel Flat Products, A–122–822	8/1/199–7/31/00
Stelco, Inc.	
Continuous Colour Coat, Ltd.	
Dofasco, Inc.	
Sorevco, Inc.	
National Steel Corporation.	

	Period to be reviewed
Cut-to-Length Carbon Steel Plate, A–122–823	8/1/99–7/31/00
Stelco, Inc.	
Clayson Steel Inc.	
Gerdau MRM Steel	
FRANCE: Industrial Nitrocellulose, A–427–009	8/1/99–7/31/00
Bergerac N.C.	
GERMANY:	
Cut-to-Length Carbon Steel Plate, A–428–816	8/1/99–7/31/00
Reiner Brach GmbH & Co.	
ITALY:	
Grain-Oriented Electrical Steel, A–475–811	8/1/99–7/31/00
Acciai Speciali Terni S.p.A.	
Granular Polytetrafluoroethylene (PTFE) Resin, A–475–703	8/1/99–7/31/00
Ausimont	
Stainless Steel Sheet and Strip in Coils,[1] A–475–824	7/1/99–6/30/00
Acciai Special Terni S.p.A.	
JAPAN:	
Corrosion-Resistant Carbon Steel Flat Products, A–588–824	8/1/99–7/31/00
Nippon Steel Corporation	
Kawasaki Steel Corporation	
Daido Metal Corp.	
Oil Country Tubular Goods, A–588–835	8/1/99–7/31/00
Sumitomo Metal Industries, Ltd.	
MEXICO:	
Cut-to-Length Carbon Steel Plate, A–201–809	8/1/99–7/31/00
Altos Hornos de Mexico S.A. de C.V.	
Gray Portland Cement and Clinker, A–201–802	8/1/99–7/31/00
GCC Cementos, S.A. de C.V.	
CEMEX, S.A. de C.V.	
Apasco, S.A. de C.V.	
Oil Country Tubular Goods, A–201–817	8/1/99–7/31/00
Hylsa, S.A. de C.V.	
Tubos de Acero de Mexico S.A.	
REPUBLIC OF KOREA:	
Cold-Rolled Carbon Steel Flat Products, A–580–815	8/1/99–7/31/00
Dongbu Steel Co., Ltd.	
Pohang Iron and Steel Co., Ltd.	
Union Steel Manufacturing Co., Ltd.	
Corrosion-Resistant Carbon Steel Flat Products, A–580–816	8/1/99–7/31/00
Dongbu Steel Co., Ltd.	
Pohang Iron and Steel Co., Ltd.	
Union Steel Manufacturing Co., Ltd.	
SeAH Steel Corporation	
Oil Country Tubular Goods, Other than Drill Pipe, A–580–825	8/1/99–7/31/00
SeAH Steel Corporation	
ROMANIA:	
Cut-to-Length Carbon Steel Plate, A–485–803	8/1/99–7/31/00
Sidex, S.A./Metalexportimport, S.A.	
Windmill International PTE, Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA:	
Petroleum Wax Candles,[2] A–570–504	8/1/99–7/31/00
Universal Candle Company, Ltd.	
Sulfanilic Acid,[3] A–570–815	8/1/99–7/31/00
Boading Mancheng Zhenxing Chemical Plant	
Xinyu Chemical Plant	
Yude Chemical Industry, Co.	
Zhenxing Chemical Industry, Co.,	

Countervailing Duty Proceedings

BELGIUM:	
Stainless Steel Plate in Coils, C–423–809	[4]9/4/98–12/31/99
Acciai Speciali Terni S.p.A.	
CANADA:	
Alloy Magnesium, C–122–815	1/1/99–12/31/99
Norsk Hydro Canada Inc.	
Pure Magnesium, C–122–815	1/1/99–12/31/99
Norsk Hydro Canada Inc.	
ISRAEL:	
Industrial Phosphoric Acid, C–508–605	1/1/99–12/31/99
Rotem Amfert Negev Ltd.	
ITALY:	
Stainless Steel Sheet and Strip in Coils, C–475–825	11/17/98–12/31/99
Acciai Speciali Terni S.p.A.	
Acciai Speciali Terni USA, Inc.	

	Period to be reviewed
REPUBLIC OF KOREA:	
Stainless Steel Sheet and Strip in Coils, C–580–835	11/17/98–12/31/99
Inchon Iron and Steel Co., Ltd.	
Sammi Steel Co.	
Suspension Agreements	
None.	

[1] Inadvertently omitted from previous initiation notice.
[2] If one of the above named companies does not qualify for a separate rate, all other exporters of petroleum wax candles from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.
[3] If one of the above named companies does not qualify for a separate rate, all other exporters of sulfanilic acid from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.
[4] In the initiation notice published on July 7, 2000, (65 FR 41942), the review period for Acciai was incorrect. The period listed above is the correct period of review for that firm.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 351.211 or a determination under section 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 USC 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: September 26, 2000.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 00–25275 Filed 9–29–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–851]

Certain Preserved Mushrooms From the People's Republic of China: Initiation of New Shipper Antidumping Duty Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce has received a request to conduct a new shipper review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China. In accordance with 19 CFR 351.214(d), we are initiating this review.

EFFECTIVE DATE: October 2, 2000.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Kate Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4136 or (202) 482–4929, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department's) regulations are to 19 CFR part 351 (2000).

SUPPLEMENTARY INFORMATION:

Background

The Department has received a timely request from Green Fresh Foods (Zhangzhou) Co., Ltd. (Green Fresh Foods), in accordance with 19 CFR 351.214(c), for a new shipper review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China (PRC), which has an August semiannual anniversary date. *See Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Preserved Mushrooms from the People's Republic of China,* 64 FR 8308 (February 19, 1999). As required by 19 CFR 351.214(b)(2)(i) and (iii)(A), Green Fresh Foods (the respondent) has certified that it did not export certain preserved mushrooms to the United States during the period of investigation (POI), and that it has never been affiliated with any exporter or producer which exported certain preserved mushrooms during the POI. Green Fresh Foods further certified that its export activities are not controlled by the central government of the PRC, pursuant to 19 CFR 351.214(b)(2)(iii)(B). Pursuant to the Department's regulations at 19 CFR 351.214(b)(2)(iv), Green Fresh Foods submitted documentation establishing the date on which it first shipped the subject merchandise to the United States, the volume of that first shipment, and the date of its first sale to an unaffiliated customer in the United States.

In accordance with section 751(a)(2)(B) of the Act, as amended, and 19 CFR 351.214(b), and based on information on the record, we are initiating the new shipper review as requested.

It is the Department's usual practice in cases involving non-market economies to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate provide *de jure* and *de facto* evidence of an absence of government control over the company's export activities. *See Certain Preserved Mushrooms from the People's Republic of China: Initiation of New Shipper Antidumping Duty Review,* 65 FR 17257

(March 31, 2000). Accordingly, we will issue a separate rates questionnaire to the above-named respondent. If respondent Green Fresh Foods provides sufficient evidence that it is not subject to either *de jure* or *de facto* government control with respect to its exports of certain preserved mushrooms, this review will proceed. If, on the other hand, Green Fresh Foods does not meet its burden to demonstrate its eligibility for a separate rate, then Green Fresh Foods will be deemed to be affiliated with other companies that exported during the POI and that did not establish entitlement to a separate rate. This review will then be terminated due to failure of the exporter or producer to meet the requirements of section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(iii)(B).

Scope of the Review

The products covered by this review are certain preserved mushrooms whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this review are the species *Agaricus bisporus* and *Agaricus bitorquis.* ''Preserved mushrooms'' refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including but not limited to cans or glass jars in a suitable liquid medium, including but not limited to water, brine, butter or butter sauce. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of this review are ''brined'' mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of this review are the following: (1) All other species of mushroom, including straw mushrooms; (2) all fresh and chilled mushrooms, including ''refrigerated'' or ''quick blanched mushrooms''; (3) dried mushrooms; (4) frozen mushrooms; and (5) ''marinated,'' ''acidified'' or ''pickled'' mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.[1]

The merchandise subject to this review is classifiable under subheadings 2003.1000.27, 2003.1000.31, 2003.1000.37, 2003.1000.43, 2003.1000.47, 2003.1000.53, and 0711.90.4000 of the Harmonized Tariff Schedule of the United States (''HTS''). Although the HTS subheadings are provided for convenience and Customs purposes, our written description of the scope of this review is dispositive.

Initiation of Review

In accordance with section 751(a)(2)(B)(ii) of the Act and 19 CFR 351.214(d)(1), we are initiating a new shipper review of the antidumping duty order on certain preserved mushrooms from the PRC. We intend to issue the preliminary results of this review within 180 days after initiation.

Antidumping duty proceeding	Period to be reviewed
PRC: Certain Preserved Mushrooms, A–570–851: Green Fresh Foods (Zhangzhou) Co., Ltd.	02/01/2000–07/31/2000

Subject to receipt of an adequate separate rates questionnaire response from the respondent, we will instruct the U.S. Customs Service to allow, at the option of the importer, the posting of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by the above-listed company until the completion of the review. This action is in accordance with 19 CFR 351.214(e) and (j)(3).

Interested parties that need access to the proprietary information in this new shipper review should submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305 and 351.306.

This initiation and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.214(d).

Dated: September 22, 2000.

Richard W. Moreland,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 00–25270 Filed 9–29–00; 8:45 am]

BILLING CODE 3510–DS–P

[1] On June 19, 2000, the Department affirmed that ''marinated,'' ''acidified,'' or ''pickled'' mushrooms containing less than 0.5 percent acetic acid are within the scope of the antidumping duty order.

DEPARTMENT OF COMMERCE

International Trade Administration

[(A–533–819), (A–557–810), (A–570–859)]

Notice of Preliminary Determinations of Sales at Less Than Fair Value: Steel Wire Rope From India and the People's Republic of China; Notice of Preliminary Determination of Sales at Not Less Than Fair Value: Steel Wire Rope From Malaysia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 2, 2000.

FOR FURTHER INFORMATION CONTACT: Jim Kemp or Keir Whitson at (202) 482–1276 or (202) 482–1777, respectively; AD/CVD Enforcement, Office 5, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (April 1999).

Preliminary Determinations

We preliminarily determine that steel wire rope from India and the People's Republic of China (the PRC) is being sold in the United States at less than fair value (LTFV), as provided in section 733 of the Act. We also preliminarily determine that steel wire rope from Malaysia is not being sold in the United States at LTFV. The estimated margins of sales at LTFV are shown in the Suspension of Liquidation section of this notice.

Case History

These investigations were initiated on March 17, 2000.[1] See Initiation of Antidumping Duty Investigations: Steel Wire Rope from India, Malaysia, the People's Republic of China and Thailand, 65 FR 16173 (March 27, 2000) (Initiation Notice). Since the initiation of these investigations, the following events have occurred.

[1] The petitioner in this investigation is the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers.

On April 26, 2000, the United States International Trade Commission (the ITC) preliminarily determined that there is a reasonable indication that imports of wire rope from India, Malaysia and the PRC are materially injuring the United States industry. With regard to Thailand, the ITC determined that either there is no reasonable indication that an industry in the United States is threatened with material injury by reason of imports of steel wire rope from Thailand or that such imports are negligible. See Steel Wire Rope from China, India, Malaysia, and Thailand, 65 FR 24505 (April 26, 2000). As a result, the investigation on Thailand was terminated.

The Department issued antidumping questionnaires to the respondents in India and Malaysia on May 9, 2000.[2] For the PRC investigation, on April 28, 2000, we sent a letter to the Ministry of Foreign Trade & Economic Cooperation (MOFTEC) requesting information on exporters of steel wire rope from the PRC and the volume of merchandise that those exporters had shipped to the United States during the period of investigation (POI). On May 17, 2000, we sent the antidumping questionnaire to MOFTEC with a letter requesting that it forward the questionnaire to all exporters of steel wire rope who had shipments during the POI. In addition, on May 17, 2000, we sent the questionnaire to all Chinese exporters who had contacted us through counsel, with instructions to complete and return the questionnaire by the given deadline. We received responses from eight companies from the PRC, one from an Indian company and one from a Malaysian company. We issued supplemental questionnaires to our selected respondents, where appropriate.

On July 13, 2000, the Department postponed the preliminary determinations in these cases 50 days in accordance with section 733(c)(1) of the Act and 19 CFR 351.205(b)(2). See Notice of Postponement of Preliminary Antidumping Duty Determinations: Steel Wire Rope from India, Malaysia, and the People's Republic of China, 65 FR 45037 (July 20, 2000).

Postponement of the Final Determination for India

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On September 8, 2000, Usha Martin Industries, Ltd (Usha), the respondent in the Indian case, requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until 135 days after the publication of the preliminary determination. Usha also included a request to extend the provisional measures to not more than six months. Accordingly, since we have made an affirmative preliminary determination, we have postponed the final determination for India until not later than 135 days after the date of the publication of the preliminary determination.

Periods of Investigation

The POI for the Indian and Malaysian cases is January 1, 1999, through December 31, 1999. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.,* March 2000). The POI for the China case is July 1, 1999, through December 31, 1999, the two most recent fiscal quarters prior to the month of filing the petition.

Scope of Investigations

For purposes of these investigations, the product covered is steel wire rope. Steel wire rope encompasses ropes, cables, and cordage of iron or carbon or stainless steel, other than stranded wire, not fitted with fittings or made up into articles, and not made up of brass-plated wire. Imports of these products are currently classifiable under subheadings: 7312.10.6030, 7312.10.6060, 7312.10.9030, 7312.10.9060, and 7312.10.9090 of the Harmonized Tariff Schedule of the United States (HTSUS). Although HTSUS subheadings are provided for convenience and Customs Service purposes, the written description of the scope of these investigations is dispositive.

Facts Available

In its home market sales database, Usha, the respondent in the Indian case, reported a code designated ''other'' for certain sales observations in response to the requested product characteristic category for ''class of wire rope'' (class). The Department issued a supplemental questionnaire requesting that Usha re-code these observations with the correct class designation. Usha complied in part and provided the class for the majority of sales in question. However, for the remaining sales, Usha stated that it produced certain products that were outside the specifications that it uses to determine the class for the merchandise. Therefore, Usha could only provide the ''other'' designation for certain sales. In order to avoid introducing any distortions from product misclassification in the fair value comparison of Usha's home market sales to its U.S. sales, we have determined that we cannot use the product characteristic with a code designated as ''other'' for certain home market sales and, therefore, the use of facts otherwise available is necessary in this situation, pursuant to section 776(a) of the Act.

Section 776(a) of the Act provides that ''if an interested party or any other person—(A) withholds information that has been requested by the administering authority, (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782, (C) significantly impedes a proceeding under this title, or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority and the Commission shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.'' The statute requires that certain conditions be met before the Department may resort to the facts otherwise available. Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to

[2] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (This section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production (COP) of the foreign like product and the constructed value (CV) of the merchandise under investigation. Section E requests information on further manufacturing.

remedy the deficiency within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate. Briefly, section 782(e) provides that the Department ''shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority'' if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, and the Department can use the information without undue difficulties, the statute requires it to do so.

As noted above, we determined that we cannot rely on home market sales for which the class product characteristic was designated as ''other.'' Therefore, we did not use such sales in matching to reported U.S. sales.

Critical Circumstances

In letters filed on August 25, 2000, the petitioner alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of steel wire rope from India and the PRC. Under section 733(e)(1) of the Act, when critical circumstances allegations are submitted more than 20 days before the scheduled date of the preliminary determinations, the Department shall determine on the basis of information available to it at the time whether there is a reasonable basis to believe or suspect that critical circumstances exist. If critical circumstances are found to exist, then a preliminary finding will be issued. For the reasons discussed below, we are issuing preliminary critical circumstances determinations at this time in the investigations of imports of steel wire rope from India and the PRC.

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been ''massive,'' the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, section 351.206(h)(2) of the Department's regulations provides that an increase in imports of 15 percent during the ''relatively short period'' of time may be considered ''massive.''

Section 351.206(i) of the Department's regulations defines ''relatively short period'' as normally being the period beginning on the date the proceeding begins (*i.e.,* the date the petition is filed) and ending at least three months later. The regulations also provide, however, that if the Department finds that importers, exporters, or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may consider a period of not less than three months from that earlier time.

In determining whether the above criteria have been satisfied, we examined: (1) The evidence presented in the petition; (2) recent import statistics released by the Census Bureau after the initiation of the LTFV investigations; and (3) the ITC preliminary injury determinations.

A. History of Dumping and Importer Knowledge

The petitioner has provided evidence on the record of at least one affirmative European Union antidumping and injury determination, announced in August 1999, on steel wire rope from India and the PRC. On this basis, we find a history of dumping and material injury from India and the PRC pursuant to section 733(e)(1)(A)(i) of the Act.

B. Massive Imports

In determining whether there are ''massive imports'' over a ''relatively short period,'' pursuant to section 733(e)(1)(B) of the Act, as stated above, the Department normally compares the import volume of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.,* the ''base period''), and at least three months following the filing of the petition (*i.e.,* the ''comparison period''), *see* 19 CFR 351.206(i). Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period.

Based on the most recent U.S. Census import data, we examined the increase in import volumes from November 1999 through February 2000, as compared to the import volume during March 2000 through June 2000. We found that imports of steel wire rope from India increased by 77.20 percent, and that imports from the PRC increased by 15.53 percent, over the periods in question.[3] *See* Memorandum to the File, Critical Circumstances Analysis Regarding Massive Imports (September 25, 2000) (Memorandum to the File). Therefore, pursuant to section 733(e) of the Act and section 351.206(h) of the Department's regulations, we preliminarily determine that there have been massive imports of steel wire rope from India and the PRC over a relatively short time.

C. Conclusion

For the above-referenced reasons, we preliminarily determine that there is a reasonable basis to believe or suspect that critical circumstances exist for imports of steel wire rope from India and the PRC.

D. Final Critical Circumstances Determinations

We will make final determinations concerning critical circumstances for India and the PRC concurrently with our final determinations regarding sales at LTFV in those investigations. Our final determination in the PRC case will be issued no later than 75 days (unless extended) after the preliminary LTFV determination. The final determination for the Indian case, which has already been extended, will be issued 135 days after the publication of the preliminary determination.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Act permits us

[3] We received company-specific shipment data from the two respondents in the PRC case, Fasten Group Import and Export, Co., Ltd. (Fasten) and Nantong Zhongde. Fasten's shipment figures support our finding of massive imports of steel wire rope into the United States, in that they demonstrate an increase of greater than 30 percent. *See* Memorandum to the File. Nantong Zhongde filed shipment figures on September 11, 2000. However, because the figures were not reported on a monthly basis, the shipment data could not be used in this preliminary determination. Nantong filed a subsequent submission containing monthly shipment data. This submission was filed too late to be used in this determination. Usha, the Indian respondent, filed shipment figures on September 11, 2000. The submission, however, was not properly filed and the data contained therein could not be used in this preliminary determination.

to investigate either 1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or 2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined. Usha and Kiswire SDN.BHD (Kiswire) are the only known significant producers in India and Malaysia, respectively. With regard to the PRC, on June 12, 2000, we received Section A questionnaire responses from eight Chinese exporters. However, due to limited resources we determined that we could investigate only the two largest producers. *See* Memorandum from Jim Kemp, dated June 16, 2000. Therefore, we chose Fasten Import-Export Company (Fasten) and Nantong Zhongde (Nantong) as mandatory respondents in this case.

Product Comparisons (India and Malaysia)

In accordance with section 771(16) of the Act, all products produced by the respondents covered by the description in the Scope of Investigation section, above, and sold in India or Malaysia during the POI are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We have relied on eight criteria to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product or CV: type of steel wire, diameter, type of core, class of wire rope, grade of steel, number of wires per strand, design of strands and lay of rope. These characteristics have been weighted by the Department where appropriate. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above.

Product Comparisons (the People's Republic of China)

As described below, we relied upon CV, based on a NME analysis, for our comparisons to U.S. sales.

Fair Value Comparisons

To determine whether sales of steel wire rope from India and Malaysia were made in the United States at less than fair value, we compared the export price (EP) and the constructed export price (CEP) to the NV, as described in the Export Price and Constructed Export Price and Normal Value sections of this notice. To determine whether sales of steel wire rope from the PRC were made in the United States at less than fair value, we compared EP and CEP to a NV based on an NME analysis, as described below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs and CEPs. We compared these to weighted-average home market prices or CVs, as appropriate, in the market economy cases and to CV in the NME case.

Export Price and Constructed Export Price

For the price to the United States, we used, as appropriate, EP or CEP as defined in sections 772(a) and 772(b) of the Act, respectively. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold by the exporter or producer outside the United States to an unaffiliated purchaser for exportation to the United States, before the date of importation, or to an unaffiliated purchaser for exportation to the United States.

Section 772(b) of the Act defines CEP as the price at which the subject merchandise is first sold inside the United States before or after the date of importation, by or for the account of the producer or exporter of the merchandise, or by a seller affiliated with the producer or exporter, to an unaffiliated purchaser, as adjusted under subsections 772(c) and (d) of the Act.

For all respondents, we calculated EP and CEP, as appropriate, based on the packed prices charged to the first unaffiliated customer in the United States.

In accordance with section 772(c)(2) of the Act, we reduced the EP and CEP by movement expenses and export taxes and duties, where appropriate. For the PRC, where the respondent incurred NME movement expenses, including inland freight, insurance, brokerage and handling, marine insurance, and international ocean freight, we applied the appropriate surrogate value. *See* Memorandum from Salim Moiz Bhabhrawala to the File, dated September 25, 2000 (Surrogate Value Memorandum). Where the respondent incurred movement expenses through a market-economy provider, we utilized the per-unit expenses as reported in its section C questionnaire response.

Section 772(d)(1) of the Act provides for additional adjustments to CEP. Accordingly, where appropriate, we deducted direct and indirect selling expenses related to commercial activity in the United States. Pursuant to section 772(d)(3) of the Act, where applicable, we made an adjustment for CEP profit.

We determined the EP or CEP for each company as follows:

India

Usha

We calculated a CEP for all of Usha's sales because the merchandise was sold through Usha's affiliated reseller (Usha Martin Americas, Inc.) in the United States. CEP sales were based on packed pick up, FOB and delivered prices. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include foreign movement expense (inland freight), international freight, U.S. inland freight, U.S. brokerage, insurance and U.S. duties. We also deducted the amount for discounts from the starting price, and added the amount for duty drawback in accordance with section 772(c)(1)(B) of the Act. In addition, in accordance with section 772(d)(1) of the Act, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including indirect selling expenses, credit expense and warranty. Finally, we made a deduction for CEP profit.

Malaysia

Kiswire

During the POR, Kiswire made both EP and CEP transactions. We calculated an EP for sales where the merchandise was sold directly by Kiswire to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record. We calculated a CEP for sales made by Kiswire's affiliated reseller (Kiswire Trading Inc.) in the United States. EP and CEP sales were based on the packed delivered, ex-factory, CIF, CNF (cost, insurance and freight) and CIF (duty paid) prices. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include foreign movement expense (inland freight), international freight, U.S. inland freight, U.S. brokerage, insurance and U.S. duties.

In accordance with section 772(d)(1) of the Act, for CEP sales, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including indirect selling expenses and other direct selling expenses (credit, warranty and royalties). Finally, we made a deduction for CEP profit.

The People's Republic of China

Fasten

During the POR, Fasten made both EP and CEP transactions. We calculated an

EP for sales where the merchandise was sold directly by Fasten to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record. We calculated a CEP for sales made by Fasten's affiliated reseller (Fasten U.S.A. Inc.) in the United States. EP and CEP sales were based on the packed ''delivered duty paid'' (DDP) U.S. port and C&F U.S. port prices. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include foreign movement expense (inland freight), international freight, U.S. brokerage, insurance, U.S. duties and U.S. inland freight.

In accordance with section 772(d)(1) of the Act, for CEP sales, we deducted from the starting price indirect selling expenses. Finally, we made a deduction for CEP profit.

Nantong

We calculated an EP for all of Nantong's sales because the merchandise was sold directly by Nantong to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include foreign movement expenses (inland freight and insurance), international freight, and brokerage and handling.

Normal Value for Market Economy Analysis

A. Selection of Comparison Markets for Market Economy Countries

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or value, if quantity is inappropriate) and that there is no particular market situation that prevents a proper comparison with the EP or CEP. The statute contemplates that quantities (or value) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States.

For the Indian and Malaysian cases, we found that Usha and Kiswire have viable home markets of steel wire rope. The respondents submitted home market sales data for purposes of the calculation of NV.

In deriving NV, we made adjustments as detailed in the Calculation of Normal Value Based on Home Market Prices and Calculation of Normal Value Based on Constructed Value, sections below.

B. Cost of Production Analysis

On July 19, and August 8, 2000, petitioners made sales below cost allegations against Kiswire and Usha, respectively. Based on these allegations and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that sales of steel wire rope manufactured in India and Malaysia were made at prices below the COP. As a result, the Department has conducted an investigation to determine whether Usha and Kiswire made sales in their respective home markets at prices below their respective COPs during the POI within the meaning of section 773(b) of the Act. We conducted the COP analysis described below.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for the home market general and administrative (G&A) expenses, selling expenses, commissions, packing expenses and interest expenses.

We relied on the COP data submitted by Usha and Kiswire in their cost questionnaire responses, except, as noted below, in specific instances where the submitted costs were not appropriately quantified or valued:

Usha. We made adjustments to Usha's direct materials costs and interest expense ratio. See Memorandum from Heidi Norris, dated September 25, 2000.

Kiswire. We adjusted Kiswire's interest expense ratio. *See* Memorandum from Laurens van Houten, dated September 25, 2000.

2. Test of Home Market Sales Prices

We compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP within an extended period of time (*i.e.,* a period of one year) in substantial quantities [4] and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time.

On a model-specific basis, we compared the revised COP to the home market prices, less any applicable movement charges, discounts and rebates.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with section 773(b)(2)(B) or the Act. In such cases, because we compared prices to POI average costs, we also determined that such sales were not made at prices that would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales.

We found that, for certain models of steel wire rope, more than 20 percent of the home market sales by Usha and Kiswire were made within an extended period of time at prices less than the COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We therefore disregarded these below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

C. Calculation of Normal Value Based on Home Market Prices

We determined price-based NVs for respondent companies as follows. For both respondents, we made adjustments for any differences in packing, and we deducted movement expenses pursuant to section 773(a)(6)(B)(ii) of the Act. In addition, where applicable, we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Act. We also made adjustments, pursuant to 19 CFR 351.410(e), for indirect selling expenses incurred on comparison-market or U.S. sales where commissions were granted on sales in one market but not in the other (the commission offset).

Company-specific adjustments are described below.

Usha. We based home market prices on the packed prices to unaffiliated purchasers in India. We adjusted the starting price for foreign inland freight, warehousing and insurance. We made COS adjustments by deducting direct selling expenses incurred for home

[4] In accordance with section 773(b)(2)(C)(i) of the Act, we determined that sales made below the COP were made in substantial quantities if the volume of such sales represented 20 percent or more of the volume of sales under consideration for the determination of NV.

market sales (credit expense, commissions, technical services and other directs selling expenses). No other adjustments to NV were claimed or allowed.

Kiswire. We based home market prices on the packed prices to unaffiliated purchasers in Malaysia. We adjusted the starting price for foreign inland freight, ocean freight, insurance, discounts, sales tax and billing adjustments. For comparisons made to EP sales, we made COS adjustments by deducting direct selling expenses incurred for home market sales (credit expense, commissions, warranty and bank charges) and adding U.S. direct selling expenses (*e.g.,* credit, warranty and royalties). For comparisons made to CEP sales, we did not add U.S. direct selling expenses. No other adjustments to NV were claimed or allowed.

D. Calculation of Normal Value Based on Constructed Value

Section 773(a)(4) of the Act provides that, where NV cannot be based on comparison-market sales, NV may be based on CV. Accordingly, for those models of steel wire rope for which we could not determine the NV based on comparison-market sales, either because there were no sales of a comparable product or all sales of the comparison products failed the COP test, we based NV on CV.

Section 773(e)(1) of the Act provides that CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise plus amounts for selling, general, and administrative expenses (SG&A), profit, and U.S. packing costs. We calculated the cost of materials and fabrication based on the methodology described in the Calculation of Cost of Production section of this notice, above. We based SG&A and profit on the actual amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the comparison market, in accordance with section 773(e)(2)(A) of the Act.

In addition, we used U.S. packing costs as described in the Export Price section of this notice, above.

We made adjustments to CV for differences in COS in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. These involved the deduction of direct selling expenses incurred on home market sales from, and the addition of U.S. direct selling expenses to, CV.

E. Level of Trade/Constructed Export Price Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade as the EP or CEP transaction. The NV level of trade is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive SG&A expenses and profit. For EP sales, the U.S. level of trade is also the level of the starting-price sale, which is usually from exporter to importer. For CEP transactions, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different level of trade than EP or CEP transactions, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa, 62 FR 61731 (November 19, 1997).

In implementing these principles in this investigation, we obtained information from each respondent about the marketing stages involved in the reported U.S. and home market sales, including a description of the selling activities performed by the respondents for each channel of distribution. In identifying levels of trade for EP and home market sales we considered the selling functions reflected in the starting price before any adjustments. For CEP sales, we considered only the selling activities reflected in the price after the deduction of expenses pursuant to section 772(d) of the Act.

In the Malaysian and Indian investigations, Kiswire made both EP and CEP sales and Usha made only CEP sales. With respect to Kiswire's EP sales, we found a single level of trade in the United States, and a single, identical level of trade in the home market. Kiswire's EP sales and comparison market sales were made to distributors and end-users. In either case, the selling functions performed by Kiswire for the different customer types and channels of distribution were very limited, and almost identical in both markets. Other than warehousing, which was only provided in the home market, in both markets Kiswire provided the following services: price negotiation, order processing, freight and delivery arrangements and sales support. Therefore, it was thus unnecessary to make any level-of-trade adjustment for comparison of EP and home market prices.

Regarding Kiswire's and Usha's CEP sales, we found that both companies make CEP sales to the United States through their affiliates, Kiswire Trading Inc. (KTI) and Usha Martin Americas, Inc (UMA), respectively. KTI sells to unrelated distributors in the U.S. market. UMA sells to original equipment manufacturers (OEMs), distributors and end-users in the United States while Usha sells to OEMs, distributors, end-users and government buyers in the India. For Kiswire's CEP sales, KTI provides virtually all the sales functions, such as price negotiation, order processing, freight and delivery arrangements and sales support. Likewise, for Usha's CEP sales, UMA provides all the selling functions, such as warehousing, freight arrangements, advertising and product liability insurance. Since in our LOT analysis for CEP sales we only consider the selling activities reflected in the price after the deduction of the expenses incurred by the U.S. affiliate, the record indicates that for Kiswire's and Usha's CEP sales there are fewer services performed than for the sales in their home markets. Based on this analysis, we found that the level of trade of Kiswire's and Usha's home market sales involves substantially more selling functions than the level of trade of the CEP sales. Therefore, we have determined that Kiswire's and Usha's home market sales are made at a different, and more advanced, stage of marketing than the level of trade of the CEP sales.

Accordingly, for both respondents, we determined that a level-of-trade adjustment may be appropriate for CEP sales. However, Kiswire and Usha do not sell wire rope in their respective home markets at the same level of trade as that of their U.S. sales. Therefore, because the data available do not permit a determination that there is a pattern of consistent price differences between sales at different levels of trade in the

comparison markets and because the respondents' home market sales are made at a different, and more advanced, stage of marketing than the level of trade of the CEP sales, we have made a CEP offset to NV for both companies in accordance with section 773(a)(7)(B) of the Act. This offset is equal to the amount of indirect expenses incurred in the comparison market not exceeding the amount of the deductions made from the U.S. price in accordance with 772(d)(1)(D) of the Act.

Normal Value for Non-Market Economy Analysis

A. Non-Market Economy Status for the People's Republic of China

The Department has treated the PRC as a NME country in all past antidumping investigations (see, *e.g.*, Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from the People's Republic of China, 65 FR 1121 (January 7, 2000) (Cold-Rolled Steel from the PRC). A designation as a NME remains in effect until it is revoked by the Department (*see* section 771(18)(C) of the Act).

The respondents in this investigation have not requested a revocation of the PRC's NME status. We have, therefore, preliminarily determined to continue to treat the PRC as a NME.

When the Department is investigating imports from a NME, section 773(c)(1) of the Act directs us to base NV on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the Normal Value section, below.

B. Separate Rates

With regard to the PRC case, it is the Department's policy to assign all exporters of merchandise subject to investigation in a NME country a single rate, unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. The eight companies that have submitted section A responses have provided the requested company-specific separate rates information and have stated that for each company, there is no element of government ownership or control. All eight companies have requested a separate company-specific rate, including Fasten and Nantong, the two companies selected as mandatory respondents.

In its questionnaire response, Fasten states that it is an independent company ''owned by all the people'' and controlled by the general assembly of workers and employees. Fasten further claims that it does not maintain any corporate relationship with the central, provincial, and local government in terms of production, management, and operations. Nantong is owned by Nantong Municipal Light Industry Bureau (an agency of the local government of Nantong City), the Municipal Collective Industrial Association, and by the employees of the company. Aside from this tie to the local government, Nantong does not maintain any corporate relationship with the central or provincial government.

As stated in Final Determination of Sales at Less-Than-Fair-Value: Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*), and Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol 60 FR 22545 (May 8, 1995) (*Furfuryl Alcohol*), ownership of a company by ''all the people'' does not require the application of a single rate.

The Department's separate rate test is not concerned, in general, with macroeconomic/border-type controls (*e.g.*, export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. Rather, the test focuses on controls over the investment, pricing, and output decision-making process at the individual firm level. See Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value, 62 FR 61754, 61757 (November 19, 1997); Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 62 FR 61276, 61279 (November 17, 1997); and Honey from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, 60 FR 14725, 14726 (March 20, 1995) (Honey).

To establish whether a firm is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China, 56 FR 20588 (May 6, 1991), and amplified in Silicon Carbide. Under this test, the Department assigns separate rates in NME cases only if an exporter can affirmatively demonstrate the absence of both (1) de jure and (2) de facto governmental control over export activities. See Silicon Carbide and Furfuryl Alcohol.

Fasten and Nantong have placed on the record a number of documents to demonstrate absence of de jure control, including the ''Foreign Trade Law of the People's Republic of China'' and the ''Law of the People's Republic of China on Industrial Enterprises Owned By the Whole People.'' In prior cases, the Department has analyzed these laws and found that they establish an absence of de jure control. (See, *e.g.*, Notice of Final Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China, 60 FR 54472 (October 24, 1995)). We have no new information in this proceeding which would cause us to reconsider this determination.

The Department typically considers four factors in evaluating whether each respondent is subject to de facto governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. See, *e.g.*, Silicon Carbide and Furfuryl Alcohol.

Fasten and Nantong asserted the following: (1) they established their own export prices independently of the government and without the approval of a government authority; (2) they negotiate contracts, without guidance from any governmental entities or organizations; (3) they make their own personnel decisions including the selection of management; and (4) they retain the proceeds of their export sales, and utilize profits according to their business needs.

We have preliminarily determined that Fasten and Nantong have met the criteria for the application of separate rates. We will examine this matter further at verification. Each of the other six companies that submitted separate rates information, but were not selected as respondents in this investigation, have asserted the following: (1) It establishes its own export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds from export sales and uses profits according to its business needs without any restrictions. Additionally, these six companies have stated that

they do not coordinate or consult with other exporters regarding their pricing. This information supports a preliminary finding that there is an absence of de facto governmental control of the export functions of these companies. Consequently, we preliminarily determine that all responding exporters have met the criteria for the application of separate rates. For non-responsive producers/exporters, we preliminarily determine, as facts available, that they have not met the criteria for application of separate rates.

C. Surrogate Country

With regard to the Chinese case, section 773(c)(4) of the Act requires the Department to value the NME producer's factors of production, to the extent possible, in one or more market economy countries that: (1) Are at a level of economic development comparable to that of the NME country; and (2) are significant producers of comparable merchandise. The Department initially determined that India, Indonesia, Pakistan, Philippines and Sri Lanka were the countries most comparable to the PRC in terms of overall economic development (*see* the May 30, 2000, memorandum, Antidumping Duty Investigation of Steel Wire Rope (SWR) from the People's Republic of China (PRC): Nonmarket Economy Status and Surrogate Country Selection).

Because of a lack of the necessary factor price information from the other potential surrogate countries that are significant producers of comparable products to the subject merchandise, we have relied, where possible, on information from India, the source of the most complete information from among the potential surrogate countries. Accordingly, we have calculated normal value (NV) by applying Indian values to the PRC's producers' factors of production for virtually all factors. *See* Surrogate Value Memorandum.

D. Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by the companies in the PRC which produced steel wire rope for the exporters that sold steel wire rope to the United States during the POI. To calculate NV, the reported unit factor quantities were multiplied by publicly available Indian values.

In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices to make them delivered prices. We added to Indian surrogate values a surrogate freight cost using the reported distance from the domestic supplier to the factory where this distance was shorter than the distance from the nearest seaport to the factory. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp.* v. *United States*, 117 F. 3d 1401 (Fed. Cir. 1997). Where a producer did not report the distance between the material supplier and the factory, we used as facts available the longest distance reported, *i.e.,* the distance between the PRC seaport and the producer's location. For those values not contemporaneous with the POI, we adjusted for inflation using wholesale price indices published in the International Monetary Fund's International Financial Statistics.

We valued material inputs and packing materials (*i.e.,* where applicable, steel wire rod, acid, zinc, zinc sulfate, paper, wooden pallets, and wooden reels) by Harmonized Tariff Schedule (HTS) number, using imports statistics from the Monthly Statistics of the Foreign Trade of India. Where a material input was purchased in a market-economy currency from a market-economy supplier, we valued such a material input at the actual purchase price in accordance with section 351.408 (c)(1) of the Department's regulations. For a complete analysis of surrogate values, *see* Surrogate Value Memorandum, dated September 25, 2000.

E. Antidumping Deposit Rate for Those Producers/Exporters That Responded Only to the Separate Rates Questionnaire

For those PRC producers/exporters that responded to our separate rates questionnaire but did not respond to the full antidumping questionnaire (because they were not selected to respond or because they did not submit a voluntary response), we have calculated a weighted-average margin based on the rates calculated for those producers/exporters that were selected to respond. (See, *e.g.*, Notice of Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China, 61 FR 19026 (April 30, 1996) (''Bicycles from the PRC'')).

F. The People's Republic of China-Wide Rate

Information on the record of this investigation indicates that there are numerous producers/exporters of the subject merchandise in the PRC. All exporters were given the opportunity to respond to the separate rates questionnaire. We received timely responses from Fasten, Haicheng Greatx Industry Co. Ltd., Liaoning Metals & Minerals Import & Export Corp., Jiangsu COFCO, Jiangsu Guo Tai, Henan Baoi Wire Rope Factory, Nantong and Nantong Wire Rope Company. As explained above, we selected Fasten and Nantong as our respondents and have calculated a company-specific rate for them. However, based upon our knowledge of PRC exporters and the fact that U.S. import statistics show that responding companies did not account for all imports into the United States from the PRC, we have preliminarily determined that some PRC exporters of steel wire rope failed to respond to our questionnaire.

Section 776(a)(2) of the Act provides that ''if an interested party or any other person—(A) withholds information that has been requested by the administering authority or the Commission under this title, (B) fails to provide such information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782, (C) significantly impedes a proceeding under this title, or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority and the Commission shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.''

Section 776(b) of the Act further provides that adverse inferences may be used when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. The producers/exporters that decided not to respond to the separate rates questionnaire failed to act to the best of their ability in this investigation. Therefore, the Department has determined that, in selecting from among the facts otherwise available, an adverse inference is warranted.

In accordance with our standard practice, as adverse facts available, we are assigning to those companies that did not respond to the Department's separate rates questionnaire the higher of: (1) The highest margin stated in the notice of initiation; or (2) the highest margin calculated for any respondent in this investigation (see, *e.g.*, Cold Rolled Steel from the PRC, 65 FR 1125). In this case, the adverse facts available margin is 118.78 percent, which is the highest margin calculated for a respondent in this investigation. The margin for those companies that did respond to the Department's section A questionnaire, but were not selected as respondents in this proceeding is 56.54 percent, which is the weighted average of the dumping

margins for the two mandatory respondents.

Currency Conversions

We made currency conversions into U.S. dollars in accordance with section 773A of the Act based on exchange rates in effect on the dates of the U.S. sales, as obtained from the Federal Reserve Bank (the Department's preferred source for exchange rates).

Verification

In accordance with section 782(i) of the Act, we intend to verify all information relied upon in making our final determinations.

Suspension of Liquidation

Because of our preliminary affirmative critical circumstances findings in the cases involving India and the PRC, we are directing the Customs Service to suspend liquidation of any unliquidated entries of steel wire rope from India and the PRC entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days prior to the date on which this notice is published in the **Federal Register**. We are instructing the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP or CEP, as indicated in the chart below for imports from India and the PRC. These instructions suspending liquidation will remain in effect until further notice.

Because we preliminarily determined that steel wire rope from Malaysia is not being sold at LTFV, we are not suspending liquidation of such merchandise at this time.

The weighted-average dumping margins are provided below:

Manufacturer/exporter	Margin (percent)
India:	
Usha Martin Industries, Ltd	21.14
All Others	21.14
Malaysia:	
Kiswire SDN.BHD	0.18 (de minimis)
All Others	0.18
People's Republic of China:	
Fasten Group Import and Export Co., Ltd	24.22
Haicheng Greatx Industry Co. Ltd.*	56.54
Henan Baoi Wire Rope Factory*	56.54
Jiangsu COFCO*	56.54
Jiangsu Guo Tai*	56.54
Liaoning Metals & Minerals Import & Export Corp.*	56.54
Nantong Wire Rope Company*	56.54
Nantong Zhongde	118.78
PRC-Wide Rate	118.78

*All Others

The PRC-wide rate applies to all entries of the subject merchandise except for entries from exporters/factories that are identified individually above.

Disclosure

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of the proceedings in these investigations in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our sales at less than fair value and critical circumstances preliminary determinations. If any of our final antidumping determinations is affirmative, the ITC will determine whether the imports covered by that (those) determination(s) are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of these preliminary determinations or 45 days after the date of our final determinations.

Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of the verification reports. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. In the event that the Department receives requests for hearings from parties to more than one steel wire rope case, the Department may schedule a single hearing to encompass all those cases. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

If this investigation proceeds normally for the Malaysian and PRC cases, we will make our final determinations no later than 75 days after the date of the preliminary determinations. As noted above, the final determination for the Indian case will be issued 135 days after the date of the publication of the preliminary determination.

These determinations are issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: September 25, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–25271 Filed 9–29–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

The Art Institute of Chicago; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket Number: 00–025. *Applicant:* The Art Institute of Chicago, Chicago, IL 60603–6110. *Instrument:* Low Pressure Conservation Table with Accessories. *Manufacturer:* Willard Fine Art Conservation Equipment, United Kingdom. *Intended Use:* See notice at 65 FR 51797, August 25, 2000.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign

instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides heating, precise control of relative humidity, dehumidification, vacuum, circulation and a transparent dome for ''clean room'' conditions for preservation and restoration of paintings and fabrics. The Smithsonian Institution advised on September 19, 2000 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 00–25273 Filed 9–29–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Washington; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 00–024. *Applicant:* University of Washington, Seattle, WA 98195–6100. *Instrument:* Laser Microdissection System. *Manufacturer:* P.A.L.M. Mikrolaser Technologie, Germany. *Intended Use:* See notice at 65 FR 51797, August 25, 2000.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides: (1) Dissection and catapulting of live cells directly into microcentrifuge tubes for analysis without contamination, (2) high quality microscope optics, (3) selective destruction of unwanted cellular material and (4) microdissection of any shape cell or tissue area. The National Institutes of Health advises in its memorandum of August 10, 2000 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 00–25272 Filed 9–29–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards, and Technology

Advanced Technology Program Advisory Committee; Notice of Partially Closed Meeting

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee act, 5 U.S.C. app. 2, notice is hereby given that the Advanced Technology Program Advisory Committee, National Institute of Standards and Technology (NIST), will meet Tuesday, October 17, 2000, from 8:30 a.m. to 4:30 p.m. The Advanced Technology Program Advisory Committee is composed of eight members appointed by the Director of NIST, who are eminent in such fields as business, research, new product development, engineering, education, and management consulting. The purpose of this meeting is to review and make recommendations regarding general policy for the Advanced Technology Program (ATP), its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The agenda will include an Update on ATP, Discussion of the Streamlined/Revamped Proposal Process; ATP 2000 Awardee Demographics; Economic Assessment Office Update; Discussion of Outreach Efforts; Leveraging States and Future ATP Strategic Initiatives; and an open discussion. Discussions scheduled to begin at 8:30 a.m. and to end at 9:30 a.m. and to begin at 3:00 p.m. and to end at 4:30 p.m. on October 17, 2000, on the ATP budget issues and staffing of positions will be closed.

DATES: The meeting will convene October 17, 2000, at 8:30 a.m. and will adjourn at 4:30 p.m. on October 17, 2000.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Employees Lounge, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Janet R. Russell, National Institute of Standards and Technology, Gaithersburg, MD 20899–1004, telephone number (301) 975–2107.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on March 30, 2000, that portions of the meeting of the Advanced Technology Program Advisory Committee which involve discussion of proposed funding of the Advanced Technology Program may be closed in accordance with 5 U.S.C. 552b(c)(9)(B), because those portions of the meetings will divulge matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency actions; and that portions of meetings which involve discussion of staffing of positions in ATP may be closed in accordance with 5 U.S.C. 552b(c)(6), because divulging information discussed in those portions of the meetings is likely to reveal information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Dated: September 26, 2000.

Karen H. Brown,

Deputy Director.

[FR Doc. 00–25259 Filed 9–29–00; 8:45 am]

BILLING CODE 3510–CN–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092500B]

Coral, Golden Crab, Shrimp, Spiny Lobster, Red Drum, Coastal Migratory Pelagic Resources, and Snapper-Grouper Fisheries of the South Atlantic

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

ACTION: Notice of receipt of an application for an exempted fishing permit; request for comments.

SUMMARY: NMFS announces the receipt of an application for an exempted fishing permit (EFP) from Mr. Chris Ivers, Project Manager, on behalf of the

North Carolina Aquariums (applicant), Raleigh, North Carolina. If granted, the EFP would authorize the applicant, with certain conditions, to collect up to 60 red porgy and up to 500 lb (227 kg) of coral/live rock each year for 2 years in Federal waters off North Carolina for public display. The three North Carolina Aquariums are located at Roanoke Island, Pine Knoll Shores, and Kure Beach, North Carolina.

DATES: Comments must be received no later than 5 p.m., eastern standard time, on November 1, 2000.

ADDRESSES: Comments on the application must be mailed to Peter Eldridge, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments also may be sent via fax to 727-570-5583. Comments will not be accepted if submitted via e-mail or Internet. The application and related documents are available for review upon written request to the same address.

FOR FURTHER INFORMATION CONTACT: Peter Eldridge, 727-570-5305; fax 727-570-5583; e-mail: peter.eldridge@noaa.gov.

SUPPLEMENTARY INFORMATION: The EFP is requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and regulations at 50 CFR 600.745(b) concerning exempted fishing.

According to the applicant, the North Carolina Aquariums (NCA), located at Roanoke Island, Pine Knoll Shores, and Kure Beach, are public, non-profit, self-supporting institutions established to promote an awareness, understanding, and appreciation of the diverse natural and cultural resources associated with North Carolina's ocean, estuaries, rivers, streams and other aquatic environments. The aquariums are major educational and conservation institutions with free admission to school children in groups and extensive field study and outreach programs. The specimens will be maintained in the NCA for public display.

The applicant intends to collect for public display up to 60 red porgy during a 2-year period and up to 500 lb (227 kg) of coral/live rock annually during a 2-year period.

The proposed collection for public display involves activities otherwise prohibited by regulations implementing the Fishery Management Plan (FMP) for Coral, Coral Reefs, and Live/Hard Bottom Habitats, and the FMP for the Snapper-Grouper Fisheries of the South Atlantic Region. The applicant requires authorization to harvest and possess corals, live rock, and red porgy taken from Federal waters off North Carolina.

Based on a preliminary review, NMFS finds that this application warrants further consideration and intends to issue an EFP. A final decision on issuance of the EFP will depend on a NMFS review of public comments received on the application, conclusions of environmental analyses conducted pursuant to the National Environmental Policy Act, and consultations with North Carolina, the South Atlantic Fishery Management Council, and the U.S. Coast Guard. The applicant requests a 24-month effective period for the EFP.

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

Dated: September 26, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–25221 Filed 9–29–00; 8:45 am]

Billing Code: 3510–22–S

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Performance Review Board; Membership

The following individuals are eligible to serve on the Performance Review Board in accordance with the Senior Executive Service Performance Appraisal System of the National Telecommunications and Information Administration.

Bernadette McGuire-Rivera
William Hatch
Neil Seitz
Frederick Wentland
Ronald Hack

Vicki G. Brooks,

Executive Secretary, Economic Development Administration, Performance Review Board.

[FR Doc. 00–25224 Filed 9–29–00; 8:45 am]

BILLING CODE 3510–BS–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. 000718211–0211–01]

RIN 0651–AB24

Study of Alternative Fee Structures

AGENCY: United States Patent and Trademark Office, Commerce.

SUMMARY: The United States Patent and Trademark Office (USPTO), in response to certain provisions of the ''American Inventors Protection Act of 1999,'' is proposing to study alternative patent fee structures to determine how best to encourage maximum participation of the U.S. inventor community in the patent system. In examining the evolution of the current fee structure, the USPTO has identified several fee structure issues which it considers important. These issues in several cases involve fee structures unconstrained by current statutory requirements, in keeping with the perceived intent of the Act. The agency will prepare a report to Congress identifying critical fee structure issues and will continue to evaluate these alternatives to determine the effects of implementation. The USPTO asks for comments on the issues raised and questions posed in this document.

DATES: To be ensured of consideration, written comments must be received on or before October 31, 2000. No public hearing will be held.

ADDRESSES: Comments should be sent by electronic mail message via the Internet addressed to barry.riordan@uspto.gov. Comments may also be submitted by mail addressed to: Office of Corporate Planning, Crystal Park One, Suite 807, Washington, D.C. 20231, or by facsimile to (703) 305–8138, marked to the attention of Barrett J. Riordan. If comments are submitted by mail, the Office would prefer that the comments be submitted on a DOS formatted 3½ inch disk accompanied by a paper copy.

FOR FURTHER INFORMATION CONTACT: Barrett J. Riordan by telephone at (703) 305–8475, by e-mail at barry.riordan@uspto.gov, by facsimile at (703) 305–8138, or by mail marked to his attention and addressed to Office of Corporate Planning, Crystal Park 1, Suite 807, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: The American Inventors Protection Act of 1999, Pub. L. 106–113, 113 Stat. 1501 (1999), Section 4204 (enacted November 29, 1999), instructs the Director of the United States Patent and Trademark Office to ''conduct a study of alternative fee structures that could be adopted * * * to encourage maximum participation by the inventor community in the United States.'' Such study is to be submitted to Congress no later than one year after enactment.

To assist in the preparation of this study, the USPTO requests comments on the range of topics which could potentially be considered therein. The USPTO is interested in comments that the public has regarding these and other related fee issues that the respondent believes to be appropriate. The USPTO encourages interested persons to

respond to this notice by submitting written data, views, or arguments regarding specific topics to be incorporated into this study. In particular, the USPTO is interested in any comments directed toward the questions posed below. Comments received will be relied upon heavily in the study submitted in response to the legislative requirement stated above, and also in assessments expected to be carried out subsequently.

1. Background and Purpose

The current patent fee structure of the United States Patent and Trademark Office is based on three major categories: (1) Patent statutory fees; (2) patent non-statutory fees; and (3) Patent Cooperation Treaty (PCT) fees.

Patent statutory fees consist of the patent processing fees (*i.e.*, filing, issue, and maintenance fees) and PCT national stage application fees that were set by statute in Public Law 97–247 and Public Law 102–204 (35 U.S.C. 41(a) and (b)). Public Law 97–247 also provided for a 50 percent reduction of these fees for small entities—individual inventors, small businesses and non-profit organizations (35 U.S.C. 41(h)). This reduction remains in force today.

Patent non-statutory fees consist of all other patent processing fees, as well as fees for products and services related to patents. The Director must establish these fees to recover the average cost to the Office of providing the products and services (35 U.S.C. 41(d)). However, the following three patent service fees are set by statute: the fee for assigning a patent, the fee for a copy of a patent, and the fee for making photocopies of patent-related material.

Patent Cooperation Treaty fees (except for those fee amounts set by the World Intellectual Property Organization in accordance with the Treaty) are set by the Director to recover the average cost to the Office for processing applications under the Treaty (35 U.S.C. 41(d) and 376(a)).

The current fee structure has evolved from a growing recognition beginning in the late 1970s that the USPTO should be self-financing. Public Law 96–517, 94 Stat. 3018, Section 3, 35 U.S.C. 42, enacted on December 12, 1980, entirely revised the patent fee system by giving the Director the power to establish fees. As introduced, the bill provided that the fee recovery level would be revised yearly to generate 60 percent of the revenue needed to operate the Office. However, in response to criticism from small businesses and individual inventors that the fees would place too great a burden on them, the Congress reduced the cost recovery level for small entities to 50 percent of the revenue needed.

In order to further soften the impact on inventors, Public Law 96–517 stated that patent fees were to be paid in installments over the life of a patent. This system, known as maintenance fees, is used by the European Patent Office and most European member countries, and Japan, as well as many developing countries and has the advantage of deferring payment until the invention begins to return revenue to the inventor. Should the invention prove to have no commercial value, the inventor has the option of permitting the patent to expire, thus avoiding all further fees.

Public Law 97–247, enacted on August 27, 1982, further reduced fee burdens on small entities (individual inventors, small businesses and non-profit organizations) by reducing patent statutory fees by 50 percent for them. Later, in November 1990, with the enactment of the Omnibus Budget Reconciliation Act, Public Law 101–508, 104 Stat. 1388–391, 35 U.S.C. 41, the USPTO became fully fee-funded, but retained the 50 percent fee reduction for small entities.

Fee Issues

In accordance with the intent of Congress, the USPTO wishes to determine what, if any, changes should be made to the USPTO's fees to encourage maximum participation in the patent system by the inventor community and still meet the legislative requirement to fund patent operations fully out of user fees. In so doing, the USPTO seeks comments on the following issues as well as any others that might be deemed relevant.

A. Cost Recovery

OMB Circular A–25 establishes agency guidelines for assessing user charges to the general public and requires full cost recovery through accurate fees consistent with statute. A May 1997 GAO Report on Intellectual Property focused on USPTO's inability to match costs with fee revenues and thereby satisfy A–25 requirements. Since that time, the USPTO has developed an activity-based costing system that is used to prepare financial statements, make decisions regarding fee amounts, formulate budgets, and for other financial management purposes. For instance, today it is possible to consider fee differentiation by degree of examination complexity or other patent characteristics affecting the average costs of different aggregate classes of applications. To what extent should the USPTO rely upon actual average costs in designing fees and fee structures? Should some existing fees be subdivided; *e.g.,* should search and examination fees be charged separately from application fees? Should the examination fee be scaled based on the cost of prosecuting the application? At what point(s) during the application process and/or during an issued patent term (through maintenance fees, for example), should fees be charged?

B. Maintenance Fees

Although required by statute since 1982, maintenance fees continue to be criticized by some inventors. They view these fees as a tax on their right to control their inventions over the entire patent term and want them totally eliminated. Others favor almost a converse approach to maintenance fees. They point out that the maintenance fee concept was originally adopted to provide patent holders flexibility in the face of uncertainty before the fact as to whether or not the patent would be commercially viable. Instead of requiring the entire investment up front, owners were given the option to pay out gradually and relinquish their patent rights when that made economic sense. They further point out that the current structure requiring payment of maintenance fees at 3.5, 7.5, and 11.5 years after issue is not tied to specific milestones in the patent life cycle and, thus, the USPTO should provide additional flexibility by making maintenance fees payable annually over the entire term of the patent. What is the proper role of maintenance fees in the patent fee structure?

C. Small Entity Fees

Small entities have paid reduced fees since 1982. Major small entity fees are half of those charged to large entities, as determined legislatively. This fee reduction represents an advantage to certain inventors, and elimination of these reductions would appear to be a possible alternative fee structure adjustment. Should preferential treatment for small entities be eliminated? On the other hand, it can be argued that the current 50 percent reduction does not go far enough. The current fee structure provides a 50 percent reduction to the major patent fees (*e.g.,* filing, issue, maintenance) paid by all small entities equally: small businesses; non-profits; and independent inventors. However, some believe that independent inventors are more innovative than the other small entities and, at the same time, are more sensitive to cost factors. Lower costs associated with innovation would permit independent inventors to

exercise their innovativeness more fully, to the overall benefit of the economy. This argument implies that this group should be paying fee amounts that are reduced to an even greater extent than is currently done for small entities; that is, a new fee category should be created for independent inventors and extremely small (micro) entities. How should the patent fee structure define and treat small entities?

D. Electronic Filing

The USPTO has the achievement of a totally electronic system for receiving applications as one of its major goals. In order to create incentives for customers to file electronically, it has been suggested that the fee structure charge more for paper applications, which are more costly to process. Should the patent and trademark fee structures differentiate between electronic and paper filings? If such a differentiation is determined to be an effective means of encouraging electronic filing, should it be imposed immediately or phased in over a period of years?

E. Unity of Invention

The European Patent Office, Japanese Patent Office, and USPTO reached a Trilateral agreement on harmonizing unity of invention practice at the Sixth Annual Trilateral Conference held in Tokyo in 1988. The Trilateral agreement allows a patent application to include a group of inventions so linked as to form a single general inventive concept, termed unity of invention. This agreement, adopted for PCT practice, differs substantially from current U.S. restriction practice. While this is not primarily a fee structure issue, full adoption of unity of invention would mean that more inventions are contained in fewer applications, with a resultant increase in average examination costs per application. Under the current fee structure, this would significantly reduce revenue from application, issue, and maintenance fees and thereby necessitate an increase in these or other fee amounts. If unity of invention were adopted, how should the resulting excess of costs over revenue be recovered through the fee structure? For example, it is believed that within certain technology areas, the number of patent applications and issues and their associated fee revenue would decline substantially, although the examination workload would not change. Should such technologies bear the burden of resulting fee increases or should the excess cost increment be apportioned uniformly?

In light of the substantial fee level adjustments that unity of invention would require, what are its precise benefits to the inventor community?

Dated: September 26, 2000.

Q. Todd Dickinson,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 00–25225 Filed 9–29–00; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 00–16]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of P.L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 00–16 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: September 26, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

20 SEP 2000

In reply refer to:
I-99/009903

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 00-16, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Bahrain for defense articles and services estimated to cost $51 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

A.R. KELTZ
ACTING DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 00-16

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser:** Bahrain

(ii) **Total Estimated Value:**

Major Defense Equipment*	$ 41 million
Other	$ 10 million
TOTAL	$ 51 million

(iii) **Description of Articles or Services Offered:** Thirty Guided Missile and Launching Assemblies M39 Army Tactical Missile System, spare and repair parts, personnel training and training equipment, software upgrade to the Multiple Launched Rocket System, U.S. Government and contractor engineering and logistics services and technical assistance, U.S. Government Quality Assurance Team, publications and technical data, Cooperative Logistics Supply Support Arrangement, special test sets and support equipment, maintenance support repairable material and other related elements of logistics support.

(iv) **Military Department:** Army (UHM)

(v) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none

(vi) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached

(vii) **Date Report Delivered to Congress:** 20 SEP 2000

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Bahrain - Army Tactical Missile and Launch Assemblies

The Government of Bahrain has requested a possible sale of 30 Guided Missile and Launching Assemblies M39 Army Tactical Missile System (ATACMS), spare and repair parts, personnel training and training equipment, software upgrade to the Multiple Launched Rocket System, U.S. Government and contractor engineering and logistics services and technical assistance, U.S. Government Quality Assurance Team (QAT), publications and technical data, Cooperative Logistics Supply Support Arrangement, special test sets and support equipment, maintenance support repairable material and other related elements of logistics support. The estimated cost is $51 million.

This proposed sale is consistent with the stated U.S. policy of assisting friendly nations to provide for their own defense by allowing the transfer of reasonable amounts of defense articles and services.

Bahrain will use these ATACMS to enhance their area fire system capability against hostile artillery, air defense and maneuver elements thereby strengthening their self-defense capability and interoperability with U.S. forces. ATACMS mounts on the multiple launch rocket system launcher which Bahrain previously purchased and, therefore, will have no difficulty absorbing these additional systems capabilities.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Lockheed Martin Aeronautics Company of Fort Worth, Texas. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment in-country of an U.S. Government QAT and one contractor representative for a week to accomplish the initial deployment.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 00-16

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The highest level of classified information required to be released for training, operation and maintenance of the Army Tactical Missile System (ATACMS) is Secret. The highest level of classified information which could be revealed through reverse engineering or testing of the missile system is Secret. The hardware for the ATACMS is Unclassified while ATACMS software is Confidential.

2. Specific areas of ATACMS which are not classified but considered sensitive and contain critical technology include the application of low-radar-cross-section material to enhance system survivability, the armored and camouflaged ATACMS container which provides additional protection and reduces vulnerability, the Improved Stabilized Reference Package/Position Determining System (ISRP/PDS), the Payload Interface Module, the Improved Electronics Unit in the launcher and the missile's guidance, payload, propulsion, and control sections.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware in this proposed sale, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advance capabilities.

4. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification. Moreover, the benefits to be derived from this proposed sale, as outlined in the Policy Justification, outweigh the potential damage that could result if the sensitive technology were revealed to unauthorized persons.

[FR Doc. 00–25102 Filed 9–29–00; 8:45 am]
BILLING CODE 5001–10–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Science and Technology Advisory Board Closed Panel Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Science and Technology Advisory Board has been scheduled as follows:

DATES: 10 October 2000 (0800 a.m. to 1700 p.m.).

ADDRESSES: The Defense Intelligence Agency, 3100 Clarendon Blvd, Arlington, VA 22201–5300.

FOR FURTHER INFORMATION CONTACT: Victoria J. Prescott, Executive Secretary, DIA Science and Technology Advisory Board, Washington, DC 20340–1328 (202) 231–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(l), Title 5 of the U.S. Code, and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical matters.

Dated: September 26, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–25101 Filed 9–29–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the DoD Healthcare Quality Initiative Review Panel

AGENCY: Department of Defense.

ACTION: An executive/administration meeting for DoD Healthcare Quality Initiatives Review Panel has been scheduled for October 12 & 13, 2000.

SUMMARY: This notice set forth the meeting of the DoD Healthcare Quality Initiatives Review Panel. Notice of meeting is required under the Federal Advisory Committee Act.

DATES: October 12 & 13, 2000.

ADDRESSES: Sheraton Crystal City, 1800 Jefferson Davis Hwy, Arlington, VA 22202.

TIME: October 12th, 8:00 am to 5:30 pm; October 13th, 8:00 am to 5:30 pm.

FOR FURTHER INFORMATION: Contact Gia Edmonds at (703) 933–8325.

Dated: September 25, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–25099 Filed 9–29–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board (DSB) Task Force on High Energy Laser Weapon Systems Applications will meet in closed session on October 19–20, 2000, at Strategic Analysis Inc., 3601 Wilson Boulevard, Arlington, VA 22201.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will review on-going or proposed programs in high energy laser (HEL) applications; examine recent supporting technology advancements and their applications with respect to supporting military HEL weapon system developments; develop potential military and strategic HEL system applications and identify processes required to implement these potentials; determine what needs to be done to ''weaponize'' these systems; and assess HEL operational concepts, impacts and limitations, considering legal, treaty and policy issues concerning HEL employment.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1994)), it has been determined that these Defense Science Board meetings, concern matters listed in 5 U.S.C. § 552b(c)(1) (1994), and that accordingly these meetings will be closed to the public.

Dated: September 25, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–25100 Filed 9–29–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DOD.

ACTION: Notice to Add a System of Records.

SUMMARY: The Department of the Air Force proposes to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on November 1, 2000 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Air Force Access Programs Manager, Headquarters, Air Force Communications and Information Center/ITC, 1250 Air Force Pentagon, Washington, DC 20330–1250.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 588–6187.

SUPPLEMENTARY INFORMATION: The Department of the Air Force notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 522a(r) of the Privacy Act of 1974, as amended, was submitted on September 19, 2000, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: September 26, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F033 AFCA B

SYSTEM NAME:

Air Force Computer Based Training (CBT) System.

SYSTEM LOCATION:

Defense Information Systems Agency, Regional Support Activity (DISA, RSA–DE/WE 65D), 6760 E. Irvington Place, Denver, CO 80279–8000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty, Air National Guard, Air Force Reserve, civilians and contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Air Force communications and information Computer Based Training (CBT) system course completion, testing results and registration data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force and Air Force Instruction 33–115 V2, Licensing Network Users and Certifying Network Professionals.

PURPOSE(S):

Used as a record of Air Force communications and information Computer Based Training system training completion.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products.

RETRIEVABILITY:

Retrieved by name, student ID, course ID, MAJCOM, and base.

SAFEGUARDS:

Records are accessed by a registered student using student ID and password or by person(s) responsible for servicing the record system in performance of their official duties.

RETENTION AND DISPOSAL:

Disposition pending (until NARA disposition is approved, treat as permanent).

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Training Management Branch, Communications and Information Management Training Branch, Air Force Communications Agency (HQ AFCA/XPFT), 203 W. Losey Street, Scott Air Force Base, IL 62225–5222.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should access the Air Force Computer Based Training System central repository at https://afcbt.den.disa.mil/usafcbt. The Air Force Computer Based Training System only maintains records on registered students.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this record system may review their records by accessing the Air Force Computer Based Training System central repository at https://afcbt.den.disa.mil/usafcbt. The Air Force Computer Based Training System only maintains records on registered students.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 33–332; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from registered students.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 00–25103 Filed 9–29–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Army

Final Environmental Assessment (EA) for BRAC 95 Disposal and Reuse of Fort Hunter Liggett, California

AGENCY: Department of the Army, DoD.

ACTION: Notice of Availability.

SUMMARY: Fort Hunter Liggett will be realigned in accordance with the recommendations of the Base Closure and Realignment Commission, mandated by Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended (the ''BRAC law'').

Under the BRAC law, the Secretary of the Army has the authority to dispose of excess real property and facilities located at a military installation recommended for closure or realignment. The Army prepared an EA pursuant to the National Environmental Policy Act of 1969 to assess the environmental effects of disposal and reuse of the entire installation and reasonable alternatives.

The EA analyzed two alternative courses of action with respect to the surplus property at Fort Hunter Liggett: The no action alternative, under which the property would be placed in indefinite caretaker status, and the encumbered disposal alternative, under which the Army would transfer the property with encumbrances. Additionally, this EA analyzed the potential environmental and socioeconomic consequences of proposed reutilization of excess lands and facilities at Fort Hunter Liggett. The proposed reuses are similar to those for which the property is currently utilized.

The EA concluded that the no action alternative is not reasonable since BRAC law mandates the realignment of Fort Hunter Liggett and retention of only minimum essential facilities and land to support Reserve Component training. The EA also concluded that the encumbered disposal alternative is the only feasible alternative,

The Army's preferred alternative course of action is the encumbered disposal of excess property at Fort Hunter Liggett. Potential encumbrances that could be expected to apply at the time of property transfer include: Continued Army utility easements and rights-of-way, Army access to conduct remedial activities, and notifications concerning properties that possess asbestos-containing materials and lead-based paints.

DATES: Comments must be submitted on or before November 1, 2000.

ADDRESSES: A copy of the Final EA may be obtained by writing to Dr. Neil Robison, U.S. Army Corps of Engineers, U.S. Army Engineer District, Mobile (CESAM–PD), 109 St. Joseph Street, Mobile, AL 36602.

FOR FURTHER INFORMATION CONTACT: Dr. Neil Robison, U.S. Army Corps of Engineers, Mobile District, phone (334) 690–3018 and telefax (334) 690–2605.

SUPPLEMENTARY INFORMATION: The Army analyzed the reuse of Fort Hunter Liggett property in the EA by two federal agencies, the Department of the Navy and the National Park Service.

The Notice of Intent to prepare an EA for the Fort Hunter Liggett BRAC realignment was published in the **Federal Register** on January 28, 1999 (64 FR 4399). Based upon the analysis of the environmental effects of the proposed realignment of Fort Hunter Liggett found in the EA, it has been determined that the implementation of this realignment action would have no significant impacts on the quality of the natural or human environment. Because no significant environmental impacts would result from implementation of the proposed action, an Environmental Impact Statement is not required.

Implementation of the proposed action will result in a Finding of No Signficiant Impact (FNSI).

Prior to initiating the above action, the Army will consider the comments received on this EA.

A copy of the final EA is available for review at the Monterey County Library, King City Branch, King City, CA.

Dated: September 26, 2000.

Richard E. Newsome,

Acting Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I&E).

[FR Doc. 00–25105 Filed 9–29–00; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Notice Seeking Bonding Authority for the Historically Black College and University Capital Financing Program

SUMMARY: The U.S. Department of Education is seeking proposals from businesses interested in applying to be selected by the Secretary to serve as the ''designated bonding authority'' (DBA) under the Historically Black College and University Capital Financing Program. This notice describes the duties of the DBA, the selection criteria, and the application process.

DATES: Notice of intent to submit proposals must be received by October 16, 2000. Proposals must be received by November 1, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Jesse Carter, U.S. Department of Education, Institutional Development and Undergraduate Education Service, Institutional Receivables Team, L'Enfant Plaza Station, P.O. Box 23471, Washington, DC 20026–3471, (202) 502–7777. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact person in the preceding paragraph.

SUPPLEMENTARY INFORMATION: The Historically Black College and University (HBCU) Capital Financing Program, authorized under title III, part D of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1066 *et seq.*) facilitates low-cost capital financing for HBCUs to enable them to continue and expand their educational mission and enhance their significant role in American higher education. Under this program, the U.S. Department of Education provides financial insurance to guarantee up to $375,000,000 in loans and interest to qualifying HBCUs for specified kinds of capital projects. To date, all bonds issued have been purchased by the Federal Financing Bank of the U.S. Treasury.

The Office of the Assistant Secretary for Postsecondary Education is now seeking proposals from any private for-profit organization or entity wishing to serve as the DBA for this program. The DBA issues taxable construction bonds, and plays a central role in administering and executing the program. The DBA works with prospective borrowers to develop loan applications. With the approval of the Secretary, the DBA makes loans after determining, based on a credit review, that there is a reasonable expectation the loans will be repaid according to their terms. The DBA charges a rate of interest adequate to service the bond interest rate, as well as pay various items including fees for services of the DBA, a Trustee, and other parties. Costs of issuance, however, are not to exceed 2 percent of the principal amount of the proceeds of the bonds. The DBA monitors and enforces the loan agreements, including covenants and default provisions.

The DBA also has construction oversight responsibilities (including approval of construction plans, oversight of construction progress, and compliance with Federal and State building codes), and generally is the focal point of information for the HBCU Capital Financing Program. The DBA and other participants in the program are paid only by the operation of the program, and the Federal Government is not responsible for any of their fees.

Security for the bonds issued by the DBA includes investments, program loans, an escrow account funded with 5 percent of loan proceeds, and an insurance agreement executed by the Secretary of Education or his delegate which will, subject to section 343(c)(1) of the HEA, 20 U.S.C. 1066b(c)(1), provide the full faith and credit of the United States to insure the payment of interest and principal on the bonds.

Eligible borrowers under the program are limited to historically black colleges and universities as defined in section 322(2) of the HEA (20 U.S.C. 1061(2)).

The DBA selected by the Department will generally take on the responsibilities of the incumbent designated bonding authority under the Agreement to Insure executed by the Department on November 29, 1994, although the new agreement will be amended to conform with statutory changes made in 1998. Copies of the Agreement to Insure, as well as of the master trust indenture, program financing agreement, and bond purchase agreements currently used in the program, will be provided to all who timely submit a written notice of intent to submit a proposal in accordance with this notice. Also provided will be forms for the loan application, credit criteria, construction loan agreement, and promotional literature as developed by the incumbent DBA.

Specific duties imposed on the DBA by statute generally include, but are not limited to, the following:

- Use the proceeds of the qualified bonds, less costs of issuance not to exceed 2 percent of the principal amount thereof, to make loans to eligible institutions or for deposit into an escrow account for repayment of the bonds;
- Provide in each loan agreement that not less than 95 percent of the loan proceeds will be used to finance the repair, renovation, construction or acquisition of a capital project, or to refinance an obligation the proceeds of which were used for such a capital project;
- Charge such interest on loans, and provide for such a repayment schedule, as will, upon the timely repayment of the loans, provide adequate and timely funds for the payment of principal and interest on the bonds; and require that any payment on a loan expected to be necessary to make a payment of principal and interest on the bonds be due not less than 60 days prior to the date of the payment on the bonds;
- Provide for a prior credit review of the institution receiving the loan and assure the Department that, on the basis of such credit review, it is reasonable to anticipate that the institution will be able to repay the loan in a timely manner;
- Provide in each loan agreement that, if a delinquency results in a funding under the insurance agreement, the institution shall repay the Department, upon terms determined by the Secretary for such funding;
- Assign any loans to the Department, upon demand of the Secretary, if a delinquency has required a funding under the insurance agreement;
- In the event of a delinquency, engage in such collection efforts as the Secretary shall require for a period of not less than 45 days prior to requesting a funding under the insurance agreement;
- Establish an escrow account into which each institution shall deposit 5 percent of the proceeds of any loan made, with each institution required to

maintain in escrow an amount equal to 5 percent of the outstanding principal of all loans made to that institution under the program. The escrow's balance shall be available first to the Secretary for the payment of principal and interest on the bonds in the case of a delinquency in loan repayment. Following scheduled repayment of an institution's loan, the balance shall be used to return to the institution an amount equal to any remaining portion of that institution's 5 percent deposit of loan proceeds; and

• Provide in each loan agreement that if a delinquency results in a withdrawal from the escrow account to pay principal and interest on bonds, subsequent payments on such loan shall be available to replenish the escrow account.

Criteria for Selection

The Secretary will select the DBA upon consideration of the following criteria:

1. *Support of Minority Participation.* In accordance with section 348 of the HEA (20 U.S.C. 1066g), the extent to which the proposer, in its employment, subcontracting and partnering activities, encourages applications from members of groups that have been traditionally underrepresented based on race, color, national origin, gender, age, or disability, will be a positive factor.

2. *Existence of trained staff to perform the various duties of the DBA.* It will be a positive factor if the proposer will use existing trained resources, as opposed to having to hire and train new personnel and obtain new systems. Staff knowledge in the areas of bond financing, higher education credit, evaluation of security and collateral, program management, construction oversight (including knowledge of State and Federal building codes and standards), and loan servicing will be positive factors.

3. *Capacity to manage the issuance of a large offering of debt securities* to the Federal Financing Bank pursuant to a direct placement. It will be a positive factor if the proposer is a regular participant in the capital markets, using similar financing structures as described in the Agreement to Insure between the Department and the existing DBA.

4. *Financial position and stability relative to industry norms.* It will be a positive factor if the proposer is a mature, stable corporation with favorable trends in key financial strength indicators like net worth and stable earnings.

5. *Approach in performing the requirements of the program.* It will be a positive factor if the proposer presents a well thought out approach to the program, and thorough familiarity with the documentation used in the program. Suggestions for change in program documentation and administration will be entertained. Extra credit will be applied where positive innovation is displayed over and above the proposal requirements.

6. *Experience and resources available and commitment to providing business development services.* It will be a positive factor if the proposer currently undertakes similar business development functions as those required under the DBA agreement. Ideas for business development which are included in the proposal will be positive factors.

7. *Past performance on previous Federal Government contracts.* Good prior performance on Federal Government contracts, and familiarity with the particular requirements of the Federal Government, will be a positive factor.

8. *Demonstrated history and ability in addressing the special needs of HBCUs.* It will be a positive factor if the proposer can demonstrate that it has extensive experience working closely and successfully with HBCUs. Particularly helpful will be activities related to the HBCUs' educational mission; or to improvement of HBCUs' facilities; or to HBCUs' financial planning.

9. *Detailed cost proposal, including the approach of the cost proposal.* Separation of fees, including separate pricing for promotion, financing, loan review, construction oversight, ongoing servicing, program monitoring and program administration, will connote an understanding of the various tasks, and will be a positive factor. Statements indicating the proposer's willingness to promote the program, realizing that payment of fees is contingent on making the loans to HBCUs, will be a positive factor.

10. *Corporate authority and ability to comply with for-profit requirement.* The proposer must have full corporate authority to perform the functions of the DBA. If the proposer will be a special, for-profit subsidiary of a not-for-profit entity and proposes to enter into a long-term contract with the not-for-profit, under which the not-for-profit will perform all or some of the actual tasks, we will assess the relationship proposed to make sure it is workable over the long-term. Agreements that are unconditional will be positive, and agreements with extensive conditions will be negative.

11. *Cohesiveness with any subcontractors.* It is possible that a proposer may seek to use subcontractors in performing the duties under the DBA agreement. Such arrangements will be reviewed in light of how extensive the subcontractor's role would be, and the ability of the contractor to replace a subcontractor for cause. An arrangement in which a subcontractor performs a discrete function, and receives specific identifiable compensation, will receive a more positive rating than an arrangement with a subcontractor in which tasks and compensation are shared between the contractor and the sub-contractor.

12. *No conflict of interest.* We will not consider any proposal that indicates an actual or apparent conflict of interest.

13. *Senior management stability:* It will be a positive factor if the senior management of the proposer is experienced and stable.

Selection Process

Firms interested in submitting proposals must send a written notice of their intent, postmarked on or before October 16, 2000, to Mr. Jesse Carter, U.S. Department of Education, Institutional Development and Undergraduate Education Service, Institutional Receivables Team, L'Enfant Plaza Station, P.O. Box 23471, Washington, D.C. 20026–3471, or the notice of intent may be faxed on or before 3:00 p.m. on October 16, 2000 to Mr. Carter at (202) 502–7861. Telephone requests are not acceptable. All requests must include the company name, address, telephone number, e-mail address, fax number, and point of contact. The Department will then supply the firm with copies of the current DBA agreements, forms and documentation described above.

The proposer must deliver, by mail postmarked on or before November 1, 2000, eight (8) copies of its written proposal to Mr. Carter at the above address.

Consideration of all proposals submitted will be based on the 13 criteria listed. Department staff will rank the proposers quantitatively after giving each criterion a score of 1 to 10, with 1 being generally unfavorable and 10 being generally favorable. Highest ranking proposers will be contacted for an oral interview, currently scheduled for the third week after the closing date for submission of written proposals.

Final selection will be made by the Secretary, upon consideration of the highest ranking proposals in light of the 13 criteria and of staff recommendations. Selection is expected to be completed within approximately ten weeks of the date of this notice.

Proposal Content

The proposal must state that the proposer has the legal corporate authority to perform all of the services covered by the DBA agreement.

The proposal must contain assurances that no conflicts of interest or apparent conflicts of interest exist. The proposal must describe the review and analysis that led the proposer to this conclusion. The proposer must include in its proposal resumes of owners and proposed program managers.

The proposal must describe the proposer's experience with respect to each of the DBA's tasks as described in this notice, including in particular any current relevant experience the proposer may have. The proposal must discuss existing resources available to perform these duties, and the need (if any) to hire and train additional staff. Since the DBA is expected to perform these duties for an extended period, the proposal must discuss similar programs and tasks which the proposer currently expects to perform for an extended period.

The proposal must include the proposer's approach to performing each of the DBA's tasks, and must reflect the proposer's review and understanding of the current program documents and processes. Innovative presentations will convey the proposer's understanding of the proposed duties and will be favorably received.

The proposal must also include information with respect to the proposer's financial strength and copies of the proposer's last five annual audited financial statements. The proposal must contain factors that assure the proposer's existence for an extended period, including, for example, issuance of other long-term non-callable debt, or other long-term ventures which will require the long-term existence of the company.

The proposal must discuss the proposer's history in working with HBCUs, particularly with respect to experience relating to HBCU physical facilities, financial planning, and the HBCUs' educational mission. It must also describe actions the proposer has taken and plans the proposer has made for recruiting and outreach programs to insure a diverse applicant pool in the proposer's employment, subcontracting, and partnering activities, as well as the success the proposer has achieved in attracting diverse applicants.

Since the Department desires that the HBCU Capital Financing Program not experience any lapse in its outreach efforts, the proposer's demonstrated ability to become fully operational as the DBA immediately upon appointment will be important. The appointment will become effective as of the date of expiration of the incumbent DBA's appointment, which will occur in mid-December, 2000.

Electronic Access to This Document

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http://ocfo.ed.gov/fedreg.htm
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Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at:

http://www.access.gpo.gov/nara/index.html

Dated: September 27, 2000.

Claudio R. Prieto,

Acting Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 00–25280 Filed 9–28–00; 11:57 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.316A]

Office of Postsecondary Education, Native Hawaiian Higher Education Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2001

Purpose of Program: To provide grants for programs of baccalaureate and post-baccalaureate fellowship assistance to Native Hawaiian students.

Eligible Applicants: Eligible applicants are Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, as defined in section 9212 of the Elementary and Secondary Education Act.

Deadline for Transmittal of Applications: December 15, 2000.

Deadline for Intergovernmental Review: February 13, 2001.

Applications Available: November 1, 2000.

Available Funds: $2,700,000. The estimated amount of funds available for new awards under this competition is based on the Administration's request for this program for FY 2001. The actual level of funding, if any, is contingent on final congressional action.

Estimated Range of Awards: $700,000–$1,400,000.

Estimated Average Size of Awards: $900,000 per year.

Estimated Number of Awards: 3.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, and 99; and (b) Because there are no program-specific regulations, applicants are encouraged to read the authorizing statute for the Native Hawaiian Higher Education Program in sections 9206 and 9212 of the Elementary and Secondary Education Act.

For Applications or Information Contact: Susanna Easton or Gale Holdren, Native Hawaiian Higher Education Program, U.S. Department of Education, International Education and Graduate Programs Service, 1990 K Street NW, Suite 600, Washington, DC 20006–8521. Ms. Easton's telephone number is (202) 502–7628. Ms. Holdren's telephone number is (202) 502–7691. Ms. Easton and Ms. Holdren may be reached by email at:

susanna_easton@ed.gov
gale_holdren@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 appropriate contact persons listed in the preceding paragraph. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Electronic Access to This Document

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To use PDF you must have Adobe Acrobat Reader, which is available free at either of the previous sites. If you

have any questions about using PDF, call the U.S. Government Printing Office (GPO) toll free, at 1–888–293–6498; or in the Washington, DC area, at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at:

http://www.acess.gpo.gov/nara/index.html

Program Authority: 20 U.S.C. 7906.

Dated: September 26, 2000.

A. Lee Fritschler,

Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 00–25187 Filed 9–29–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board, Paducah. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, October 19, 2000: 5:30 p.m.–9:00 p.m.

ADDRESSES: Paducah Information Age Park Resource Center, 2000 McCracken Boulevard, Paducah, Kentucky.

FOR FURTHER INFORMATION CONTACT: John D. Sheppard, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6804.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration and waste management activities.

Tentative Agenda:

5:30 p.m.—Informal Discussion
6:00 p.m.—Call to Order
6:10 p.m.—Approve Minutes
6:20 p.m.—Presentations, Board Response, Public Comments
8:00 p.m.—Subcommittee Reports, Board Response, Public Comments
8:30 p.m.—Administrative Issues
9:00 p.m.—Adjourn

Copies of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact John D. Sheppard at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments as the first item of the meeting agenda.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Environmental Information Center and Reading Room at 175 Freedom Boulevard, Highway 60, Kevil, Kentucky between 8:00 a.m. and 5:00 p.m. on Monday thru Friday or by writing to John D. Sheppard, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001 or by calling him at (270) 441–6804.

Issued at Washington, DC on September 27, 2000.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 00–25257 Filed 9–29–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Bonneville Power Administration's Proposed Adjustment to the 1996 Unauthorized Increase Charge, Public Hearing, and Opportunity for Public Review and Comment

AGENCY: Bonneville Power Administration, DOE.

ACTION: Notice of proposed adjustment to the 1996 unauthorized increase charge. BPA File No: UAI–96R.

SUMMARY: The Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act) provides that Bonneville Power Administration (BPA) must establish and periodically review its rates so that they are adequate to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, and to recover the Federal investment in the Federal Columbia River Power System (FCRPS) and other costs incurred by BPA.

By this notice, BPA announces its proposed adjustment to the 1996 Unauthorized Increase Charge. The Unauthorized Increase Charge is a penalty charge that applies to any purchaser taking demand and/or energy in excess of its contractual entitlement. The 1996 Unauthorized Increase Charge was set at a level intended to deter customers who had their own generation or a contract obligation to supply power to their load from exceeding their BPA contractual entitlements to Federal power. However, since 1996 a robust wholesale market for power has developed which has recently produced high and volatile prices. These market changes render the current level of the 1996 Unauthorized Increase Charge for energy and demand inadequate to deter customers from taking demand and energy in excess of the amount of Federal power to which they are contractually entitled. This action is to adjust the 1996 Unauthorized Increase Charge so that it will operate as intended—as a penalty charge, rather than as an attractive alternative to purchasing power at existing wholesale power market prices.

DATES: Proposed hearing dates are supplied in Supplementary Information, Section I.C. Close of public comments is November 15, 2000.

ADDRESSES: Written comments should be submitted to: Mr. Michael Hansen, Public Involvement and Information Specialist; Bonneville Power Administration; P.O. Box 12999; Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Interested persons may also call (503) 230–4328 or call toll-free 1–800–622–4519. Documents will be available for public viewing after October 6, 2000, at BPA's Public Information Center, BPA Headquarters Building, 1st Floor; 905 NE. 11th, Portland, Oregon, and will be provided to parties at the prehearing conference to be held on October 6, 2000, from 9 a.m. to 12 p.m., Room 223, 911 NE. 11th, Portland, Oregon. The documents will also be available on BPA's website at www.bpa.gov/power/ratecase. Ms. Diane Cherry, Power Rates Process Manager, is the official responsible for the development of BPA's rates. Ms Cherry may be contacted as indicated above.

SUPPLEMENTARY INFORMATION:

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A. Distinguishing Between ''Participants'' and ''Parties'
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C. Developing the Record
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PART I—INTRODUCTION AND PROCEDURAL BACKGROUND

A. Relevant Statutory Provisions Governing This Rate Proceeding

Section 7 of the Northwest Power Act, 16 U.S.C. 839e, contains a number of general directives that the BPA Administrator must consider in establishing rates for the sale of electric energy and capacity. In particular, section 7(a)(1), 16 U.S.C. 839e(a)(1), provides in part that:

> [S]uch rates shall be established and, as appropriate, revised to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, including the amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to this Act and other provisions of law.

Rates established by BPA are effective on an interim or final basis when approved by FERC. 16 U.S.C. 839e(a)(2). In addition to the Northwest Power Act, BPA ratemaking is governed by the Bonneville Project Act, 16 U.S.C. 832 *et seq.*, the Federal Columbia River Transmission System Act, 16 U.S.C. 838 *et seq.*, and the Flood Control Act of 1944, 16 U.S.C. 825 *et seq.*

Section 7(i) of the Northwest Power Act, 16 U.S.C. 839e(i), requires that BPA's rates be set according to certain procedures. These procedures include issuance of a **Federal Register** notice announcing the proposed rates; one or more hearings; the opportunity to submit written views, supporting information, questions, or arguments; and a decision by the Administrator based on the record developed during the hearing process. This proceeding will be governed by BPA's ''Procedures Governing Bonneville Power Administration Rate Hearings,'' 51 FR 7611 (March 5, 1986), which implement and, in most instances, expand these statutory requirements. Pursuant to Rule 1010.3(c) of the Procedures Governing Bonneville Power Administration Rate Hearings (BPA Procedures), this hearing will be conducted under Rule 1010.10, which governs Expedited Rate Proceedings. The expedited procedures will be used rather than the procedures for General Rate Proceedings conducted under Rule 1010.9. The procedures for General Rate Proceedings are intended for use when the Administrator proposes to revise all, or substantially all, of BPA's wholesale power and transmission rates.

The proposed adjustment of the 1996 Unauthorized Increase Charge (UAI) is a change in the level of the penalty charge which is added to other rates. The adjustment includes a change in the applicability of the UAI to existing 1996 rate schedules. It will be applicable to any customer providing nonfederal power to serve any portion of its consumer's load, but in the very limited circumstance of the customer's failure to supply or exceedence of its right to take power under its BPA contracts. Therefore, the issues in this rate proceeding will be fewer and of more limited scope than the issues in a proceeding to adjust all BPA rates. BPA believes that the 90-day Expedited Rate Proceeding will be adequate to develop a full and complete record and to receive public comment and argument related to the proposed adjustment. If more time is required, the Hearing Officer may request under Rule 1010.10(b) of the BPA Procedures that the BPA Administrator grant an extension.

B. Procedure/Background

On July 17, 1995, BPA filed a notice in the **Federal Register** proposing new wholesale power and transmission rates to be effective on October 1, 1996, including the UAI. BPA's initial rate proposal was filed on July 10, 1995, and was supported by written testimony and studies. Parties to the proceeding filed their rebuttal to BPA's direct case and their own direct testimony on September 8, 1995. On December 8, 1995, litigants filed rebuttal to the Parties' direct cases. BPA also filed a supplemental rate proposal on December 8, 1995, which consisted of written testimony and studies.

Parties filed their direct cases in response to BPA's supplemental rate proposal on January 26, 1996. Testimony responding to the Parties' supplemental cases was filed on February 12, 1996. Surrebuttal testimony was filed by all Parties on February 14, 1996. The Parties filed their prehearing briefs on February 12, 1996. Cross-examination began on February 20, 1996. Parties submitted initial briefs on April 22, 1996. Oral argument before the BPA Administrator and Deputy Administrator was held on April 30, 1996.

A Draft Record of Decision (ROD) was published and distributed to parties on May 14, 1996. Parties filed briefs on exceptions on May 30, 1996. BPA published its Final ROD on June 17, 1996.

BPA filed its proposed rates, including the UAI, with the Federal Energy Regulatory Commission (FERC) on July 26, 1996. On September 25, 1996, FERC granted interim approval of the proposed rates effective October 1, 1996. On July 30, 1996, FERC issued an order granting final confirmation and approval of BPA's rates.

C. Proposed Schedule Concerning This Rate Proceeding

BPA will release its proposed 1996 Revisions on October 6, 2000, and expects to publish a final Record of Decision on December 29, 2000. The following proposed schedule is provided for informational purposes. A final schedule will be established by the Hearing Officer at the prehearing conference.

Date	Action
October 4	Deadline for Petitions to Intervene.
October 6	Prehearing Conference.
October 12	Data Requests on BPA's Direct Case.
October 19	Data Responses Due.
October 27	Parties' Direct Cases and Rebuttal to BPA's Direct Case.
November 3	Data Requests on Parties' Direct Cases.
November 10	Data Responses Due.
November 17	Parties' Rebuttal.
November 24	Cross-Examination.
December 1	Initial Briefs.
December 15	Draft Record of Decision.
December 22	Briefs on Exceptions.
December 29	Final Record of Decision.

The procedural schedule established for Docket No. UAI–96R will provide an opportunity for interested persons to review BPA's proposed rates, to participate in the rate hearing, and to submit oral and written comments. During the development of the final rate proposal, BPA will evaluate all written and oral comments received in the rate proceeding. Consideration of comments and more current data may result in the final rate proposal differing from the rates proposed in this Notice.

Part II—Purpose and Scope of Hearing

The purpose and scope of the hearing is to correct the 1996 UAI. BPA proposes to adjust upward the level of the charge to reflect wholesale power market price volatility. Such an adjustment will ensure that it operates as intended as a penalty that deters BPA customers from taking more Federal power than allowed under the terms of their BPA power purchase contracts. Therefore, BPA proposes the use of a market price index that will cause adjustments to the 1996 UAI for energy and demand to account for market price volatility.

A. The Circumstances Necessitating Adjustment

Since 1996, a robust wholesale power market has developed in which the 1996 UAI simply does not perform as intended. Recent experience in the Northwest power market clearly indicates that the 1996 UAI of 100 mills for energy is no longer an effective deterrent. For example, average daily prices for firm Heavy Load Hours (HLH) energy at Mid-Columbia exceeded 100 mills on 59 days from May 1, 2000 to August 31, 2000. During this 4-month period average daily HLH energy prices exceeded 300 mills on 8 days. And the highest daily HLH price recorded during this period was 628 mills on June 27, 2000. This market price level has the result of making the UAI charge an attractive price rather than a deterrence, contrary to its designed purpose. BPA's proposed adjustment to these charges would give BPA the ability to assess charges that reflect the volatility of the market in periods in which the market price for power exceeds the minimum UAI for energy and demand. This penalty rate would then continue to be effective as a deterrence. Without this modification, the UAI charge may be an attractive alternative price to the market price for some BPA customers. If this happens, BPA may face power demands far in excess of its planned system capability. This could result in a significant erosion of BPA's financial position and an inability to recover its costs and repay the U.S. Treasury.

B. Scope

Pursuant to Rule 1010.3(f) of BPA's Procedures, the Administrator limits the scope of this hearing to issues respecting the 1996 UAI as described in Section II hereof.

C. NEPA Evaluation

BPA has assessed the potential environmental effects of its rate proposal, as required by the National Environmental Policy Act (NEPA), as part of BPA's Business Plan Environmental Impact Statement (EIS). The analysis includes an evaluation of the environmental impacts of a range of rate design alternatives for BPA's power services and an analysis of the environmental impacts of the rate levels resulting from the rates for such services under the business structure alternatives. BPA's proposal to revise the 1996 UAI falls within the range of alternatives evaluated in the Final Business Plan EIS. Comments on the Business Plan EIS were received outside the formal rate hearing process, but will be included in the rate case record and considered by the Administrator in making a final decision establishing BPA's revisions to the 1996 rate schedules. The Business Plan EIS was completed in June 1995.

Part III—Public Participation

A. Distinguishing Between ''Participants'' and ''Parties''

BPA distinguishes between ''participants in'' and ''parties to'' the hearings. Apart from the formal hearing process, BPA will receive comments, views, opinions, and information from ''participants,'' who are defined in the BPA Procedures as persons who may submit comments without being subject to the duties of, or having the privileges of, parties. Participants' written and oral comments will be made part of the official record and considered by the Administrator. Participants are not entitled to participate in the prehearing conference; may not cross examine parties' witnesses, seek discovery, or serve or be served with documents; and are not subject to the same procedural requirements as parties.

Written comments by participants will be included in the record if they are submitted on or before November 15, 2000. Participants' written views, supporting information, questions, and arguments should be submitted to the address noted above. The second category of interest is that of a ''party'' as defined in Rules 1010.2 and 1010.4 of the BPA Procedures. 51 FR 7611 (1986). Parties may participate in any aspect of the hearing process.

B. Petitions for Intervention

Persons wishing to become a party to BPA's rate proceeding must notify BPA in writing of their interest. Petitioners may designate no more than two representatives upon whom service of documents will be made. Petitions to intervene shall state the name and address of the person requesting party status and the person's interest in the hearing.

Petitions to intervene as parties in the rate proceeding are due to the Hearing Officer by October 4, 2000. The petitions should be directed to: Kimberly J. Maki, Hearing Clerk—LP–7, Bonneville Power Administration, 905 NE. 11th Ave., P.O. Box 12999 Portland, Oregon 97232.

Petitioners must explain their interests in sufficient detail to permit the Hearing Officer to determine whether they have a relevant interest in the hearing. Pursuant to Rule 1010.1(d) of BPA's Procedures, BPA waives the requirement in Rule 1010.4(d) that an opposition to an intervention petition be filed and served 24 hours before the prehearing conference. Any opposition to an intervention petition may instead be made at the prehearing conference. Any party, including BPA, may oppose a petition for intervention. Persons who have been denied party status in any past BPA rate proceeding shall continue to be denied party status unless they establish a significant change of circumstances. All timely applications will be ruled on by the Hearing Officer. Late interventions are strongly disfavored. Opposition to an untimely petition to intervene shall be filed and received by BPA within two days after service of the petition.

C. Developing the Record

Cross-examination will be scheduled by the Hearing Officer as necessary following completion of the filing of all parties' and BPA's direct cases, rebuttal testimony, and discovery. Parties will have the opportunity to file initial briefs at the close of any cross-examination. After the close of the hearings, and following submission of initial briefs, BPA will issue a Draft ROD that states the Administrator's tentative decision(s). Parties may file briefs on exceptions, or when all parties have previously agreed, oral argument may be substituted for briefs on exceptions. When oral argument has been scheduled in lieu of briefs on exceptions, the argument will be transcribed and made part of the record. The record will include, among other things, the transcripts of any hearings, written material submitted by the participants, and evidence accepted into the record by the Hearing Officer. The Hearing Officer then will review the record, supplement it if necessary, and certify the record to the Administrator for decision.

The Administrator will develop the final adjusted 1996 UAI based on the entire record. The basis for the final adjustment will be expressed in the Administrator's Final ROD. The Administrator will serve copies of the

ROD on all parties and will file the final proposed rate adjustment, together with the record, with FERC for confirmation and approval. See generally, 18 CFR Part 300.

Part IV—Summary of the Proposal

BPA proposes to adjust the 1996 UAI to reflect changes in the market rate for power by adoption of a market-index basis for the charge. The UAI is intended as a penalty rate to deter a customer from taking more Federal power than it is entitled to purchase from BPA under its contracts. The charge will apply to all customers supplying power from generation resources or power purchases from the market. The modification will prevent the charge, now a fixed charge, from becoming an attractive price alternative when the market price is higher.

Below is the revised 1996 Unauthorized Increase Charge.

Delete Section II.R of the GRSPs in the 1996 Wholesale Power and Transmission Rate Schedules, and replace with the following:

1. Charge for Unauthorized Increase in Demand

The amount of Measured Demand during a billing hour that exceeds the amount of demand the purchaser is contractually entitled to take during that hour shall be billed at the greater of:

a. Three (3) times the applicable monthly demand charge;

b. The sum of hourly California ISO Spinning Reserve Capacity prices for all HLHs in the month, at path NW1 (COB); or

c. The sum of hourly California ISO Spinning Reserve Capacity prices for all HLHs in the month, at path NW3 Nevada-Oregon Border (NOB).

2. Charge for Unauthorized Increase in Energy

The amount of Measured Energy during a diurnal period of a billing month, day, or hour that exceeds the amount of energy the purchaser is contractually entitled to take during that period shall be billed the greater of:

a. One hundred (100) mills/kWh; or

b. For the month in question, the greater of:

(1) The highest diurnal DJ Mid-C Index price for firm power; or

(2) The highest hourly ISO California Supplemental Energy price (NP15).

The DJ Mid-C Index definitions for HLH's (or peak) and LLH's (or off-peak) will be adjusted, as necessary, to be consistent with (comport with) BPA's definitions for HLH and LLH periods.

In the event that either the ISO California Supplemental Energy price index or the DJ Mid-C Index expires, the index will be replaced for purposes of the Unauthorized Increase Charge for energy by:

(1) The highest price experienced for the month at the CalPX, NW1 (COB);

(2) The highest price experienced for the month at the CalPX, NW3 (NOB).

Add the following to Section II.A.6.1, Section II.B.6.1, Section II.C.3.1, and Section II.E.7.1 of the 1996 Priority Firm Rate Schedule; Section II.A.5.1, Section II.B.6.1, and Section II.D.7.1 of the 1996 New Resource Firm Power Rate Schedule; and Section II.C.7.1 of the 1996 Industrial Firm Power Rate Schedule:

Rate adjustment	Section
Unauthorized Increase Charge	II.R

Issued in Portland, Oregon, on September 19, 2000.

Judith A. Johansen,

Administrator and Chief Executive Officer.

[FR Doc. 00–25256 Filed 9–29–00; 8:45 am]

BILLING CODE 6450–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–468–000]

El Paso Natural Gas Company; Notice of Application

September 26, 2000.

Take notice that on September 21, 2000, El Paso Natural Gas Company (El Paso), whose mailing address is Post Office Box 1492, El Paso, Texas 79978, filed an application at Docket No. CP00–468–000, pursuant to Section 7(b) of the Natural Gas Act (NGA), for permission and approval to abandon by removal or in place, existing pipeline facilities and for a certificate of public convenience and necessity to relocate pipeline facilities, all in Maricopa County, Arizona, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.us/online/rims.htm* (call 202–208–2222).

El Paso states that its existing 10¾-inch Tucson-Phoenix Line (Line 1007) and Tucson-Phoenix Loop Line (Line 1008) traverse land that is currently under development by Tait Development, Inc. (Tait). It is indicated that Tait has advised El Paso that this development will involve, among other things, the construction of multi-story office buildings, roads, and parking lot facilities, all of which will encroach upon El Paso's easement and/or pipeline. It is then stated that, in recognition of the concerns present with an active natural gas pipeline in operation in the immediate construction area, the developer has requested El Paso to relocate the segment of pipe away from the construction area, and will grant El Paso a new easement adjacent to a road being constructed around the subdivision. El Paso states it has agreed to the developer's proposal, and proposes authorization to relocate its pipeline.

El Paso states that, normally, this project could easily be accomplished under its Part 157 blanket certificate as a miscellaneous rearrangement under Section 157.208 of the Commission's Regulations. However, it is stated that Line 1007 was recently determined by the Arizona State Historical Preservation Office (SHPO) to be eligible for historic designation under Section 106 of the National Historic Preservation Act, and consequently, El Paso cannot obtain the necessary ''no-effect'' determination required from the SHPO to permit this activity to be performed under the Commission's Part 157, Subpart F regulations.

El Paso now seeks case specific authorization for the project because the historical designation given Line No. 1007 also requires that, as part of the Commission's processing of the application, that a Programmatic Agreement (PA) be developed. El Paso indicates that the PA is the environmental document designed to specifically address the protocol for any project disturbing this facility, together with agreed upon documentation, photographs, and studies to record the historical aspects of the facility. El Paso also indicates that, based on the circumstances surrounding the project, it seeks expedited processing of the application, with the use of a memorandum of agreement (MOA) rather than a PA and for the issuance of an order approving the project prior to October 15, 2000. El Paso estimates total project costs of $175,122, to be reimbursed 50 percent by the developer.

Any questions regarding this application should be directed to Mr. A.W. Clark at (915) 496–2600.

Any person desiring to be heard or to make protest with reference to said application should on or before October 6, 2000, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214) and the regulations under the Natural

Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for El Paso to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 00–25112 Filed 9–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–466–000]

Dominion Transmission, Inc., Notice of Application

September 26, 2000.

Take notice that on September 20, 2000, Dominion Transmission, Inc. (Dominion), formerly CNG Transmission Corporation, 445 West Main Street, Clarksburg, WV 26301, filed in Docket No. CP00–466–000, an application pursuant to Section 7(b) of the Natural Gas Act (NGA) and Part 157 of the Federal Energy Regulatory Commission's (Commission) Regulations for permission and approval to abandon its storage well AW–9476, which is located in the Fink-Kennedy/Lost Creek storage complex in Lewis County, West Virginia, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm.* Call (202) 208–2222 for assistance.

Dominion states that, on September 18, 2000, the storage was discovered to be venting gas and efforts were begun to plug the well. Dominion also states that remediation of the well, which has been operational since 1950, is not feasible, or prudent for safety reasons, and would not be economically efficient. Finally, Dominion states that abandonment of well AW–9476 will not result in any change in the operation or design capacity of its system and that service to its customers will not be affected.

If there are any further questions regarding this project, the following individual may be contacted: Sean R. Sleigh, Certificates manager, Dominion Transmission, Inc., 445 West Main Street, Clarksburg, WV 26301, at (304) 623–8462.

Any person desiring to be heard or to make any protest with reference to said application should, on or before October 17, 2000, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC., 20426, a protest or motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure 918 CFR 385.211 or 385.214) and the Regulations Under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rule.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this document if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval of the proposed abandonment is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Dominion to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 00–25111 Filed 9–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–555–000]

Dominion Transmission, Inc.; Notice of Tariff Filing

September 26, 2000.

Take notice that on September 22, 2000, Dominion Transmission, Inc. (DTI) (formerly CNG Transmission Corporation) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 and Second Revised Volume No. 1A, revised tariff volumes to reflect the corporate name change effective April 11, 2000.

DTI states that copies of the filing have been served on DTI's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with 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. 00–25117 Filed 9–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–556–000]

East Tennessee Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

September 26, 2000.

Take notice that on September 22, 2000, East Tennessee Natural Gas Company (East Tennessee) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed in Appendix A to the filing, to be effective October 15, 2000.

East Tennessee states that, on March 14, 2000, East Tennessee was acquired from El Paso Energy (El Paso) and became a wholly-owned subsidiary of Duke Energy Corporation (Duke). East Tennessee states that, pursuant to the Stock Purchase Agreement, El Paso entered into a Transition Agreement to ensure the smooth operation of the East Tennessee pipeline system for a period of up to nine months from the closing date (transition period). East Tennessee states that, during the transition period, East Tennessee's customers continued to use El Paso's electronic interface system (PASSKEY) to conduct their daily business activities while Duke made the necessary changes to implement the LINKr Customer Interface System for East Tennessee.

East Tennessee states that this filing: (1) reflects the implementation of the LINKr System for East Tennessee effective on October 15, 2000, (2) updates East Tennessee's mailing addresses and contact information, and (3) corrects certain tariff provisions to reflect appropriate cross references to other tariff provisions.

East Tennessee states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, 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 in 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. 00–25118 Filed 9–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG00–238–000]

Celerity Energy of New Mexico, LLC; Notice of Amendment to Application for Commission Determination of Exempt Wholesale Generators Status

September 26, 2000.

Take notice that on September 14, 2000, Celerity Energy of New Mexico, LLC, having its principal place of business at 500 Fourth Street, NW, Suite 1000, Alburquerque, New Mexico 87102, filed with the Federal Energy Regulatory Commission (Commission) an amendment to its application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

The Applicant, a New Mexico limited liability company, seeks exempt wholesale generator status for its Networked Distributed Resource (NDR) facilities. NDR facilities aggregate commercial and industrial standby generators to provide electric energy for sale at wholesale.

Any person desiring to be heard concerning the amended application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 888 First Street, N.E., 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). The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the amended application. All such motions and comments should be filed on or before October 3, 2000, and must be served on the applicant. 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 or on the Internet at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25113 Filed 9–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–2–004]

Overthrust Pipeline Company; Notice of Tariff Filing

September 26, 2000.

Take notice that on September 22, 2000, Overthrust Pipeline Company (Overthrust) tendered for filing, as part of its FERC Gas Tariff, First Revised Volume No. 1–A, following tariff sheets, with an effective date of April 1, 2000:

Sixth Revised Sheet No. 4

On July 28, 2000, Overthrust filed tariff sheets pursuant to Section 4 of the Natural Gas Act, Part 154 of the Commission's Regulations, as part of Overthrust's settlement, to be effective April 1, 2000, (the July 28 filing). Substitute Third Revised Sheet No. 4, which was included in the July 28 filing, is being refiled as Sixth Revised Sheet No. 4 for the purpose of re-pagination and to include revisions resulting from an interim tariff filing approved August 1, 2000, under a separate proceeding in Docket No. RP00–384–000.

Overthrust states that a copy of this filing has been served upon Overthrust's customers, the Wyoming Public Service Commission and the Utah Division of Public Utilities.

Any person desiring to protest filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed 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. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the web at http://

www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25115 Filed 9–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–558–000]

Overthrust Pipeline Company; Notice of Tariff Filing

September 26, 2000.

Take notice that on September 22, 2000, Overthrust Pipeline Company (Overthrust) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to be effective October 23, 2000.

First Revised Volume No. 1–A
Third Revised Sheet No. 2
Fourth Revised Sheet No. 76

By this filing, Overthrust proposes to modify its tariff for clarification purposes as described below.

On March 24, 2000, Questar Pipeline Company bought Enron Overthrust Pipeline Company's interest in the Overthrust partnership resulting in Enron's removal from the general partnership, effective January 1, 2000. This filing reflects that removal.

In addition, Overthrust is proposing to clarify and simplify its language on affiliate relationships in order to reflect compliance with Section 161.3(h)(2) of the Commission's Regulations as they have been revised by Order No. 637 to require pipeline companies to post on its Internet Web Site, operating personnel and facilities shared by the company and any marketing affiliate, and update the information within three business days of any change.

Overthrust states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25120 Filed 9–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–560–000]

Questar Pipeline Company; Notice of Tariff Filing

September 26, 2000.

Take notice that on September 22, 2000, Questar Pipeline Company (Questar) tendered for filing as part of its FERC Gas Tariff, the following sheets, with an effective date of October 1, 2000:

First Revised Volume No. 1

Seventeenth Revised Sheet No. 5

Original Volume No. 3

Twenty-Sixth Revised Sheet No. 8

Questar states that the filing is being made to reduce its Fuel Gas Reimbursement Percentage (FGRP) effective October 1, 2000. Questar has requested waiver of its Fuel Gas Reimbursement and Tracking provision (Section 12.14) to the General Terms and Conditions of Part 1 of its FERC Gas Tariff and 18 CFR 154.403 to revise its FGRP outside the normal filing schedule. The proposed tariff sheets reflect a revised FGRP of 1.4 percent, replacing the currently effective 2.1 percent.

Questar states that a copy of this filing has been served upon Questar's customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 of 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25122 Filed 9–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–559–000]

Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

September 26, 2000.

Take notice that on September 22, 2000, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective November 1, 2000:

First Revised Sheet No. 71
First Revised Sheet No. 72
First Revised Sheet No. 74
First Revised Sheet No. 75
First Revised Sheet No. 76
Original Sheet No. 77
Original Sheet No. 78
Second Revised Sheet No. 311
First Revised Sheet No. 317

REGT states that the purpose of this filing is to implement an in-kind option for Shippers electing service under REGT's Rate Schedule ANS.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25121 Filed 9–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP95–168–004]

Sea Robin Pipeline Company; Notice of Compliance Filing

September 26, 2000.

Take notice that on August 25, 2000, Sea Robin Pipeline Company (Sea Robin) tendered for filing, as part of its FERC Gas Tariff, First Revised Volume No. 1, pro forma tariff sheets to comply with Ordering Paragraph (C) of the Federal Energy Regulatory Commission's June 30, 1999, order in the referenced docket. The pro forma tariff sheets modify Sea Robin's General Terms and Conditions and Rate Schedule's FTS, FTS–2, and ITS to separately state gathering and transmission costs, since it was determined that facilities upstream of the compressor station on the Vermillion 149 platform performed a gathering function.

Sea Robin states that a copy of this filing is available for public inspection during regular business hours at Sea Robin's office at 5444 Westheimer Road, Houston, Texas 77056–5306. In addition, copies of this filing are being served on parties to the proceeding and appropriate state regulatory agencies.

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 October 6, 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). Applicant's designated contact person is Anna Cochrane at 202–293–5794.

David P. Boergers,

Secretary.

[FR Doc. 00–25123 Filed 9–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–557–000]

Texas Eastern Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

September 26, 2000.

Take notice that on September 22, 2000, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets, to be effective on October 15, 2000.

Sixth Revised Volume No. 1
First Revised Sheet No. 926
First Revised Sheet No. 930

Texas Eastern states that the purpose of this filing is to modify the LINKr System Agreement contained in Sheet Nos. 926 through 930 of the Tariff to add East Tennessee Natural Gas Company to the list of companies utilizing this agreement, as East Tennessee is now an affiliate of Texas Eastern, and to remove Panhandle Eastern Pipe Line Company (Panhandle) and Trunkline Gas Company (Trunkline) from that list, as Panhandle and Trunkline are no longer affiliates of Texas Eastern.

Texas Eastern states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 of 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm. (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25119 Filed 9–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–496–002]

Total Peaking Services, L.L.C.; Notice of Compliance Filing

September 26, 2000.

Take notice that on September 21, 2000, Total Peaking Services, L.L.C. (Total Peaking) tendered for filing various revised tariff sheets to delete several references to a Telephonic Bulletin Board, which were inadvertently not deleted after the company established a new Internet Web Site, to be effective August 15, 2000.

Total Peaking notes that the filing is being made to comply with the directions of the Director's letter dated September 12, 2000.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25116 Filed 9–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–3674–000]

Virginia Electric and Power Company; Notice of Filing

Take notice that on September 14, 2000, Virginia Electric and Power Company (Virginia Power or the Company) tendered for filing the following:

1. Service Agreement for Firm Point-to-Point Transmission Service by Virginia Electric and Power Company to Virginia Electric Marketing LLC designated as Service Agreement No. 297 under the Company's FERC Electric Tariff, Second Revised Volume No. 5;

2. Service Agreement for Non-Firm Point-to-Point Transmission Service by Virginia Electric and Power Company to Virginia Electric Marketing LLC designated as Service Agreement No. 298 under the Company's FERC Electric Tariff, Second Revised Volume No. 5.

The foregoing Service Agreements are tendered for filing under the Open Access Transmission Tariff to Eligible Purchasers effective June 7, 2000. Under the tendered Service Agreements, Virginia Power will provide point-to-point service to Virginia Electric Marketing LLC under the rates, terms and conditions of the Open Access Transmission Tariff.

Virginia Power requests an effective date of September 14, 2000, the date of filing of the Service Agreements.

Copies of the filing were served upon Virginia Electric Marketing LLC, the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

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 Commissions's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before October 5, 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.red.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25114 Filed 9–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of New Docket Prefix

September 26, 2000.

Notice is hereby given that a new docket prefix has been established to accommodate compliance with the Commission's regulations at 18 CFR 35.34(c) and (h), which were implemented by Order No. 2000. Those regulations require that all public utilities that own, operate, or control electric transmission facilities in interstate commerce, must file either a proposal to participate in a Regional Transmission Organization (RTO) or an explanation of why they are not proposing to participate in an RTO. These filings must be made no later than October 16, 2000 or January 16, 2001, depending on which category the utility is in.

In order to properly docket and manage this type of case and assess Commission resources applicable to this type of work, it is necessary to establish a new docket prefix for this filing requirement. The new docket prefix will be RTFY–NNNN–000, where the FY stands for fiscal year in which the filing is made and the NNNN is a sequential number. For example, the first filing of a utility (or group of utilities) to comply with Order No. 2000, made in fiscal year 2001, will be assigned RT01–1–000, the second will be RT01–2–000, etc.

Public utilities making Order No. 2000 compliance filings are requested to put the ''RT'' docket prefix in the docket area of their filings.

David P. Boergers,

Secretary.

[FR Doc. 00–25181 Filed 9–29–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–141–000, et al.]

Potomac Electric Power Company, et al.; Electric Rate and Corporate Regulation Filings

September 25, 2000.

Take notice that the following filings have been made with the Commission:

1. Potomac Electric Power Company, Southern Energy Chalk Point, LLC, Southern Energy Mid-Atlantic, LLC, Southern Energy Peaker, LLC, Southern Energy Potomac River, LLC, Allegheny Energy Supply Company, LLC, PPL Montour, LLC and Potomac Power Resources, Inc.

[Docket Nos. EC00–141–000 and ER00–3727–000]

Take notice that on September 20, 2000, Potomac Electric Power Company (Pepco), Southern Energy Chalk Point, LLC (SE Chalk Point), Southern Energy Mid-Atlantic, LLC (SE Mid-Atlantic), Southern Energy Peaker, LLC (SE Peaker), Southern Energy Potomac River, LLC (SE Potomac River), Allegheny Energy Supply Company, LLC (Allegheny), PPL Montour, LLC (PPLM) and Potomac Power Resources, Inc. (PPR) (collectively the Applicants) tendered for filing an application under Section 203 of the Federal Power Act for approval to transfer certain jurisdictional facilities associated with the transfer by Pepco of certain generation assets to certain of the Applicants. Pepco and SE Potomac River, respectively, also tendered for filing pursuant to Section 205 of the Federal Power Act certain agreements related to the transferred facilities. The Applicants have served a copy of this filing on the District of Columbia Public Service Commission, the Maryland Public Service Commission, the Virginia State Corporate Commission and the Pennsylvania Public Utility Commission.

Comment date: October 20, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Entergy Power Inc., Entergy Arkansas, Inc., Entergy New Orleans, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., Entergy Gulf States, Inc., Entergy Power Marketing Corp., Entergy Nuclear Generation Co., Entergy Nuclear Fitzpatrick LLC. and Entergy Nuclear Indian Point 3, LLC.

[Docket Nos. ER91–569–011, ER91–569–011, ER91–569–011, ER91–569–011, ER91–569–011, ER91–569–011, ER95–1615–022, ER99–1004–003, ER00–2738–002 and ER00–2740–002]

Take notice that on September 15, 2000, Entergy Services Inc., on behalf of the above noted Entergy Affiliates, filed a notice of change in status, informing the Commission that Entergy Corp. had entered into a merger agreement with FPL Group Inc., the parent company of Florida Power and Light Co. (FPLCo). In accordance with Commission policy, the Entergy Affiliates intend to treat FPLCo as an ''affiliate'' under the provisions of their respective FERC market rate tariffs.

Comment date: October 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Ameren Services Company

[Docket No. ER00–3016–001]

Take notice that on September 20, 2000, Ameren Services Company (Ameren Services) tendered for filing a Network Operating Agreement and a Service Agreement for Network Integration Transmission Service between Ameren Services and Illinois Municipal Electric Agency (IMEA). Ameren Services asserts that the purpose of the Agreements is to permit Ameren Services to provide transmission service to IMEA pursuant to Ameren's Open Access Tariff.

Comment date: October 11, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Florida Power & Light Company, FPL Energy Power Marketing, Inc., FPL Energy Services, Inc., ESI Vansycle Partners, L.P., FPL Energy AVEC LLC, FPL Energy Maine Hydro LLC, FPL Energy Mason LLC, FPL Energy MH50, L.P., FPL Energy Wisconsin Wind LLC, FPL Energy Wyman LLC, FPL Energy Wyman IV LLC, Doswell Limited Partnership and Hawkeye Power Partners, LLC

[Docket Nos. ER97–3359–002, ER98–3566–006, ER99–2337–004, ER98–2494–002, ER98–3565–003, ER98–3511–003, ER98–3562–003, ER99–2917–001, ER00–56–001, ER98–3563–003, ER98–3564–003, ER00–2391–001 and ER98–2076–003]

Take notice that on September 15, 2000, FPL Group Inc. on behalf of the above noted FPL Affiliates, filed a notice of change in status, informing the Commission that FPL Group Inc. had entered into a merger agreement with Entergy Corp., the parent company of Entergy Arkansas, Entergy Louisiana, Entergy Mississippi and Entergy Texas (collectively, Entergy Operating Companies). In accordance with Commission policy, the FPL Affiliates intend to treat the Entergy Operating Companies as an ''affiliate'' under the provisions of their respective FERC market rate tariffs.

Comment date: October 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. New England Power Pool

[Docket No. ER00–3507–001]

Take notice that on September 18, 2000, the New England Power Pool Participants Committee filed notification that the effective date of membership in the New England Power Pool (NEPOOL) of Edison Mission Marketing & Trading, Inc. and termination of Citizens Power Sales, LLC was September 1, 2000.

Comment date: October 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Virginia Electric and Power Company

[Docket No. ER00–3719–000]

Take notice that on September 20, 2000, Virginia Electric and Power Company (Virginia Power or the Company) tendered for filing a Network Integration Transmission Service and Network Operating Agreement (Service Agreement) by Virginia Electric and Power Company to CNG Power Services Corporation designated as Service Agreement No. 301 under the Company's Retail Access Pilot Program, pursuant to Attachment L of the Company's Open Access Transmission Tariff, FERC Electric Tariff, Second Revised Volume No. 5, to Eligible Purchasers effective June 7, 2000.

Virginia Power requests an effective date of September 20, 2000, the date of filing of the Service Agreements.

Copies of the filing were served upon CNG Power Services Corporation, the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: October 11, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. PSEG Fossil LLC

[Docket No. ER00–3721–000]

Take notice that on September 20, 2000, PSEG Fossil LLC (PSEG Fossil) tendered for filing a rate schedule whereby Public Service Electric and Gas Company (''PSE&G'') assigned its rights and obligations under the Energy Service Agreement among the Keystone Generation Station owners and Reliant Energy Services, Inc.

This rate schedule will become effective on August 21, 2000.

Comment date: October 11, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. PSEG Fossil LLC

[Docket No. ER00–3722–000]

Take notice that on September 20, 2000, PSEG Fossil LLC (PSEG Fossil) tendered for filing a rate schedule whereby Public Service Electric and Gas Company (PSE&G) assigned its rights and obligations under the Energy Service Agreement among the Conemaugh Generation Station owners and Reliant Energy Services, Inc.

This rate schedule will become effective on August 21, 2000.

Comment date: October 11, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Allegheny Energy Service Corporation, on Behalf of Allegheny Energy Supply Company LLC

[Docket No. ER00–3731–000]

Take notice that on September 20, 2000, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply Company) filed First Revised Service Agreement No. 52 to complete the filing requirement for one (1) new Customer of the Market Rate Tariff under which Allegheny Energy Supply offers generation services.

The Service Agreement portion of First Revised Service Agreement No. 52 will maintain the effective date of February 10, 2000 in accordance with the Commission's Order at Docket No. ER00–1987–000 and ER00–1987–001.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: October 11, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Allegheny Energy Service Corporation, on Behalf of Allegheny Energy Supply Company LLC

[Docket No. ER00–3732–000]

Take notice that on September 20, 2000, Allegheny Energy Service

Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply Company) filed First Revised Service Agreement No. 76 to complete the filing requirement for one (1) new Customer of the Market Rate Tariff under which Allegheny Energy Supply offers generation services.

Allegheny Energy Supply maintains the effective date of Service Agreement No. 76 of May 17, 2000 for service to East Kentucky Power Cooperative, Inc.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: October 11, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. New York Independent System Operator, Inc.

[Docket No. ER00–3736–000]

Take notice that on September 20, 2000, the New York Independent System Operator, Inc. (NYISO) filed revisions to Schedule 1 of its Open Access Transmission Tariff.

The NYISO requests an effective date of October 1, 2000 and waiver of the Commission's notice requirements.

A copy of this filing was served upon all persons who have signed Service Agreements under the NYISO Open Access Transmission Tariff and on the electric utility regulatory agencies in New York, New Jersey and Pennsylvania.

Comment date: October 11, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–25180 Filed 9–29–00; 8:45 am]

BILLING CODE 6717–01–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6879–4]

Notice of Availability of Persistent Toxic Substance Reports Published in Response to the United States' Commitments in ''The Great Lakes Binational Toxics Strategy''

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability and opportunity to comment.

SUMMARY: ''The Great Lakes Binational Toxics Strategy; Canada-United States Strategy for the Virtual Elimination of Persistent Toxic Substances in the Great Lakes'' (the Strategy), was signed on April 7, 1997. The Strategy set forth a number of challenges to be met on the path toward virtual elimination of the Level I Strategy substances.

In addition, the Strategy identifies a four-step analytical process that Environment Canada and the United States Environmental Protection Agency, in cooperation with their partners, will use in working toward virtual elimination of the Level I Strategy substances. The four-step process addresses technical and source-related information about the substances (step 1); the analysis of current regulations, initiatives, and programs which manage or control the substances (step 2); the identification of cost-effective options to achieve further reductions (step 3); and the implementation of actions toward the goal of virtual elimination (step 4).

The reports referred to in the title of this notification are in accordance with step 3 of the analytical process, and pertain to Mercury, Polychlorinated Biphenyls, Dioxins/Furans, and Benzo(a)Pyrene and Hexachlorobenzene.

In addition, all step 1 and 2 reports for the substances subject to this notification, including Dioxins/Furans, are available on the Binational Toxics Strategy website.

The intended effect of this notification is to make the step 3 reports available to the public and to allow for discussion of these reports. Comments can be submitted to the Binational Toxics Strategy website, creating a forum that will explore the implementation opportunities for actions leading to the goal of virtual elimination of the aforementioned substances.

DATES: The reports will be made available to the public by September 29, 2000. There will be no closing date for comments, as these reports are intended to initiate an on-going discussion of implementation actions to be taken.

ADDRESSES: The reports, along with electronic comment submission instructions, can be found on the Internet at the following address: http://www.epa.gov/glnpo/bns/. In addition, written comments may be sent to the appropriate contact person for each report (see table below) at the following address: U.S. EPA, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Additional information on the reports may be obtained by contacting the following people by telephone or e-mail:

Report	Contact	Telephone	E-mail
Mercury	Alexis Cain	312–886–7018	cain.alexis@ epa.gov
Polychlorinated Biphenyls	Anton Martig	312–353–2291	martig.anton@epa.gov
Dioxins/Furans	Nanjunda Gowda	312–353–9236	gowda.nanjunda@epa.gov
Benzo(a)Pyrene, Hexachlorobenzene	Steve Rosenthal	312–886–6052	rosenthal.steve@epa.gov

Dated: September 15, 2000.

Gary Gulezian,

Acting Regional Administrator, Region 5.

[FR Doc. 00–25171 Filed 9–29–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6879–5]

Notice of Availability of Draft Report on Dioxins/Furans Published in Response to the United States' Commitments in ''The Great Lakes Binational Toxics Strategy''

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability and opportunity to comment.

SUMMARY: The Great Lakes Binational Toxics Strategy; Canada-United States Strategy for the Virtual Elimination of Persistent Toxic Substances in the Great Lakes (the Strategy), was signed on April 7, 1997. The Strategy set forth a number of challenges to be met on the path toward virtual elimination of the Level I Strategy substances.

In addition, the Strategy identifies a four-step analytical process that Environment Canada and the United States Environmental Protection Agency, in cooperation with their partners, will use in working toward virtual elimination of the Level I Strategy substances. The four step process addresses technical and source-related information about the substances (step 1); the analysis of current regulations, initiatives and programs which manage or control the substances (step 2); the identification of cost-effective options to achieve further reductions (step 3); and the implementation of actions toward the goal of virtual elimination (step 4).

The draft report on Dioxins/Furans being made available for public comment relates to steps 1 and 2 of the analytical process.

DATES: The preliminary draft report will be made available to the public by September 29, 2000.

COMMENT PERIOD: Comments on the report must be submitted no later than November 30, 2000.

ADDRESSES: This report can be found on the Internet at the following address: http://www.epa.gov/glnpo/bns/. Commenters may transmit their comments electronically by following the directions provided on the website, or may send written comments to Nanjunda Gowda at the following address: U.S. EPA, Superfund Division, 77 West Jackson Boulevard, SRF–5J, Chicago, Illinois 60604.

FOR FURTHER CONTACT INFORMATION: Additional information on the draft report may be obtained by contacting Nanjunda Gowda by telephone (312) 353–9236 or by e-mail gowda.nanjunda@epa.gov.

Dated: September 15, 2000.

Gary Gulezian,

Acting Regional Administrator, Region 5.

[FR Doc. 00–25172 Filed 9–29–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

September 26, 2000.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before November 1, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th St., S.W., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: OMB Control Number: 3060–0270.

Title: Section 90.443, Content of Station Records.

Form Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit entities, individual or households, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 57,410.

Estimated Time Per Response: .083 hours.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 4,765 hours.

Total Annual Cost: N/A.

Needs and Uses: The rule specifies the records required to be maintained by station licensees. These records indicate maintenance performed on the licensee's equipment, and instances of tower light checks and failures, if any, and corrective action taken. The maintenance records could be used by the licensee or Commission field personnel to note any recurring equipment problems or conditions that may lead to degraded equipment performance and/or interference generation. The records regarding tower lighting are required to ensure that the licensee is aware of tower light condition and proper operation, in order to prevent and/or correct any hazards to air navigation.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–25278 Filed 9–29–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISISON

National Advisory Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this is a notice that the Charter for the National Advisory Committee (NAC) for the Emergency Alert System (EAS) was renewed with a new charter termination date of July 25, 2002.

FOR FURTHER INFORMATION CONTACT: Bonnie Gay, 445 12th Street, SW,

Washington, DC 20554; telephone (202) 418–1228.

SUPPLEMENTARY INFORMATION: The Committee advises the FCC on all matters concerning the EAS, including, but not limited to, emergency alerting policies, technologies, plans, regulations, and procedures at the national, state and local levels. The NAC also recommends and develops training and education regarding the EAS and coordinates with state and local officials to assist in establishing and maintaining effective emergency alerting programs.

The Committee consists of volunteer government and industry personnel selected by the FCC. Members include representatives from broadcasting, cable, satellite, MMDS, other technologies, government agencies involved in emergency communications, State Emergency Communications Committees and special audiences such as hearing impaired.

Federal Communications Commission.

Magalie Roman Salas,

Secretary,

[FR Doc. 00–25277 Filed 9–29–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1342–DR]

California; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of California (FEMA–1342–DR), dated September 14, 2000, and related determinations.

EFFECTIVE DATE: September 14, 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, in a letter dated September 14, 2000, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of California, resulting from an earthquake on September 3, 2000, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121 *et seq.* (the Stafford Act). I, therefore, declare that such a major disaster exists in the State of California.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Public Assistance is later warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible cost.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Mark Ghilarducci of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of California to have been affected adversely by this declared major disaster:

Napa County for Individual Assistance.

All counties within the State of California are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(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.)

James L. Witt,

Director.

[FR Doc. 00–25242 Filed 9–29–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1341–DR]

Idaho; Amendment No. 1 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 Idaho, (FEMA–1341–DR), dated September 1, 2000, and related determinations.

EFFECTIVE DATE: September 20, 2000.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Idaho is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 1, 2000:

Ada, Bingham, Blaine, Custer, Lincoln, and Valley Counties for Individual Assistance.

(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.)

Robert J. Adamcik,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 00–25241 Filed 9–29–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Notice of Adjustment of Disaster Grant Amounts

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: FEMA gives notice that we are increasing the maximum amounts for Individual and Family Grants and Small Project Grants to State and local governments and private nonprofit facilities for disasters declared on or after October 1, 2000.

EFFECTIVE DATE: October 1, 2000.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Act), 42 U.S.C. 5121 *et seq.,* prescribes that we (FEMA) must adjust annually grants made under section 411, Individual and Family grant Program, and Small Project Grants made under section 422, Simplified Procedure, relating to the Public Assistance program, to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

We give notice that we are increasing the maximum amount of any grant made to an individual or family for disaster-related serious needs and necessary expenses under section 411 of the Act, with respect to any single disaster, to $14,400 for all disasters declared on or after October 1, 2000.

We also give notice that we are increasing the amounts of any Small Project Grant made to the State, local government, or to the owner or operator of an eligible private nonprofit facility, under section 422 of the Act, to $50,600 for all disasters declared on or after October 1, 2000.

We base the adjustments on an increase in the Consumer Price Index for All Urban Consumers of 3.4 percent for the 12-month period ended in August 2000. The Bureau of Labor Statistics of the U.S. Department of Labor released the information on September 15, 2000.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dated: September 22, 2000.

James L. Witt,

Director.

[FR Doc. 00–25243 Filed 9–29–00; 8:45 am]

BILLING CODE 6718–02–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 October 26, 2000.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. National Penn Bancshares, Inc., Boyertown, Pennsylvania; to acquire 100 percent of the voting shares of Community Independent Bank, Inc., Bernville, Pennsylvania, and thereby indirectly acquire voting shares of Bernville Bank, NA, Hackettstown, New Jersey.

B. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. BB&T Corporation, Winston-Salem, North Carolina; to merge with BankFirst Corporation, Knoxville, Tennessee, and thereby indirectly acquire voting shares of BankFirst, Knoxville, Tennessee, and First National Bank and Trust Company, Athens, Tennessee.

In connection with this application, Applicant also has applied to acquire BankFirst Trust Company, Knoxville, Tennessee, and thereby engage in trust company activities, pursuant to § 225.28(b)(5) of Regulation Y.

In addition, Applicant also has requested permission to exercise an option to acquire up to 19.9 percent of the voting securities of BankFirst Corporation under certain circumstances.

C. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. ULLICO, Inc., Washington, D.C.; to become a bank holding company by acquiring 100 percent of the voting shares of Amalgamated Investments Company, Chicago, Illinois, and thereby indirectly acquire voting shares of Amalgamated Bank of Chicago, Chicago, Illinois.

D. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Inter-Mountain Bancorp, Inc., Bozeman, Montana; to acquire 100 percent of the voting shares of Chouteau County Bancshares, Inc., Fort Benton, Montana, and thereby indirectly acquire voting shares of First State Bank, Fort Benton, Montana.

2. Stockman Financial Corporation, Miles City, Montana; to acquire 100 percent of the voting shares of Marquette Bank Montana, National Association, Conrad, Montana.

E. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Sturm Financial Group, Inc., Denver, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of Sturm Banks of Colorado, Inc., Denver, Colorado, and thereby indirectly acquire Bank of Cherry Creek N.A., Boulder, Colorado, Bank of Cherry Creek N.A., Denver, Colorado, Mesa National Bank, Grand Junction, Colorado, Western National Bank of Colorado, Colorado Springs, Colorado; Sturm Banks of Wyoming, Inc., Denver, Colorado, and thereby indirectly acquire American National Bank of Cheyenne, Cheyenne, Wyoming, Wyoming Bank & Trust Company N.A., Buffalo, Wyoming, Stockgrowers State Bank N.A., Worland, Wyoming, Bank of Laramie N.A., Laramie, Wyoming; and Sturm Banks of Kansas City, Inc., Denver, Colorado, and thereby indirectly acquire Premier Bank, Lenexa, Kansas.

In connection with this application, Applicant also has applied to acquire Community First Data Services, Inc., Cheyenne, Wyoming, and thereby engage in data processing activities, pursuant to § 225.28(b)(14) of Regulation Y.

Board of Governors of the Federal Reserve System, September 26, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–25132 Filed 9–29–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 27, 2000.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. Peterstown Bancorp, Inc., Peterstown, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Peterstown, Peterstown, West Virginia.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Quad Bancshares, Inc., Oakwood, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Missouri Quad Bancshares, Inc., Viburnum, Missouri, and thereby indirectly acquire voting shares of Quad County State Bank, Viburnum, Missouri.

Board of Governors of the Federal Reserve System, September 27, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–25238 Filed 9–29–00; 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 Permissable 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 Regulations 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.ffec.gov/nic/.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 26, 2000.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervision) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. Fifth Third Bancorp, Cincinnati, Ohio; to acquire Ottawa Financial Corporation, Holland, Michigan and AmeriBank, Holland, Michigan, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4) of Regulation Y; AmeriBank Mortgage Company, and thereby engage in mortgage loan activities, pursuant to § 225.28(b)(1) of Regulation Y; AmeriPlan Financial Services, Inc., and thereby engage in discount brokerage activities, pursuant to § 225.28(b)(7); and OS Services, Inc., and thereby engage in community development activities, pursuant to § 225.28(b)(12) of Regulation Y.

Board of Governors of the Federal Reserve System, September 26, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–25131 Filed 9–29–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10 a.m., Thursday, October 5, 2000.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 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: September 28, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–25318 Filed 9–28–00; 10:36 am]

BILLING CODE 6210–01–P

GOVERNMENT PRINTING OFFICE

Depository Library Council to the Public Printer; Meeting

The Depository Library Council to the Public Printer (DLC) will meet on Sunday, October 22, 2000, through Wednesday, October 25, 2000, in Arlington, Virginia. The sessions will take place from 7:30 p.m. until 10 p.m. on Sunday, 8:30 a.m. until 5 p.m. on Monday and Tuesday and from 8:30

a.m. until 3:30 p.m. on Wednesday. The meeting will be held at the Holiday Inn Rosslyn (Westpark) at Key Bridge, 1900 North Fort Myer Drive, Arlington, Virginia. The purpose of this meeting is to discuss the Federal Depository Library Program. All sessions are open to the public.

Sleeping rooms at our host hotel are completely booked. If you need accommodations, contact the Virginian Suites, 1500 Arlington Boulevard, Arlington, Virginia 22209. Telephone 800–275–2866 or the hotel directly at 703–522–9600. Please ask for the Government rate and tell them you are with the Government Printing Office group. Room cost per night is $119, plus tax.

Michael F. DiMario,

Public Printer.

[FR Doc. 00–25140 Filed 9–29–00; 8:45 am]

BILLING CODE 1520–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meetings

Change in the Notice of Meetings

The subcommittee meeting ''Health Care Technology and Decision Sciences'' will only be held on October 6 (and not on October 5–6 as published in the **Federal Register** of September 6, 2000, vol. 65, no. 173, page 54035). The place and time of this meeting will remain the same. The rest of the meetings mentioned in the September 6 **Federal Register** will meet as scheduled.

Dated: September 28, 2000.

John M. Eisenberg,

Director.

[FR Doc. 00–25340 Filed 9–29–00; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–70–00]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

Workplace Exacerbation of Asthma—NEW—The National Institute of Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention. Work-related asthma is the most common lung disease seen in occupational health clinics in the United States based on data from the Association of Occupational and Environmental Clinics for 1991–1996.

Work-related asthma includes both new onset asthma initiated by workplace exposures and pre-existing asthma exacerbated by workplace environments, because in both types of cases repeated exposure to asthmatic agents can lead to chronic pulmonary impairment. Also, the 1985 American Thoracic Society statement ''What Constitutes an Adverse Health Effect of Air Pollution,'' identified exacerbation of asthma as one of the serious effects of environmental air pollution. While anecdotal evidence suggests that as many as one-half of work-related asthma patients treated in occupational medicine clinics had pre-existing asthma that was exacerbated by workplace conditions, there is little data from studies in the United States to support this claim.

This study will investigate the frequency, causes, and consequences of workplace exacerbation of asthma (WEA). Given the diversity of workplace agents and processes associated with asthma, a population-based, rather than industry-based, study is needed to ascertain the full extent of the problem. This will be achieved by surveying adults with asthma. The Specific Aims are: (1) To determine the frequency of workplace exacerbation of asthma. (2) To determine the circumstances at work associated with exacerbation of asthma. (3) To determine the social and economic costs associated with workplace exacerbation of asthma. (4) To determine the sensitivity and specificity of self-reported workplace exacerbation of asthma. (5) To determine whether workplace exacerbation of asthma contributes to progression of disease. The design is a prospective cohort study with a nested validation study. A questionnaire will be completed in the baseline study to address Specific Aims 1–3. Also, patient care records will be used to ascertain cost of asthma care for each participant (Specific Aim 3). A subset of employed subjects with and without workplace exacerbation will be requested to conduct serial spirometry, and the findings will serve as the ''gold standard'' to determine the sensitivity and specificity of a self-report of workplace exacerbation of asthma (Specific Aim 4). All subjects from the baseline study will be asked to complete a follow-up questionnaire approximately two years later to investigate whether workplace exacerbation at baseline predicts an increase in asthma severity (Specific Aim 5).

The data collected in this study will be used to further current understanding of the frequency of workplace-exacerbated asthma, the social and economic impacts of this problem, and the implication of a report of WEA for subsequent asthma severity. This information can be used to prioritize resources for addressing this problem. The data collected in this study will also identify which jobs and exposures are likely to exacerbate existing asthma, thus providing guidance on where to focus preventive efforts. The data collected in this study on the validity of a self-report of WEA will be useful to both clinicians and researchers who attempt to treat or study individuals with this problem. The estimated annualized burden is 844 hours.

Form name	No. of respondents	No. responses per respondent	Average burden per response (in hrs.)
Phase 1: attempts to get an interview	1,100	1	5/60
Phase 1: Completed Baseline Study Interviews	800	1	30/60

Form name	No. of respondents	No. responses per respondent	Average burden per response (in hrs.)
Phase 3: attempt to get an interview	800	1	5/60
Phase 3: Completed Follow-up Study Interviews	600	1	300

Dated: September 26, 2000.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–25143 Filed 9–29–00; 8:45 am]

BILLING CODE 4163–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–71–00]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

A Message-Based Intervention for Technology Transfer—New—National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention. The mission of the National Institute for Occupational Safety and Health (NIOSH) is to promote safety and health at work for all people through research and prevention. Over 6 million American workers are at risk for inhalation exposure of potentially harmful metals. Workers in mining, construction, and related industries are potentially exposed to airborne contaminants such as silver, lead, nickel, manganese, chromium and zinc which can cause health problems ranging from metal fume fever and asthma to cancer and parkinsonism. NIOSH has developed analytical methods for portable field exposure assessment that would help reduce metals exposure. The goal of this project is to increase the self-reported use of NIOSH developed analytical methods for field portable exposure assessment by American industrial hygienists across the five-year period from 2000 to 2004. To achieve this technology transfer goal, NIOSH proposes three aims: (1) to create, (2) implement, and (3) evaluate a message-based intervention targeted toward American industrial hygienists. If this project is successful then NIOSH will also have developed and validated a communication strategy that could be adapted to other technology transfer problems.

First, NIOSH will develop a message-based intervention targeted toward American industrial hygienists. To do this, NIOSH will create and pretest the message, channel, and receiver variables that will compose the intervention. Pretesting of the intervention will occur via mailout surveys and on-site pretesting with industrial hygienists attending conferences sponsored by AIHA (the American Industrial Hygiene Association), ABIH (the American Board of Industrial Hygiene), and ACGIH. Pretesting will occur during the first two years of the project (2000–1), with a total of 1,000 industrial hygienists.

Second, NIOSH will implement the multi-channel, multi-exposure, message-based intervention that was created through pretesting. NIOSH intends to employ the following four channels of: (1) Trade print sources (journal and magazine), (2) web site, (3) direct personalized mailings, and (4) face-to-face interaction through trade show demonstrations. The entire population of American industrial hygienists (approximately 13,000) will be targeted by this intervention. The intervention will occur across four years, applying modifications as needed during the time period.

Finally, NIOSH will conduct annual surveys of randomly selected samples of American industrial hygienists on their self reported use of NIOSH developed analytical methods for field portable exposure assessment through mail-in surveys based on standard HCRB communication and outcome protocols. During Year 1 (2000), a survey of 700 randomly selected industrial hygienists will be conducted to assess baseline levels of attitudes, knowledge and behaviors with regard to the use of the NIOSH developed analytical methods prior to receiving the intervention. During the next three years (2001–2003), an annual survey of 700 randomly selected industrial hygienists will be conducted to evaluate the impact of the message-based intervention on the use of NIOSH analytical methods.

The estimated annualized burden is 1905 hours.

Respondents	Number of respondents	Number of responses	Average hour burden per response
Industrial Hygienist	1000 pretesting	1	.33
	700 Baseline Survey	1	.25
	2100 Annual Survey	1	5

Dated: September 26, 2000.

Nancy Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–25144 Filed 9–29–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 65 FR 41079, dated July 3, 2000) is amended to reflect the retitling of the Division of Public Health Systems and the Division of Media and Training Services, Public Health Practice Program Office, to the Division of Public Health Systems Development and Research and the Division of Professional Development and Evaluation respectively.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete the title *Division of Public Health Systems (CH5)* and insert the title *Division of Public Health Systems Development and Research (CH5).*

Delete the title *Division of Media and Training Services (CH7)* and insert the title *Division of Professional Development and Evaluation (CH7).*

Dated: September 20, 2000.

Martha Katz,

Acting Director.

[FR Doc. 00–25261 Filed 9–29–00; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1516]

Apothecon, Inc., et al.; Withdrawal of Approval of 76 Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 76 abbreviated new drug applications (ANDA's). The holders of the applications notified the agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

EFFECTIVE DATE: October 10, 2000.

FOR FURTHER INFORMATION CONTACT: Olivia A. Pritzlaff, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: The holders of the applications listed in the table in this document have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications. The applicants have also, by their request, waived their opportunity for a hearing.

ANDA No.	Drug	Applicant
60–100	Crysticillin (Penicillin G Procaine Suspension USP).	Apothecon, Inc., P.O. Box 4500, Princeton, NJ 08543.
60–618	Grifulvin V (Griseofluvin Microsize) Tablets, 125 milligrams (mg), 250 mg, and 500 mg.	Johnson & Johnson Consumer Co, Inc., 199 Grandview Rd., Skillman, NJ 08858.
61–220	Opthochlor (Chloramphenicol Ophthalmic Solution USP) 5 mg/milliliter (mL).	Parkedale Pharmaceuticals, Inc., 501 Fifth St., Bristol, TN 37620.
61–334	Bactocill (Oxacillin Sodium for Injection).	SmithKline Beecham Pharmaceuticals, One Franklin Plaza, P.O. Box 7929, Philadelphia, PA 19101.
61–449	Staphcillin (Methicillin Sodium).	Apothecon, Inc.
61–452	Cloxacillin Sodium Capsules USP, 250 mg and 500 mg.	Do.
61–739	Garamycin Pediatric Injection (Gentamicin Sulfate Injection USP).	Schering Corp., 2000 Galloping Hill Rd., Kenilworth, NJ 07033.
62–328	Erythromycin Topical Solution USP, 1.5%.	Alpharma, 333 Cassell Dr., suite 3500, Baltimore, MD 21224.
62–727	Totacillin-N (Ampicillin Sodium) for Injection.	Smithkline Beecham Pharmaceuticals.
62–755	Nallpen (Nafcillin Sodium Powder for Injection USP).	Do.
70–356	Diazepam Tablets USP, 2 mg.	Roxane Laboratories, Inc., P.O. Box 16532, Columbus, OH 43216.
70–357	Diazepam Tablets USP, 5 mg.	Do.
70–358	Diazepam Tablets USP, 10 mg.	Do.
71–010	Acetominophen Suppositories, 120 mg.	Do.
71–011	Acetominophen Suppositories, 650 mg.	Do.
71–018	Metaproterenol Sulfate Inhalation Solution USP, 0.6%.	AstraZeneca, L.P.
71–275	Metaproterenol Sulfate Inhalation Solution USP, 0.4%.	Do.
72–018	Droperidol Injection USP, 2.5 mg/mL.	Do.
72–019	Droperidol Injection USP, 2.5 mg/mL.	Do.
72–021	Droperidol Injection USP, 2.5 mg/mL.	Do.
72–648	Timolol Maleate Tablets USP, 5 mg.	Novopharm Limited, c/o Novopharm NC, Inc., 4700 Novopharm Blvd., Wilson, NC 27893.
72–649	Timolol Maleate Tablets USP, 10 mg.	Do.
72–650	Timolol Maleate Tablets USP, 20 mg.	Do.

ANDA No.	Drug	Applicant
73–187	Loperamide Hydrochloride Oral Solution, 1 mg/5 mL.	Alpharma.
73–340	Prometa Inhalation Solution (Metaproternol Sulfate Inhalation Solution USP), 5%.	Muro Pharmaceutical, Inc., 890 East St., Tewksbury, MA 01876.
74–361	Cimetidine Tablets USP, 300 mg, 400 mg, and 800 mg.	Roxane Laboratories, Inc.
74–371	Cimetidine Tablets USP, 800 mg.	Do.
74–790	Ketorolac Tromethamine Tablets USP.	Do.
74–832	Captopril and Hydrochlorothiazide Tablets USP, 50 mg/25 mg.	Danbury Pharmacal, Inc., 131 West St., Danbury, CT 06810.
80–001	Calcium Gluceptate Injection USP.	Abbott Laboratories.
80–327	Prednisolone Tablets USP, 5 mg.	Roxane Laboratories, Inc.
80–474	Hytone (Hydrocortisone) Ointment 0.25%, 0.5%, 1%, and 2.5%.	Dermik Laboratories, Inc., 500 Arcola Rd., P.O. Box 1200, Collegeville, PA 19426–0107.
83–682	Phendimetrazine Tartrate Tablets USP, 35 mg.	Zenith Goldline Pharmaceuticals, Inc., 140 Legerand Ave., Northvale, NJ 07647.
84–655	Prednicen-M (Prednisone Tablets USP), 5 mg.	Schwarz Pharma, Inc., P.O. Box 2038, Milwaukee, WI 53201.
84–659	Acetominophen and Codeine Phosphate Tablets USP, 300 mg/15 mg.	Roxane Laboratories, Inc.
84–667	Acetominophen and Codeine Phosphate Tablets USP, 300 mg/60 mg.	Do.
84–811	Apresazide (Hydralazine Hydrochloride and Hydrochlorothiazide USP) Capsules, 100/50 mg.	Novartis Pharmaceuticals Corp.
84–990	Dexone (Dexamethasone Tablets, USP), 1.5 mg.	Solvay Pharmaceuticals, Inc., 901 Sawyer Rd., Marietta, GA 30062.
85–539	Flutex (Triamcinolone Acetonide Cream USP), 0.1%, 0.5%, and 0.025%.	Zenith Goldline Pharmaceuticals, Inc.
85–686	Curretab (Medroxyprogesterone Acetate Tablets, USP) 10 mg.	Solvay Pharmaceuticals, Inc.
85–733	Hydrocortisone Cream USP, 1%.	Zenith Goldline Pharmaceuticals, Inc.
85–777	Selenium Sulfide Lotion USP, 2.5%.	Do.
85–873	Butabarbital Sodium Elixir, 30 mg/5 mL.	Alpharma.
85–944	Amitriptyline Hydrochloride Tablets USP, 25 mg.	Roxane Laboratories, Inc.
85–945	Amitriptyline Hydrochloride Tablets USP, 50 mg.	Do.
86–002	Amitriptyline Hydrochloride Tablets USP, 10 mg.	Do.
86–003	Amitriptyline Hydrochloride Tablets USP, 100 mg.	Do.
86–004	Amitriptyline Hydrochloride Tablets USP, 75 mg.	Do.
86–065	Procan SR (Procainamide Hydrochloride Extended-Release Tablets, USP), 500 mg.	Parkedale Pharmaceuticals, Inc.
86–090	Amitriptyline Hydrochloride Tablets USP, 150 mg.	Roxane Laboratories, Inc.
87–025	Isoetharine Inhalation Solution USP, 0.125%.	Roxane Laboratories, Inc.
87–203	Flurandrenolide Lotion USP.	Alpharma.
87–328	Trifluoperazine Hydrocholride Tablets USP, 5 mg.	Zenith Goldline Pharmaceuticals, Inc.
87–375	Flutex (Triamcinolone Acetonide Ointment USP).	Do.
87–376	Flutex (Triamcinolone Acetonide Ointment USP).	Do.
87–377	Flutex (Triamcinolone Acetonide Ointment USP).	Do.
87–396	Isoetharine Inhalation Solution USP, 0.1%.	Roxane Laboratories, Inc.
87–427	Nogenic HC (Hydrocortisone Cream USP), 1%.	Zenith Goldline Pharmaceuticals, Inc.
87–428	Triatex (Triamcinolone Acetonide Cream USP), 0.5%.	Do.
87–429	Triatex (Triamcinolone Acetonide Cream USP), 0.1%.	Do.
87–430	Triatex (Triamcinolone Acetonide Cream USP), 0.025%.	Do.
87–510	Procan SR (Procainamide Hydrochloride Extended-Release Tablets, USP), 750 mg.	Parkedale Pharmaceuticals, Inc.
87–611	Liquid Pred (Prednisone Syrup USP), 5 mg/5 mL.	Muro Pharmaceutical, Inc.
87–612	Trifluoperazine Hydrochloride Tablets USP, 1 mg.	Zenith Goldline Pharmaceuticals, Inc.
87–613	Trifluoperazine Hydrochloride Tablets USP, 2 mg.	Do.
87–614	Trifluoperazine Hydrochloride Tablets USP, 10 mg.	Do.
87–742	Oxycodone Hydrochloride 2.25 mg, Oxycodone Terephthalate 0.19 mg, and Aspirin 325 mg Tablets.	Roxane Laboratories, Inc.
88–275	Isoetharine Inhalation Solution USP, 0.25%.	Do.
88–489	Procan SR (Procainamide Hydrochloride Extended-Release Tablets, USP), 1 gram.	Parkedale Pharmaceuticals, Inc.
89–193	Methocarbamol and Aspirin Coated Tablets, 400 mg/325 mg.	McNeil Consumer Healthcare, 7050 Camp Hill Rd., Fort Washington, PA 19034–2299.
89–427	Dipyridamole Tablets USP, 75 mg.	Purepac Pharmaceutical Co., 200 Elmora Ave., Elizabeth, NJ 07207.
89–614	Isoetharine Inhalation Solution USP, 0.062%.	AstraZeneca, L.P.
89–615	Isoetharine Inhalation Solution USP, 0.125%.	Do.

ANDA No.	Drug	Applicant
89–616	Isoetharine Inhalation Solution USP, 0.167%.	Do.
89–617	Isoetharine Inhalation Solution USP, 0.2%.	Do.
89–618	Isoetharine Inhalation Solution USP, 0.25%.	Do.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director, Center for Drug Evaluation and Research (21 CFR 5.82), approval of the applications listed in the table in this document, and all amendments and supplements thereto, is hereby withdrawn, effective October 10, 2000.

Dated: September 12, 2000.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 00–24844 Filed 9–29–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Method and Device for Analysis of Biological Specimens

M. Emmert-Buck (NCI), C. Englert (NCI), R. Bonner (NICHD), and L. Liotta (NCI)

DHHS Reference No. E–197–00/0 filed 26 Jul 2000

Licensing Contact: Uri Reichman; 301/496–7736 ext. 240; e-mail: reichmau@od.nih.gov

The invention discloses methods for selective analysis of cellular samples, and more particularly it provides methods for selective analysis of tissue samples, such as tumors. The methods include placing the tissue on a surface such as membrane for example, and activating the surface at selected sites adjacent to the cells of interest. The activated sites become permeable and thus transferable to fluids. The cells adjacent to the permeable sites can than be selectively extracted and their content analyzed by standard biochemical procedures or by applying the extract to microarray devices, such as cDNA arrays, for analysis of gene expression etc. The technique presents a convenient alternative to existing methods of tissue microdissection. For further convenience, the technique can be readily combined with a variety of analytical devices such as microarrays biochips or other devices which include multiple regions carrying multiple capture molecules.

Hepatitis A Virus Clones Adapted for Growth in African Green Monkey Kidney (AGMK) Cells and Vaccines Comprising said Clones

Robert H. Purcell *et al.* (NIAID)

DHHS Reference No. E–008–95/0 filed 06 Aug 1999

Licensing Specialist: Carol Salata; 301/496–7735 ext. 232; e-mail: salatac@od.nih.gov

The present invention relates to hepatitis A virus clones adapted to growth in African Green Monkey Kidney Cells intended to be used as a live attenuated vaccine. Several cell culture-adapted strains of hepatitis A virus (HAV) are currently being used as inactivated vaccines. However, the inactivated vaccines have the limitation that multiple doses are required for effective immunization. Thus, a live vaccine could have the advantage of inducing life-long immunity following administration of only a single dose.

Preclinical studies have been done using virus isolates of this invention. Preliminary observations suggest that some of the HM–175 P39 virus isolates analyzed may be promising candidates for use as a live attenuated vaccine. HM–175 P39 clone 15 appears to have the growth and attenuation properties that are desirable in a live vaccine for HAV as it is partially attenuated for tamarins and fully attenuated for chimpanzees. HM–175 P39 clone 13 may also be a potential vaccine candidate as it replicates efficiently in tamarins, resulting in moderate increases in serum liver enzyme and early seroconversion to anti-HAV positivity but is still fully attenuated for chimpanzees.

Method of Predicting Susceptibility to HIV Infection or Progression of HIV Disease

Michael W. Smith, Hyoung Doo Shin, Stephen J. O'Brien (NCI)

DHHS Reference No. E–066–99/0 filed 09 Apr 1999 and DHHS Reference No. E–066–99/1 filed 06 Apr 2000

Licensing Contact: J. P. Kim; 301/496–7056 ext. 264; e-mail: kimj@od.nih.gov

This invention identifies the importance of a variant in the IL 10 gene (–592–5′A) that is commonly found in the population with HIV–1/AIDS. Individuals that inherit one or two copies of this form of IL 10 are at a greater risk for progression from HIV–1 infection to the development of clinical AIDS or death. The effects of IL 10–592 are particularly evident 5 years after infection. The gene variant and its product may be of diagnostic value in testing to determine treatment regimens for patients and mimicking the effect of the IL 10–5′A gene variant may be useful in developing therapies for HIV infection. The polymorphism of the present invention can be used in association with other alleles, such as CCR5–D32, CCR2–64I, CCR5– +.P1.+, HLA–B35 and HLA homozygosity, to determine an individual's susceptibility to HIV infection, and provide a prognosis for disease progression in those who have been infected. The potential therapies derived from the IL 10–592 genetic variant may be particularly applicable to patients on triple drug therapy since these patients have generally been infected for a number of years prior to treatment.

Isolation of Cellular Material Under Microscopic Visualization

Liotta *et al.* (NCI)
Serial No. 08/203,780 filed 01 Mar 1994, issued as U.S. Patent No. 5,843,644; Serial No. 08/544,388 filed 10 Oct 1995, issued as U.S. Patent No. 5,843,657; Serial No. 08/882,699 filed 25 Jun 1997; Serial No. 08/925,894 filed 08 Sep 1997, issued as U.S. Patent No. 6,010,888; Serial No. 09/388,805 filed 02 Sep 1999
Licensing Contact: J. P. Kim; 301/496–7056 ext. 264; e-mail: kimj@od.nih.gov

The present technology provides methods and devices for the isolation and analysis of cellular samples on a molecular or genetic level. More particularly, the invention relates to methods and devices for the microdissection, for example, utilizing laser capture microdissection (LCM), and the diagnosis and analysis of cellular samples which may be used in combination with a number of different technologies that allow for analysis of enzymes, antigens, mRNA, DNA, and the like from pure populations or subpopulations of particular cell types.

Nucleic Acid Constructs Containing HIV Genes with Mutated Inhibitory/Instability Regions and Methods of Using Same

George N. Pavlakis, Barbara K. Felber (NCI)
Serial No. 07/858,747 filed 27 Mar 1992; U.S. Patent 5,972,596 issued 26 Oct 1999; U.S. Patent 5,965,726 issued 12 Oct 1999; Serial No. 09/414,117 filed 08 Oct 1999; PCT/US93/02908
Licensing Contact: Carol Salata; 301/496–7735 ext. 232; e-mail: salatac@od.nih.gov

This invention describes methodology for modifying the inhibitory/instability sequences (INS) of mRNA by making multiple nucleotide substitutions without altering the coding capacity of the mRNA of interest. Mutating INS allows for or increases the expression of genes that would otherwise have not been expressed or would have been poorly expressed because of the INS normally present on the mRNA transcript. This novel approach also improves the stability of the mRNA. These methods can be used to increase the production of protein from many genes producing, for example, growth hormone, interferons, interleukins, and HIV Gag and env. DNA constructs are described which encode Gag protein which is highly expressed and does not require HIV rev for production. Thus it is a potentially useful HIV DNA vaccine. Assays have also been developed to facilitate detection of the boundaries of INS sequences of any mRNA.

Dated: September 20, 2000.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 00–25175 Filed 9–29–00; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESS: Licensing information and copies of the U.S. patent application listed below may be obtained by contacting Susan S. Rucker, J.D., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7056 ext. 245; fax: 301/402–0220; e-mail: ruckers@od.nih.gov. A signed Confidential Disclosure Agreement will be required to receive a copy of the patent application.

HGF–SF Monoclonal Antibody Combinations

B Cao, S Koochekpou, M Oskarsson, D Bjurickovic, M Fivash, R Fisher and GR Vande Woude (NCI)
Serial No. 60/164,173 filed 09 Nov 1999

The invention described and claimed in this application relates to a composition which comprises a combination of two or more antibodies which specifically bind one or more epitopes of the growth factor known as hepatocyte growth factor/scatter factor (HGF/SF) which is able to inhibit HGF/SF signaling. In particular, the antibodies which specifically bind to HGF/SF are monoclonal antibodies. Hepatocyte Growth Factor (HGF) activates migration and proliferation of endothelial cells and is angiogenic, acting through the tyrosine kinase receptor encoded by the Met protooncogene. In addition, HGF/SF displays a unique feature in inducing ''branching morphogenesis'', a complex program of proliferation and motogenesis in a number of different cell types. Moreover, HGF is involved in the invasive behavior of several tumor cells both in vivo and in vitro. This combination of antibodies may be useful in drug screening assays, detection of HGF/SF expression or activity or in treating HGF/SF related diseases such as cancer.

Dated: September 21, 2000.

Jack Spiegel,

Director, Division of Technology Development and Transfer Office of Technology Transfer National Institutes of Health.

[FR Doc. 00–25176 Filed 9–29–00; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Meeting: Chronic Fatigue Syndrome Coordinating Committee

In accordance with section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C., Appendix 2), notice is hereby given of a meeting of the Chronic Fatigue Syndrome Coordinating Committee.

Name: Chronic Fatigue Syndrome Coordinating Committee

Time and Date: Wednesday, October 25, 2000, from 9 a.m. to 4:30 p.m.

Place: Hubert H. Humphrey Building, Room 800, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open to the public, limited only by the space available. The meeting room will accommodate approximately 100 people. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card will need to provide a photo ID and must know the subject and room number of the meeting in order to be admitted into the building. Visitors must use the Independence Avenue entrance.

Purpose: The Committee is charged with providing advice to the Secretary, the Assistant Secretary for Health, and the Commissioner, Social Security Administration (SSA), to assure interagency coordination and communication regarding chronic fatigue syndrome (CFS) research and

other related issues; facilitating increased DHHS and agency awareness of CFS research and educational needs; developing complementary research programs that minimize overlap; identifying opportunities for collaborative and/or coordinated efforts in research and education; and developing informed responses to constituency groups regarding DHHS and SSA efforts and progress.

Matters To Be Discussed: The meeting will include a discussion of the CFS State of the Science Conference held October 23–24, 2000; progress report from the Name Change Working Group; update on current Federal activities; and identification of areas for future focus for the CFSCC. Public comments will be received at the meeting on two topics of interest to the Committee: (1) Lack of access to social services and (2) insensitive medical care. Persons wishing to make oral comments on these topics either in person or via video should notify the contact person listed below no later than COB on October 17, 2000. Five minutes will be allotted for each statement; both printed and electronic copies are requested for the record.

Contact Person for More Information: Janice C. Ramsden, Executive Secretary, CFSCC, Office of the Principal Deputy Director, NIH, Building 1, Room 333, 1 Center Drive, MSC 0159, Bethesda, Maryland 20892–0159, e-mail *jr52h@nih.gov* or telephone 301–496–0959.

Dated: September 22, 2000.

LaVerne Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25163 Filed 9–29–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Dates: October 30, 2000.

Time: 8:30 AM to 4:00 PM.

Agenda: To review and evaluate contract proposals.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Edward W. Schroder, PHD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2156, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301–496–2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 21, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25156 Filed 9–29–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given on the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology and Infectious Diseases Research Committee.

Dates: October 4–5, 2000.

Open: October 4, 2000, 9:00 AM to 10:00 AM.

Agenda: Reports from various Institute staff.

Place: One Washington Circle Hotel, Conference Center, One Washington Circle, DC 20037.

Closed: October 4, 2000, 9:00 AM to adjournment on October 5, 2000.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, Conference Center, One Washington Circle, DC 20037.

Contact Person: Gary S. Madonna, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301–496–2550.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 21, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25157 Filed 9–29–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Dates: November 14–15, 2000.

Time: 8 AM to 12 PM.

Agenda: To review and evaluate grant applications.

Place: The Virginian Suites, 1500 Arlington Blvd., Arlington, VA 22209.

Contact Person: Stanley C. Oaks, Jr., PhD, Scientific Review Branch, Division of Extramural Research, Executive Plaza South, Room 400C, 6120 Executive Blvd., Bethesda, MD 20892–7180, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research

Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: September 20, 2000.

LaVerene Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25158 Filed 9–29–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning the individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Dates: October 25, 2000.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: 6700–B Rockledge Drive, Room 1205, Bethesda, MD 20892–7612.

Contact Person: Paula S. Strickland, PHD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 4C02, 6003 Executive Boulevard MSC 7610, Bethesda, MD 20892–7610, 301–402–0643.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 20, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25159 Filed 9–29–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C Appendix 2), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Allergy, Immunology, and Transplantation Research Committee.

Dates: October 4–5, 2000.

Open: October 4, 2000, 8:15 AM to 9:15 AM.

Agenda: Discussion of administrative details relating to committee business and program review.

Place: Holiday Inn Georgetown, Kaleidoscope Room, 2101 Wisconsin Ave., NW., Washington, DC 20007.

Closed: October 4, 2000, 9:15 AM to 5:15 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, Kaleidoscope Room, 2101 Wisconsin Ave., NW., Washington, DC 20007.

Closed: October 5, 2000, 8:30 AM to adjournment.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, Kaleidoscope Room, 2101 Wisconsin Ave., NW., Washington, DC 20007.

Contact Person: Ken Wasserman, Ph.D, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD, 301 496–2550, kw159p@nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 22, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25160 Filed 9–29–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Dates: October 24–25, 2000.

Time: October 24, 2000, 1:30 PM to 6:00 PM.

Agenda: To review and evaluate contract proposals.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Time: October 25, 2000, 8:30 AM to 6:00 PM.

Agenda: To review and evaluate contract proposals.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Priti Mehrotra, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC, 7610, Bethesda, MD 20892–7610, 301–496–2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplation Research, 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 22, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25161 Filed 9–29–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Health

National Institutes of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: October 3, 2000.

Time: 9:30 am to 4 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Chevy Chase, 5520 Wisconsin Avenue, Terrace Room, Chevy Chase, MD 20815.

Contact Person: Hagit S. David, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC, 7610, Bethesda, MD 20892–7610, 301–496–2550.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 22, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25162 Filed 9–29–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: October 2, 2000.

Time: 1:30 pm to 3:30 pm.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neuroscience, National Institutes of Health, HHS)

Dated: September 22, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25164 Filed 9–29–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICE

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Neurological Sciences and Disorders B, October 19, 2000, 8 am to October 20, 2000, 6 pm, Hotel Washington, 15th St. & Pennsylvania Ave, NW., Washington, DC 20005 which was published in the **Federal Register** on August 11, 2000, 65 FR 49252.

The meeting will be held on October 19, 2000, 8 am to 6 pm. The meeting is closed to the public.

Dated: September 22, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25165 Filed 9–29–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be close to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Communication Disorders Review Committee.

Date: October 11–12, 2000.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: The Governor's House Hotel, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Melissa Stick, PhD, MPH, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NIDCD/NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: September 25, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25167 Filed 9–29–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: October 16, 2000.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: 6700–B Rockledge Drive, Room 2208, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Edward W. Schroder, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2156, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301–496–2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 25, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25168 Filed 9–29–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: October 18, 2000.

Time: 1 pm to 2 pm.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd., Suite 400C, Rockville, MD 20852.

Contact Person: Stanley C. Oaks, Jr., Phd, Scientific Review Branch, Division of Extramural Research, Executive Plaza South, Room 400C, 6120 Executive Blvd., Bethesda, MD 20892–7180, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: September 25, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25169 Filed 9–29–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions and could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Dates: September 22, 2000.

Time: 11:00 AM to 12:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Stephen M. Nigida, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7812, Bethesda, MD 20892, (301) 435–3565.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 21, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25155 Filed 9–29–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 6, 2000.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Paul K. Strudler, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7804, Bethesda, MD 20892, (301) 435–1716.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Cell Development and Function Integrated Review Group, Cell Development and Function 2.

Date: October 10–11, 2000.

Time: 8 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Ramesh K. Nayak, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5146, MSC 7840, Bethesda, MD 20892, (301) 435–1026.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 10, 2000.

Time: 8 a.m. to 10 a.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW, Washington, DC 20007

Contact Person: Dharam S. Dhindsa, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892, (301) 435–1174, dhindsad@csr.nih.gov

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Interactive, Functional and Cognitive Neuroscience 5.

Date: October 10–11, 2000.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Governor's House Hotel, Washington, DC 20036.

Contact Person: John Bishop, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250.

Name of Committee: Social Sciences, Nursing, Epidemiology and Methods Integrated Review Group, Epidemiology and Disease Control Subcommittee 1.

Date: October 11–13, 2000.

Time: 8:30 am to 4 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: J. Scott Osborne, PhD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, MSC 7816, Bethesda, MD 20892, (301) 435–1782.

Name of Committee: Cell Development and Function Integrated Review Group, Cell Development and Function 3.

Date: October 11–12, 2000.

Time: 8:30 am to 4 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Gerhard Ehrenspeck, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5138, MSC 7840, Bethesda, MD 20892, (301) 435–1022, ehrenspeckg@nih.csr.gov.

Name of Committee: Biochemical Sciences Integrated Review Group, Pathobiochemistry Study Section.

Date: October 11–12, 2000.

Time: 8:30 am to 12 pm.

Agenda: To review and evaluate grant applications.

Place: Chase Park Plaza, 212–232 N. Kingshighway Blvd., St. Louis, MO 63108.

Contact Person: Zakir Bengali,, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5150, MSC 7842, Bethesda, MD 20892, (301) 435–1742.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 11, 2000.

Time: 8:30 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Joe Marwah, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5188, MSC 7846, Bethesda, MD 20892, (301) 435–1253.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Visual Sciences B Study Section.

Date: October 11–12, 2000.

Time: 8:30 am to 4 pm.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, Conference Center, One Washington Circle, Washington, DC 20037.

Contact Person: Leonard Jakubczak, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5172, MSC 7844, Bethesda, MD 20892, (301) 435–1247.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 11, 2000.

Time: 9 am to 5 pm.

Agenda: To provide concept review of proposed grant applications.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Richard Marcus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892, 301–435–1245, richard.marcus@nih.gov

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 11, 2000.

Time: 9 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Governor's House Hotel, 17th & Rhode Island Avenue, NW, Washington, DC 20036.

Contact Person: Anita Miller Sostek, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892, (301) 435–1260.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 11, 2000.

Time: 10:30 am to 12 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michael Oxman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Room 4112, Bethesda, MD 20892, 301–435–3565, oxmanm@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 22, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–25166 Filed 9–29–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

National Invasive Species Council; Draft of the National Invasive Species Management Plan, ''Meeting the Challenge''

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of Availability—Draft of the National Invasive Species Management Plan, ''Meeting the Challenge''.

SUMMARY: Pursuant to Executive Order 13112, the National Invasive Species Council is announcing the availability of the draft of the National Invasive Species Management Plan, ''Meeting the Challenge'' for public review and comment for a period of 45 days. The Executive Order set up an inter-agency council to prevent and control invasive species to minimize their economic, ecological and human health impacts. The Council is co-chaired by the Secretaries of Agriculture, Commerce and the Interior; and includes the

Departments of State, Transportation, the Treasury and the Environmental Protection Agency. The Plan seeks to address invasive species in the areas of prevention, coordination, control, rapid response, monitoring, and information sharing.

DATES: All Comments must be received by close of business (6:00 p.m.—eastern time) on November 16, 2000.

ADDRESSES: National Invasive Species Council, 1951 Constitution Avenue, N.W., Suite 320, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Kelsey Passe, National Invasive Species Council Program Analyst; E-mail: Kelsey_Passe@ios.doi.gov; Phone: (202) 208–6336; Fax: (202) 208–1526.

SUPPLEMENTARY INFORMATION: Copies of the draft Plan can be obtained via the Council's website: *www.invasivespecies.gov;* by contacting the Council Staff at 202–208–6336 (phone); 202–208–1526 (Fax); or by e-mail at invasivespecies@ios.doi.gov. Comments can be submitted to the Council Staff at the fax, e-mail, or mailing address given above.

Dated: September 28, 2000.

Lori Williams,

Executive Director, National Invasive Species Council.

[FR Doc. 00–25338 Filed 9–29–00; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Draft Recovery Plan for the Virginia Sneezeweed for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a draft Recovery Plan for the Virginia sneezeweed (*Helenium virginicum*).

The Virginia sneezeweed is a rare herb in the Asteraceae family found in the Shenandoah Valley of western Virginia, with a single possible disjunct population in southern Missouri. The species was listed as threatened in December 1998 due to its restricted range, small number of occurrences, and growing threats from loss and degradation of its sinkhole pond habitat. The objective of the proposed Recovery Plan is to protect *Heleniuim virginicum* populations and their habitat, thereby enabling the species' removal from the Federal list of endangered and threatened wildlife and plants. To accomplish this, the draft Plan recommends protection and management of extant populations, definitively establishing the distribution of the plant, and strategies for maintaining the genetic diversity of the species. If the Recovery Plan is successfully implemented, full recovery may be possible by 2020. The Service solicits review and comment from the public on this draft Plan.

DATES: Comments on the draft Recovery Plan must be received by November 16, 2000, to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft Recovery Plan can obtain a copy from the U.S. Fish and Wildlife Service, Chesapeake Bay Field Office, 177 Admiral Cochrane Drive, Annapolis, Maryland 21401, telephone 410/573–4537 and fax 410/269–0832. Comments should be sent to the same address, to the attention of G. Andrew Moser.

FOR FURTHER INFORMATION CONTACT: G. Andrew Moser at 410/573–4537 (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare Recovery Plans for most of the listed species native to the United States. Recovery Plans describe actions considered necessary for conservation of the species, establish criteria for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of Recovery Plans for listed species unless such a Plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during Recovery Plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised Recovery Plan. The Service and other Federal agencies will also take these comments into account in the course of implementing Recovery Plans.

The document submitted for review is the draft Virginia Sneezeweed (*Helenium virginicum*) Recovery Plan. The Virginia sneezeweed, a rare herb in the Asteraceae family, has been found in 30 sites in the Shenandoah Valley of western Virginia, although plants have not been seen at 4 of these sites for several years. Recent studies of a *Helenium* sp. from a sinkhole pond in southern Missouri suggest that it may represent a disjunct population of *H. virginicum,* but further research is needed to resolve this. The Virginia sneezeweed is limited to seasonally flooded sinkhole ponds, a restricted and threatened habitat type that is in some cases closely associated with agricultural and residential land uses. In addition, there is some indication that the species may have a self-incompatible breeding system, which could increase the threat of local extinctions in small populations. For these reasons, *H. virginicum* was listed as a threatened species in December 1998.

The objective of the draft Recovery Plan is to protect *Helenium virginicum* populations and their habitat, thereby enabling the species' removal from the Federal list of endangered and threatened wildlife and plants. Delisting of *H. virginicum* may be considered when: (1) 20 self-sustaining populations and their habitats have received permanent protection across the species' Virginia range; (2) monitoring over 15 years indicates that populations in the 20 sites are viable; (3) life history and ecological requirements are understood sufficiently to allow for effective protection monitoring, and, as needed, management; (4) seeds representing the range of genetic diversity in *H. virginicum* are placed in long-term storage to provide a source of genetic material in the event of in situ extinction; and (5) if determined to be *H. virginicum*, the Missouri population and its habitat are permanently protected and seeds placed in long-term storage.

Recovery activities designed to achieve these objectives include protection, management, and monitoring of extant populations and their habitat; definitive identification of the range and distribution of the species; continuing investigations into the life history and ecology of *H. virginicum*; maintenance of seed sources for the species; and development of informational materials to create more awareness of *H. virginicum* and its status. Contingent on successful implementation of all recovery tasks, full recovery is anticipated by the year 2020.

The draft Recovery Plan is being submitted for technical and agency review. After consideration of comments received during the review period, the Plan will be submitted for final approval.

Public Comments Solicited

The Service solicits written comments on the Recovery Plan described. All comments received by the date specified above will be considered prior to approval of the Plan.

Authority: The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 21, 2000.

J. Mitch King,

Acting Regional Director.

[FR Doc. 00–25107 Filed 9–29–00; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of an Application for an Incidental Take Permit for Construction of a Single-family Home in the Town of Venice, Sarasota County, Florida

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

Mr. Jack Grimes (Applicant) requests an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (U.S.C. 1531 *et seq.*), as amended (Act). The Applicant anticipates taking about one-half acre of Florida scrub-jay (*Aphelocoma coerulescens*) habitat, incidental to land clearing in preparation for the construction of a single-family home and supporting infrastruture. Land clearing will take place within section 33, Township 39 South, Range 19 East, Venice, Sarasota County, Florida. The Applicant proposes to mitigate the taking of scrub-jays through contribution of $1,000 to the Florida Scrub-jay Conservation Fund.

Land clearing and infrastructure installation will destroy about one-half acre of habitat known to be occupied by one family of scrub-jays. A more detailed description of the mitigation and minimization measures to address the effects of the Project to the scrub-jay are outlined in the Applicant's Habitat Conservation Plan (HCP) and in the **SUPPLEMENTARY INFORMATION** section below. The Service has determined that the Applicant's proposal, including the proposed mitigation and minimization measures, will individually and cumulatively have a minor or negligible effect on the species covered in the HCP. Therefore, the ITP is a ''low effect'' project and would qualify as a categorical exclusion under the National Environmental Policy Act (NEPA), as provided by the Department of Interior Manual (516 DM2, Appendix 1 and 516 DM 6, Appendix 1).

The Service announces the availability of the HCP for the incidental take application. Copies of the HCP may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. This notice is provided pursuant to Section 10 of the Endangered Species Act and NEPA regulations (40 CFR 1506.6).

The Service specifically requests information, views, and opinions from the public via this Notice on the Federal action. Further, the Service specifically solicits information regarding the adequacy of the HCP as measured against the Service's Permit issuance criteria found in 50 CFR Parts 13 and 17.

If you wish to comment, you may submit comments by any one of several methods. Please reference permit number TE033098–0 in such comments. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the internet to ''david_dell@fws.gov''. Please submit comments over the internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your internet message. If you do not receive a confirmation from the Service that we have received your internet message, contact us directly at either telephone number listed below (see **FURTHER INFORMATION**). Finally, you may hand deliver comments to either Service office listed below (see **ADDRESSES**). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not; however, consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

DATES: Written comments on the ITP application and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before November 1, 2000.

ADDRESSES: Persons wishing to review the application, supporting documentation, and HCP may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or Field Supervisor, U.S. Fish and Wildlife Service, Post Office Box 2676, Vero Beach, Florida 32961–2676. Written data or comments concerning the application, or HCP should be submitted to the Regional Office. Please reference permit number TE033098–0 in requests for the documents discussed herein.

FOR FURTHER INFORMATION CONTACT: Mr. David Dell, Regional HCP Coordinator, (see **ADDRESSES** above), telephone: 404/679–7313, facsimile: 404/679–7081; or Mr. Mike Jennings, Fish and Wildlife Biologist, South Florida Ecosystem Office, Vero Beach, Florida (see **ADDRESSES** above), telephone: 561/562–3909.

SUPPLEMENTARY INFORMATION: The Florida scrub-jay (scrub-jay) is geographically isolated from other subspecies of scrub-jays found in Mexico and the western United States. The scrub-jay is found exclusively in peninsular Florida and is restricted to xeric uplands (predominately in oak-dominated scrub). Increasing urban and agricultural development have resulted in habitat loss and fragmentation which has adversely affected the distribution and numbers of scrub-jays. The total estimated population is between 7,000 and 11,000 individuals.

The decline in the number and distribution of scrub-jays in southwestern Florida has been exacerbated by tremendous urban growth in the past 50 years. Much of the historic commercial and residential development has occurred on the dry soils which previously supported scrub-jay habitat. Based on existing soils data, much of the historic and current scrub-jay habitat of coastal southwest Florida occurs proximal to the current shoreline and larger river basins. Much of this area of Florida was settled early because few wetlands restricted urban and agricultural development. Due to the

effects of urban and agricultural development over the past 100 years, much of the remaining scrub-jay habitat is now relatively small and isolated. What remains is largely degraded due to the exclusion of fire which is needed to maintain xeric uplands in conditions suitable for scrub-jays.

Recent scrub-jay surveys in urban areas of southwest Florida documented that the subject residential parcel is part of the territory of one family of birds that is composed of seven individuals. A one-day survey undertaken by the Applicant supported these findings when two juvenile birds were documented within the subject residential parcel. The extent of the territory and its relative importance to the resident family of scrub-jays has not been determined. However, the residential parcel is composed of native xeric vegetation of sufficient quality to provide food resources and nesting and sheltering habitat for scrub-jays.

Scrub-jays using the subject residential lot and adjacent properties are part of a larger complex of scrub-jays located in urban settings in coastal areas of southern Sarasota County and western Charlotte County. Thirteen scrub-jay families are known to occupy urban areas within about three miles of the subject residential parcel. More than 100 scrub-jay families may still exist within the metapopulation of birds found in the matrix of urban and natural areas of coastal Sarasota and Charlotte counties. However, scrub-jays in urban areas are particularly vulnerable and typically do not successfully produce young that survive to adulthood. Persistent urban growth in this area will likely result in further reductions in the amount of suitable habitat for scrub-jays. Increasing urban pressures are also likely to result in the continued degradation of scrub-jay habitat as fire exclusion due to safety concerns slowly results in vegetative overgrowth. The continued survival of a large scrub-jay population in southwest Florida will be dependent on the protection and management of large preserves.

Construction of the Project's infrastructure and facilities will result in harm to scrub-jays, incidental to the carrying out of these otherwise lawful activities. Habitat alteration associated with the proposed residential construction will reduce the availability of feeding, nesting, and sheltering habitat of resident scrub-jays.

The Applicant proposes to minimize take of scrub-jays by reducing disturbance to occupied habitat. Approximately 25 percent (or 0.13 acres) of occupied habitat on the residential lot will not be disturbed during land clearing and construction activities. In addition, the Applicant proposes to remove up to four pine trees on the residential lot. Removal of these trees will eliminate perch sites for predatory birds and may reduce the risk that raptors will kill scrub-jays.

As earlier stated, the Service has determined that the HCP qualifies as a Categorically-Excluded, ''low-effect'' HCP as defined by Service's Habitat Conservation Planning Handbook (November 1996). Low-effect HCPs are those involving: (1) minor or negligible effects on federally listed and candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources. The Applicant's HCP qualifies for the following reasons:

1. Approval of the HCP would result in minor or negligible effects on the Florida scrub-jay. The Service does not anticipate significant direct or cumulative effects on this species resulting from the construction of the Project.

2. Approval of the HCP would not have adverse effect on known geographic, historic or cultural sites, or involve unique or unknown environmental risks.

3. Approval of the HCP would not result in any significant adverse effects on public health or safety.

4. The project does not require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act, nor does it threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.

5. Approval of the HCP would not establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

The Service has therefore determined that approval of the HCP qualifies as a categorical exclusion under NEPA, as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). No further NEPA determination will therefore be prepared.

The Service will evaluate the HCP and comments submitted thereon to determine whether the application meets the requirements of Section 10(a) of the Act. If it is determined that those requirements are met, an ITP will be issued for the incidental take of one family of Florida scrub-jay. The Service will also evaluate whether the issuance of a Section 10(a)(1)(B) ITP complies with Section 7 of the Act by conducting an intra-Service Section 7 consultation. The results of the consultation, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Dated: September 25, 2000.

H. Dale Hall,

Acting Regional Director.

[FR Doc. 00–25145 Filed 9–29–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of an Application for an Incidental Take Permit for Road Improvement in Perry County, Mississippi

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Perry County Board of Supervisors (Applicant) has made an application for an incidental take permit (ITP) from the Fish and Wildlife Service (Service) pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended. The proposed permit would allow take of the gopher tortoise (Gopherus polyphemus), a federally listed threatened species, incidental to surfacing a 0.25-mile section of dirt road with gravel. The permit would authorize take of up to two gopher tortoises. As described in the Applicant's habitat conservation plan (HCP), impacts will be minimized and mitigated by relocating the tortoises from their burrows along the edge of the road to adjacent burrows within the tortoise colony. The habitat conservation plan is further described in the **SUPPLEMENTARY INFORMATION** section below. The Service has determined that the Applicant's proposal, including the proposed mitigation and minimization measures, will individually and cumulatively have a minor or negligible effect on the species covered in the HCP. Therefore, the ITP is a ''low effect'' project and would qualify as a categorical exclusion under the National Environmental Policy Act (NEPA), as provided by the Department of Interior Manual (516 DM2, Appendix 1 and 516 DM 6, Appendix 1).

The Service announces the availability of the HCP for the incidental take application. Copies of the HCP may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. This notice is provided pursuant to Section 10 of the

Endangered Species Act and NEPA regulations (40 CFR 1506.6).

The Service specifically requests information, views, and opinions from the public via this Notice on the Federal action. Further, the Service specifically solicits information regarding the adequacy of the HCP as measured against the Service's Permit issuance criteria found in 50 CFR Parts 13 and 17.

We specifically request information, views, and opinions from the public via this Notice on the Federal action. Further, we specifically solicit information regarding the adequacy of the Plan as measured against the Service's Permit issuance criteria found in 50 CFR Parts 13 and 17.

If you wish to comment, you may submit comments by any one of several methods. Please reference permit number TE026748–0 in such comments. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the internet to ''david_dell@fws.gov''. Please submit comments over the internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your internet message. If you do not receive a confirmation from the Service that we have received your internet message, contact us directly at either telephone number listed below (see **FURTHER INFORMATION**). Finally, you may hand deliver comments to either Service office listed below (see **ADDRESSES**). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not; however, consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

DATES: Written comments on the permit application and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before November 1, 2000

ADDRESSES: Persons wishing to review the application, HCP, and supporting documentation may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or Jackson Field Office, 6578 Dogwood View Parkway, Jackson, Mississippi, 39213 (Attn: Will McDearman). Written data or comments concerning the application, HCP, or supporting documents should be submitted to the Regional Office. Requests for the documentation must be in writing to be processed. Please reference permit number TE026748–0 in requests for the documents discussed herein.

FOR FURTHER INFORMATION CONTACT: Mr. David Dell, Regional Permit Coordinator, (see **ADDRESSES** above), telephone: 404/679–7313; or Mr. Will McDearman, Fish and Wildlife Biologist, Jackson Field Office, (see **ADDRESSES** above), telephone 601/321–1124.

SUPPLEMENTARY INFORMATION: The gopher tortoise was listed in 1987 as a threatened species in the western part of its geographic range, west of the Tombigbee and Mobile Rivers in Alabama, Mississippi and Louisiana. The gopher tortoise is a burrowing animal that historically inhabited fire-maintained longleaf pine communities on moderately well drained to xeric soils in the Coastal Plain. These longleaf pine communities consisted of relatively open forests, without a closed overstory, with a well developed herbaceous plant layer of grasses and forbs. About 80% of the original habitat for gopher tortoises was lost at the time the species was listed due to the conversion to urban and agricultural land use. On remaining forests, management practices converting longleaf pine to densely planted pine stands for pulpwood production, fire exclusion, and infrequently prescribed fire further reduced the open forest with grasses and forbs tortoises need for burrowing, nesting, and feeding. Over 22,000 gopher tortoises have been estimated to occur in the listed range. The tortoise, however, is a long-lived animal with low reproductive rates. Remaining populations, though relatively widespread, are individually small, fragmented, and usually in poor habitat without adequate reproduction for a self-sustaining viable population.

Under section 9 of the Act and its implementing regulations, ''taking'' of endangered and threatened wildlife is prohibited. However, the Service, under limited circumstances, may issue permits to take such wildlife if the taking is incidental to and not the purpose of otherwise lawful activities. The Applicant has prepared an HCP as required for the incidental take permit application. The Applicant intends to open a dead-end road by extending it about 0.25 mile to another intersection. The extension is over an existing dirt road that will be surfaced with gravel. Two gopher tortoise burrows are located on the edge of the dirt road. Surveys by the Applicant and Service found that one of these burrows was inhabited by a tortoise. The operation of heavy equipment for surfacing the road can collapse these burrows, entombing and killing or injuring tortoises. The biological goal of the plan is to avoid such harm or injury to these tortoises and to retaining them within the existing the gopher tortoise colony. To avoid, minimize and mitigate impacts, the Applicant will capture and relocate up to two tortoises in these two burrows to adjacent unoccupied but suitable burrows located about 200 feet from the road. The tortoises at the edge of the road are part of a small colony of five tortoises inhabiting privately owned property adjoining the west side of the road. Thus, tortoises will be moved to other burrows within their existing colony and population. The permit will authorize incidental take associated with the capture and relocation of two tortoises. Upon relocation, the burrows on the road edge will be collapsed or blocked to prevent habitation from any tortoises. To monitor the biological effect of the HCP, the Applicant will track relocated tortoises using radio-telemetry until the over-wintering period of 2000.

As earlier stated, the Service has determined that the HCP qualifies as a Categorically-Excluded, ''low-effect'' HCP as defined by the Service's Habitat Conservation Planning Handbook. Low-effect HCPs are those involving: (1) Minor or negligible effects on federally listed and candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources. The Applicant's HCP qualifies for the following reasons:

1. Approval of the HCP would result in minor or negligible effects on the gopher tortoise and its habitat. We do not anticipate significant direct or cumulative effects on this species as a result of this project.

2. Approval of the HCP would not have adverse effects on known geographic, historic or cultural sites, or

involve unique or unknown environmental risks.

3. Approval of the HCP would not result in any significant adverse effects on public health or safety.

4. The project does not require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act, nor does it threaten to violate a Federal, State, local, or tribal law or requirement imposed for protection of the environment.

5. Approval of the HCP would not establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

The Service has therefore determined that approval of the HCP qualifies as a categorical exclusion under NEPA, as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). No further NEPA determination will therefore be prepared.

The Service will evaluate the HCP and comments submitted thereon to determine whether the application meets the requirements of Section 10(a) of the Act. If it is determined that those requirements are met, an ITP will be issued for the incidental take of one family of Florida scrub-jay. The Service will also evaluate whether the issuance of a Section 10(a)(1)(B) ITP complies with Section 7 of the Act by conducting an intra-Service Section 7 consultation. The results of the consultation, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Dated: September 25, 2000.

H. Dale Hall,

Acting Regional Director.

[FR Doc. 00–25146 Filed 9–29–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Meeting

AGENCY: Fish and Wildlife Service, Interior

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath Fishery Management Council, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The Klamath Fishery Management Council makes recommendations to agencies that regulate harvest of anadromous fish in the Klamath River Basin. The objective of this meeting is to review the progress of the 2000 Klamath chinook salmon fishing season and plan for fishery management in 2001. The meeting is open to the public.

DATES: The Klamath Fishery Management Council will meet from 1:00 p.m. to 5:00 p.m. on Wednesday, October 25, 2000; from 8:00 a.m. to 5:00 p.m. on Thursday, October 26, 2000; and from 8:00 a.m. to 12:00 p.m. on Friday, October 27, 2000.

Place: The meeting will be held at the Yreka Fish and Wildlife Office, 1829 South Oregon Street, Yreka, California.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, 1829 South Oregon Street, Yreka, California 96097, telephone (530) 842–5763.

SUPPLEMENTARY INFORMATION: For background information on the Klamath Council, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639).

Dated: September 25, 2000.

Elizabeth H. Stevens.

California/Nevada Operations Manager, California/Nevada Office, U.S. Fish and Wildlife Service.

[FR Doc. 00–25147 Filed 9–29–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Request for Public Comments on Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request extending the information collection described has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). Copies of the proposed collection instrument may be obtained by contacting the USGS clearance officer at the phone number listed below. OMB has up to 60 days to approve or disapprove the information collection, but may respond after 30 days; therefore, public comments should be submitted to OMB within 30 days in order to assure their maximum consideration. Comments and suggestions on the proposal should be made directly to the Desk Officer for the Interior Department, Office of Regulatory Affairs, OMB, Washington, DC 20503 and to the USGS Clearance Officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, Virginia, 20192. Telephone 703–648–7313.

Specific public comments are requested as to:

1. Whether the collection of information is necessary for the proper performance of the functions on the USGS, including whether the information will have practical utility;

2. The accuracy of the USGS estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

3. The quality, utility, and clarity of the information to be collected; and

4. How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Title: National Atlas of the United States of America.

Current OMB approval number: 1028–0057.

Abstract: Potential customers of electronic national atlas products will be asked questions that provide (1) potential uses of these products; (2) type of personal computer used; (3) current method of acquiring atlas-type information; (4) demographic information; and (5) personal expectations from the products. Survey questionnaires will be distributed by mail in a return postage-paid format and via the World Wide Web. Focus groups will be held at various locations across the United States and could include prototype product testing. Software usability studies will be conducted at various locations and will result in the development of products that are easier to use. Customer information gathered from the questionnaires, focus groups, and usability studies will be used to evaluate the National Atlas of the United States products and to make development adjustments based on customer responses. The proposed collection is limited in scope to the National Atlas products and the capability of the products to meet customer needs. The USGS intends to develop a cooperative research and development agreement with private industry to assist in product development and to provide an additional avenue for product distribution.

Bureau form number: None.

Frequency: An estimated 2–3 surveys, and 2–5 focus groups studies per year to evaluate potential customer segments and reactions.

Description of respondents: Owners of powerful home personal computers, some with Internet access—potentially the general public, libraries, and schools.

Estimated completion time: Varies depending on the mechanism used: Approximately 0.15 minutes per survey and 1 hour per focus group session.

Annual responses: Approximately 1,000 survey and 100 focus group responses.

Annual burden hours: 350.

Bureau clearance officer: John Cordyack, 703–648–7313.

Dated: September 26, 2000.

Richard E. Witmer,

Chief Geographer.

[FR Doc. 00–25096 Filed 9–29–00; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Application Notice Describing an Opportunity of Federal Funding of Proposals Submitted Under the State Partnership Program (SPP) for Fiscal Year 2001

AGENCY: Department of the Interior, U.S. Geological Survey.

ACTION: Notice.

SUMMARY: Pre-proposal Applications are invited for projects dealing with invasive species issues under the FY2001 State Partnership Program (SPP).

The purpose of the FY 2001 SSP is provide support through grants and cooperative agreements to states and tribal agencies in the eastern United States whose primary focus is on gathering, analyzing, and distributing biological science information needed for natural resource management decision-making relating to invasive species. This program requires complementary study participation and interaction between State/Tribal institutions, including public universities, museums, and natural resource agencies, and Science Centers or Cooperative Research Units of the USGS, Eastern Region. For contact information relating to potential study cooperation and participation by scientists from the USGS Biological Resources Division, Eastern Region, Science Centers (6 Centers) and Cooperative Research Units (16 Units) access the following web sites: For Science Centers: http//biology.usgs.gov/pub_aff/centers.html and for Cooperative Units: http://biology.usgs.gov/coop/

Proposals involving the support and cooperation of multiple State parties as well as multiple Federal, private, or other entities are strongly favored. Respondents are encouraged to show linkages to other resource agencies, in addition to USGS, that have jurisdiction over public lands or public trust biotic resources and to the science information needs of other Department of the Interior bureaus and other Federal agencies. Proposals must demonstrate a commitment to information exchange and technology transfer.

Eligibility Requirements

Applicant Eligibility: State, Tribal, and/or U.S. Territories and Possessions that conduct natural resource studies and associated information management. No Federal or private agencies may apply.

Application and Award Process

Pre-proposal Submission: Eligible institutions may request a Pre-proposal Solicitation Package, including instructions on the SPP and how to submit an application, from the USGS, Eastern Regional Office (see address below). Pre-proposals must be submitted to USGS by State/Tribe institutions only, but must include information on participating USGS Science Center or Cooperative Research Unit.

Full-proposal Evaluation and Award: Full proposals will be requested in writing by the USGS from institutions that have submitted pre-proposals of high merit and who have met all of the pre-proposal requirements as detailed in the Pre-proposal Solicitation Package. Detailed specifications will be provided when the request for full proposals is made. After meeting all submission requirements, full proposals will be reviewed and evaluated by a technical review team. Projects will be individually scored and prioritized, and award recommendations forwarded to the USGS contracting office for award.

DATES: Completed pre-proposals must be submitted to the USGS, Eastern Regional Office and be postmarked no later than November 1, 2000. Full proposals will be required by January 15, 2001. Notification of awards will be made by February 1, 2001.

APPLICATION INFORMATION: A Pre-Proposal Solicitation Package, including a SPP Factsheet that gives examples of projects that have received funding in the past, may be requested from the USGS, Eastern Regional Office at the following address:

Dr. Gary D. Brewer, State Partnership Program Coordinator, USGS Biological Resources Division, Eastern Regional Office, 1700 Leetown Road, Kearneysville, WV 25430, Telephone: 304–724–4507, Fax: 304–724–4505, E-mail: gary_brewer@usgs.gov

Authority: Fish and Wildlife Act of 1956, 70 Stat. 1119, as amended, 16 U.S.C. 742a–742j; Fish and Wildlife Coordination Act of 1958, 16 U.S.C. 661–667e.

The Office of Management and Budget Catalog of Federal Domestic Assistance Number is 15.808.

Dated: September 8, 2000.

David P. Bornholdt,

Acting Regional Chief Biologist.

[FR Doc. 00–25178 Filed 9–29–00; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Geological Survey

National Cooperative Geologic Mapping Program (NCGMP) Advisory Committee

AGENCY: United States Geological Survey, Interior.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to Public Law 108–148, The NCGMP Advisory Committee will meet in the Rachel Carson/John Muir Rooms of the Main Interior Building 1849 C. Street NW., Washington, DC. The Advisory Committee, comprised of scientists from Federal agencies, State agencies, academic institutions, and private companies, will advise the Director on planning and implementation of the geologic mapping program.

Topics to be reviewed and discussed by the Advisory Committee include:

- Progress of the NCGMP towards fulfilling the purposes of the National Geologic Mapping Act of 1992
- Updates on the Federal, State, and educational components of the NCGMP
- Strategic Goals

DATES: October 31–November 2, 2000, commencing at 9:00 a.m. on October 31st and adjourning by 1:00 p.m. on November 1st.

FOR FURTHER INFORMATION CONTACT: Martha N. Garcia, U.S. Geological Survey, Mail Stop 908, National Center Reston, Virginia, 20192, (703) 648–6978.

SUPPLEMENTARY INFORMATION: Meetings of the National Cooperative Geologic Mapping Program Advisory Committee are open to the public.

Dated: September 22, 2000.

P. Patrick Leahy,

Associate Director for Geology, U.S. Geological Survey.

[FR Doc. 00–25179 Filed 9–29–00; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal-State Compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Off-Track Wagering Compact between the Chickasaw Nation and the State of Oklahoma, which was executed on July 26, 2000.

DATES: This action is effective October 2, 2000.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: September 20, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–25124 Filed 9–29–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal-State Compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Modification Compact for Off-Track Wagering between the Choctaw Nation and the State of Oklahoma, which was executed on July 27, 2000.

DATES: This action is effective October 2, 2000.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: September 20, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–25125 Filed 9–29–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF INTERIOR

Bureau of Land Management

[MT–099–1020–PG–003E]

Notice of Meeting

AGENCY: Bureau of Land Management, Lewistown Field Office, Interior.

ACTION: Notice of meeting.

SUMMARY: The Central Montana Resource Advisory Council will meet October 17–18, 2000 at the Holiday Inn, In Great Falls, Montana.

The October 17 portion of the meeting will begin at 7:45 am with a field trip to the Greenfields Irrigation District. The council will then have lunch and return to the Holiday Inn. At 1 p.m. there will be a 30-minute public comment period; followed by a welcome and orientation session for new RAC members; field manager updates; a review of funding requests for fiscal year 2001 and CARA legislation; a review of Lewis & Clark Bicentennial plans; and an open discussion among council members. This session will adjourn at 5 p.m.

The October 18 session will begin at 7:45 am with updates concerning sage grouse and sagebrush, prairie dogs, plovers, black-footed ferrets, noxious weeds, cottonwood regeneration and a cooperative ecosystem river study. The council will break for lunch from 12–1 p.m. After lunch the RAC will participate in discussions concerning the Missouri River subgroup, subdivisions, cottonwood regeneration, and river ferry crossing funding projects. These updates will conclude by 3:30 pm. The council will then address administrative details and adjourn by 5 p.m.

DATES: October 17 and 18, 2000.

LOCATION: Holiday Inn, Great Falls, Montana.

FOR FURTHER INFORMATION CONTACT: David L. Mari, Lewistown Field Manager, Lewistown Field Office, Bureau of land Management, Box 1160, Airport Road, Lewistown, MT.

SUPPLEMENTARY INFORMATION: The meeting is open to the public and there will be a public comment period as described above 59457.

Dated: September 21, 2000.

B. Gene Miller,

Associate Field Office Manager.

[FR Doc. 00–25108 Filed 9–29–00; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–100–1430–AF]

Temporary Travel Restrictions

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Establishment of Temporary Travel Restrictions on Public Lands in Townships 7 and 8 North, Range 87 West, Routt County, Colorado.

SUMMARY: This order closes certain public lands managed by the Little Snake Field Office in Routt County, Colorado, to motorized vehicle use on a year round basis, and is effective immediately. This order modifies the existing use ''open'' to ''designated roads and trails only'' on approximately 722.42 acres. The restrictions will now include a limitation that prohibits the use of any motorized wheeled or tracked vehicles off designated roads and trails. This order is issued under the authority of 43 CFR 8341.2 and 43 CFR 8364.1(a) as a temporary measure while the off highway vehicle (OHV) portion of the Little Snake Resource Management Plan is reviewed and modified as needed to address public issues, concerns, and needs as well as resource uses, development, impacts, and protection.

EFFECTIVE DATE: October 2, 2000.

FOR FURTHER INFORMATION CONTACT: John E. Husband, Field Manager, Little Snake Field Office, 455 Emerson Street, Craig, Colorado 81625–1129, Telephone (970) 826–5000.

SUPPLEMENTARY INFORMATION: This order affects public lands in Routt County, Colorado thus described:

Public Lands within:
T. 7N., R. 87W., section 3, lots 3 and 4,
T. 7N., R. 87W., section 4, lots 1 and 2,
T. 8N., R. 87W., section 28, E½ SE¼,
T. 8N., R. 87W., section 33, SE¼ and,
T. 8N., R. 87W., section 34, N½.

This restriction shall be effective October 2, 2000, and shall remain in effect until rescinded or modified by the Authorized Officer.

Previously this area was designated ''open'' to OHV use on public lands in the Little Snake Resource Management Plan, 1989. These Public Lands are being closed on a year-round basis,

effective immediately, except on designated roads and trails, to protect vegetation, soils, watershed, wildlife values, and to minimize conflicts among various uses of the Public Lands. This order is issued under the authority of 43 CFR 8341.2 and 43 CFR 8364.1(a) as a temporary measure while the off highway vehicle (OHV) portion of the Little Snake Resource Management Plan is reviewed and modified. Designated roads and trails affected by this order will be posted with appropriate regulatory signs. Maps will be available at the Little Snake Field Office, 455 Emerson Street, Craig, CO 81625–1129.

Exemptions from this order include:

1. Any Federal , State, or local officers or agencies engaged in fire suppression, emergency, or official law enforcement activities.

2. Bureau of Land Management employees engaged in official duties.

3. Persons or agencies holding a special use permit or right-of-way which specifically allows for access to the area for maintenance and operation of said authorized facilities, provided such motorized use is limited to the routes specifically identified in the special use permit or right-of-way.

4. Designated county roads, or rights-of-way associated with designated county roads.

5. Grazing permittee(s) during the permitted grazing season on existing roads and trails, where such use is necessary to the conduct of grazing operations, with the exception described below. Grazing permittee in emergency situations, such as sick or injured animals, to recover the animal(s) throughout the public lands described in this designation, with as little disturbance to the area as possible. The grazing permittee must notify the Authorized Officer by telephone and in writing within 5 days of such actions describing the location and reason for such action. *Exception to Use by Permittee:* No use of motorized vehicles, except on public and designated roads, will be allowed for patrolling of the area as related to hunting use before, during, or after hunting seasons, or for conduct of hunting or outfitting by the permittee, whether such use is in conjunction with livestock grazing operations or not.

Penalties: Violations of this designation order are punishable by fines not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Dated: September 15, 2000.

John E. Husband,

Field Manager.

[FR Doc. 00–24251 Filed 9–29–00; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

Missouri National Recreational River; Availability of Final Boundary Map

AGENCY: National Park Service

SUMMARY: In accordance with section 3(b) of the Wild and Scenic Rivers Act (62 Stat. 906 as amended; 16 U.S.C. 1274), notice is hereby given that the official, detailed boundary maps, drawing number 651–80000, dated March 6, 2000, for the Missouri National Recreational River are completed and available.

FOR FURTHER INFORMATION CONTACT: Superintendent Missouri National Recreational River, P.O. Box 591, O'Neill, Nebraska 68763–0591, telephone 402–336–3970.

SUPPLEMENTARY INFORMATION: On November 10, 1978, the 59-mile segment of the Missouri River from Gavins Point Dam, South Dakota to Ponca State Park, Nebraska, was designated a recreational river by Public Law 95–625, an amendment to the Wild and Scenic Rivers Act. In accordance with section 3 (c) of the Wild and Scenic Rivers Act, notice is hereby given that the above said maps are now available for inspection at the following locations: The Department of the Interior, National Park Service, Land Resources Division, 1849 C Street NW, Room 2444, Washington, D.C.; National Park Service, Midwest Regional Office, Office of Planning, 1709 Jackson St., Omaha, Nebraska; Missouri National Recreational River Headquarters, 114 N. 6th St., O'Neill, Nebraska; Cedar County Courthouse, County Clerk's Office, 101 S. Broadway Hartington, Nebraska; Clay County Courthouse, County Clerk's Office, 211 W. Main St., Vermillion, South Dakota; Dixon County Courthouse, County Clerk's Office, 302 3rd St., Ponca, Nebraska; Union County Courthouse, County Clerk's Office, 209 E. Main, Elk Point, South Dakota; Yankton County Courthouse, County Clerk's Office, 321 W. 3rd St., Yankton, South Dakota. Copies of the maps are also available in public libraries in Hartington and Ponca, Nebraska, and Yankton, Vermillion, and Elk Point, South Dakota. Please address any questions or requests to the Superintendent at the address given above.

Dated: September 22, 2000.

Catherine A. Damon,

Acting Regional Director.

[FR Doc. 00–25252 Filed 9–29–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Extension of Public Comment Period for the Draft General Management Plan/Visitor Use and Facilities Plan and the Draft Environmental Impact Statement for Voyageurs National Park, Minnesota

SUMMARY: Pursuant to section 102(2) of the National Environmental Policy Act of 1969, the National Park Service has prepared a Draft General Management Plan/Visitor Use and Facilities Plan and a Draft Environmental Impact Statement (DGMP/DEIS) for Voyageurs National Park. Because of strong public interest in the project, the comment period for this document has been extended an additional 30-days.

DATES: The comment period will now end on October 23, 2000. All written comments should be postmarked by this date.

FOR FURTHER INFORMATION CONTACT: Kathleen Przybylski, Voyageurs National Park, 3131 Highway 53, International Falls, MN 56649, telephone: 218–283–9821. E-mail: Kathleen_Przybylski@nps.gov.

SUPPLEMENTARY INFORMATION: You may mail comments on the DMGP/DEIS to: General Management Plan, Voyageurs National Park, 3131 Highway 53, International Falls, MN 56649. You also may comment via e-mail to Kathleen_Przybylski@nps.gov.

The purpose of the General Management Plan/Visitor Use and Facilities Plan is to set forth the basic management philosophy for the Park and to provide the strategies for addressing issues and achieving identified management objectives. The DGMP/DEIS describes and analyzes the environmental impacts of a proposed action and two action alternatives for the future management direction of the Park. A no action alternative is also evaluated.

The initial Environmental Protection Agency (EPA) notice of availability for this document appeared in the **Federal Register** on June 23, 2000 (65 FR 39146). An amended EPA notice reflecting the first 30-day extension for public comment was published in the **Federal Register** on August 11, 2000 (65 FR 49237).

September 22, 2000.

Catherine A. Damon,

Acting Regional Director, Midwest Region.

[FR Doc. 00–25255 Filed 9–29–00; 8:45 am]

BILLING CODE 4310–70–U

DEPARTMENT OF THE INTERIOR

National Park Service

Record of Decision; Final General Management Plan/Environmental Impact Statement; Whitman Mission National Historic Site, Washington

ACTION: Notice of approval of record of decision.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, and the regulations promulgated by the Council on Environmental Quality (40 CFR 1505.2), the Department of the Interior, National Park Service, has prepared a Record of Decision on the Final General Management Plan/Environmental Impact Statement for Whitman Mission National Historic Site in Washington.

DATES: The Record of Decision was recommended by the Superintendent of Whitman Mission National Historic Site, concurred by the Deputy Regional Director, Pacific West Region, and approved by the Acting Regional Director, Pacific West Region, on August 25, 2000.

ADDRESSES: Inquiries regarding the Record of Decision or the Environmental Impact Statement should be submitted to the Superintendent, Whitman Mission National Historic Site, Route 2, Box 247, Walla Walla, WA 99362; telephone: (509) 522–6360.

SUPPLEMENTARY INFORMATION: The text of the Record of Decision follows: The Department of the Interior, National Park Service (NPS), has prepared this Record of Decision (ROD) on the final Environmental Impact Statement (EIS) for the General Management Plan (GMP) for Whitman Mission National Historic Site, Washington. This ROD is a statement of the decision made, other alternatives considered, public involvement in the decision making process, the basis for the decision, the environmentally preferable alternative, and measures to minimize environmental harm.

Decision (Selected Action)

Whitman Mission National Historic Site (NHS) will implement Alternative C, identified as the action that best satisfies the Site and NPS missions, as well as the Site's long-term management objectives. Some actions remain consistent with those presented in the draft EIS. Others were modified in the final EIS to respond to public comments and concerns. The selected action recognizes both the need to protect natural and cultural resources and to provide appropriate opportunities for visitors and area residents.

Specific actions to be implemented under the selected action are summarized below:

The foundations of the original structures on the Mission Grounds will be delineated three-dimensionally to enhance visitor experience and education. Also on the Mission Grounds, the existing lawn will be removed and substituted with native grasses. The overall setting for the visitor experience of Memorial Hill and the Great Grave will be preserved as memorial and contemplative. Reconstructed wagon ruts and the placement of the pioneer wagon on the Oregon Trail will be maintained. In addition, NPS will take measures to formally sign the trail within the NHS with the official Oregon National Historic Trail logo, and will encourage congressional action to designate the Whitman Mission Route as an officially recognized branch of the Oregon Trail.

Native vegetation will be planted and sustained along Doan Creek, the oxbow of the Walla Walla River, and irrigation ditch. An integrated pest management plan will be prepared and implemented to address the plant, animal and insect pests within the NHS. The asphalt riprap lining along the bank at Mill Creek within the NHS will be removed and the bank will be revegetated.

The overall interpretation of the Mission Grounds will be enhanced, including the connection between the Mission Grounds and the former location of the Walla Walla River (river oxbow area). Existing audio sound box exhibits located on the Mission Grounds, Memorial Hill, and the Great Grave will be removed to address problems of noise distractions to visitors and will be replaced with other interpretive media. A new interpretive audio-visual program will be developed for use in the auditorium to replace both the 1976 movie and the 1978 slide program. Public access will be provided to the research library and archives for research work, projects, and inquiry about the Whitmans, mission life, the Cayuse people, and other topics related to Whitman Mission.

A new unpaved nature loop trail will be developed south of the Mission Grounds. This unpaved pedestrian trail will provide opportunities for self-guided nature walks with corresponding interpretive wayside exhibits and educational materials about the flora and fauna of this riparian area and the natural forces of the changing Walla Walla River.

A range of general improvements will be made to the visitor center building. The visitor center and museum will be named and signed ''Waiilatpu Visitor Center'' to reflect its Cayuse name. Various remodeling projects will provide needed space for the public. Additional restroom space will be constructed adjacent to the existing public restroom. Additional exhibit and administrative space will be constructed. The selected action also includes a development concept plan that includes reconfiguring the main parking lot, adding a group shelter to the picnic area, adding several improvements to the visitor center entry, and construction of additional administrative space on the existing administrative wing. Reconfiguring the pedestrian access to the Oregon Trail and the Mission Grounds is also included.

Acquisition of conservation easements on properties adjacent to the national historic site will be encouraged on a voluntary basis by a non-profit land trust or other entity.

Other Alternatives Considered

Alternative A—The no-action alternative represents the continuation of existing conditions, including addressing any effects of activities impacting cultural resources through the Section 106 compliance process, in accordance with federal law. The overall scene of the NHS for the visitor would continue to be preserved as contemplative and reflective, in part due to the ''park-like'' treatment of the Mission Grounds. The NHS would be managed to promote the historic scene and to continue to allow natural processes to occur on land and river environs as long as they do not adversely affect the cultural resources and existing public facilities. No change to current administrative facilities would be forthcoming.

Alternative B—This alternative represents a minimum level of improvements regarding visitor facilities and interpretation in order to make the visitor experience more rewarding and informative. Included in Alternative B would be the establishment of native grasses within the Mission Grounds to be more historically accurate and to help delineate the outline of the original building foundations, removing audio sound boxes and enhancing overall interpretation, moving two building walls within the visitor center to maximize exhibit space, enlarging restrooms, reconfiguring existing administrative space, improving access to Memorial Hill for the mobility impaired, expanding multi-lingual opportunities, reconfiguring parking space, and encouraging protection of the

surrounding historic scene by Walla Walla County.

Alternative D—This alternative has many of the same general actions as Alternative C. In addition, at the Mission Grounds dirt paths would be established, the historic fence alignment would be re-established, and the orchard would be enlarged to be closer to its historic size. Archeological research would be conducted to try to determine the exact location of the Whitman sawmill site. Cattle would again be grazed in the pasture and oxbow area to approximate the historic scene. A replicated Cayuse village would be located on the Walla Walla River floodplain.

Adjacent to the maintenance area, a new administrative building would be constructed and administrative functions moved out of the visitor center creating additional space for interpretive functions, association sales area and exhibit space. Finally, to protect the foreground viewshed and enable the NPS to acquire and hold conservation easements, a boundary adjustment of approximately 450 acres would be recommended for congressional authorization.

Actions common to all alternatives include keeping the required occupancy in the existing park residence, providing a photographic panoramic of the view from Memorial Hill for mobility-impaired visitors, coordinating with the staff of other Oregon Trail sites, completing a baseline inventory for the NHS, developing a Whitman Mission NHS Friends group, re-establishing Doan Creek, and planting native plants at the NHS when non-historic ornamental trees and shrubs die.

Basis for Decision

After careful consideration of public comments throughout the planning process, including comments on the draft EIS, the selected action best accomplishes the legislated purpose of the Monument and balances the statutory mission of the NPS to provide long-term protection of the Monument's resources and significance, while allowing for appropriate levels of visitor use and appropriate means of visitor enjoyment. The selected action also best accomplishes identified management goals and desired future conditions, with the fewest environmental impacts.

Environmentally Preferable Alternative

The alternative which causes the least damage to the cultural and natural environment, and that best protects, preserves, and enhances resources is Alternative C.

Measures To Minimize Environmental Harm

All practicable measures to avoid or minimize environmental impacts that could result from implementation of the selected action have been identified and incorporated into the selected action. Implementation of the selected action would avoid any adverse impacts on wetlands and any endangered or threatened species, or that would result in the destruction or adverse modification of critical habitat of such species.

Public Involvement

Public comment has been requested, considered, and incorporated throughout the planning process in numerous ways. A Notice of Intent to prepare an EIS was published in the **Federal Register** on September 20, 1996 (vol. 61, no. 184, page 49481). In early August 1996, NPS produced a one-page newsletter that was made available to visitors at the NHS. The purpose of the letter was to inform visitors about the upcoming planning process and to provide an opportunity for the visitors to get on the NHS's mailing list. In October a comprehensive four-page newsletter was produced and distributed to 510 individuals on the NHS's mailing list. Additional copies were distributed throughout Walla Walla at public buildings including colleges, universities, clubs, libraries, and civic buildings. The purpose of that newsletter was to explain the planning process and encourage public participation in the process.

In addition, advertisements were published on October 20 and October 22 in both the daily Walla Walla Union Bulletin newspaper and the weekly Buyline newspaper, informing readers about the planning process including the dates, times, and location of the public meetings.

Two public scoping meetings were held in October 1996 in Walla Walla, WA, to assist in identifying issues to be addressed in the GMP/EIS. A total of 9 people attended the two meetings. In December 1996, a third meeting was held in Mission, OR. This meeting was with members of the Cultural Resources Committee of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR). Another meeting with the CTUIR was held in April 1998, in Mission, OR, for the purpose of briefing the committee on a preliminary range of alternatives. The NPS received 6 written comments during the scoping period.

More than 250 copies of the draft GMP/EIS were mailed to government agencies, organizations and interested individuals in August 1999. In addition, the document was posted on the Internet and mailed to local libraries in the Walla Walla area. The EPA Notice of Availability was published in the **Federal Register** on September 3, 1999 (vol. 64, no. 171, pg. 48394). A Notice of Availability was also published by NPS on September 3 (vol. 64, no. 171, pg. 48419). In addition, advertisements in the Buyline and Union Bulletin in Walla Walla, and in the Confederated Umatilla Journal in Mission, OR, announced the release of the draft GMP/EIS stating times, location, and dates of the September 1999 public workshops. A total of 3,000 newsletters were printed that included a summary of the draft plan and information on the scheduled public workshops. Each newsletter included a postage-paid response form for people to use in submitting comments concerning the plan. Newsletters were also made available at the NHS visitor center and the Chamber of Commerce in Walla Walla.

Two public workshops were held in Walla Walla, WA, on September 29, and in Mission, OR, on September 30, 1999. In addition, a meeting with adjacent landowners was held on September 28, in Walla Walla. The purpose of the workshops was to offer the public an opportunity to meet with the NPS planning staff and discuss the draft GMP/EIS. More than 70 people attended the workshops.

The final GMP/EIS was released to the public on May 30, 2000. The EPA Notice of Availability of the final GMP/EIS was published in the **Federal Register** on June 16, 2000 (vol. 65, no. 117, pg. 37780); the NPS also published a Notice of Availability in the **Federal Register** on June 20, 2000 (vol. 65, no. 119, pg. 38300) and placed the document on the park website.

Consultation with the U.S. Fish and Wildlife Service, National Marine Fisheries Service, Washington State Historic Preservation Office, and the Advisory Council for Historic Preservation was conducted as part of the planning process.

The public comment period closed on November 12, 1999, but any comments received at the park by November 26 were included. A total of 28 pieces of written correspondence were received from government agencies, businesses, special interest groups and individuals. Of these, 16 were letters from individuals and agencies, 7 e-mail responses through the Internet, and 5 response forms from the newsletter. The final GMP/EIS included a summary of the comments received at the public workshops and a summary of the

comments received from written responses. All 28 pieces of written correspondence were included in the final document.

Dated: September 21, 2000.

Rory D. Westberg,

Superintendent, Columbia Cascades Support Office, Pacific West Region.

[FR Doc. 00–25253 Filed 9–29–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Kaloko-Honokohau National Historical Park Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Na Hoapili o Kaloko Honokohau, Kaloko-Honokohau National Historical Park Advisory Commission will be held at 9 a.m., October 27, 2000 at the King Kamehameha's Kona Beach Hotel, Kulana Huli Honua Room, Kailua-Kona, Hawaii.

The agenda will include the following: FY2000 budget status, replacement of Commission vacancies, scheduling of future meetings, progress of GMP, status of MOA, long range goals of Na Hoapili Advisory Commission, status of halau at Kaloko pond, kuapa repairs and funding, cultural festival for 2000, and the plans for the Cultural Learning Center.

This meeting is open to the public. It will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Advisory Commission. A transcript will be available after November 27, 2000. For copies of the minutes, contact Kaloko-Honokohau National Historical Park at (808) 329–6881.

Dated: September 20, 2000.

Geraldine K. Bell,

Superintendent, Kaloko-Honokohau National Historical Park.

[FR Doc. 00–25251 Filed 9–29–00; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Repatriate Cultural Items in the Possession of the Haffenreffer Museum of Anthropology, Brown University, Bristol, RI

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items in the possession of the Haffenreffer Museum of Anthropology, Brown University, Bristol, RI that meet the definition of ''unassociated funerary object'' under Section 2 of the Act.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these cultural items. The National Park Service is not responsible for the determinations within this notice.

The 180 cultural items consist of beads, lithic arrowheads, bottles, spoons, other metal objects and fragments, mat and blanket fragments, a pipe, and pipe fragments.

Around 1918, Rudolf Haffenreffer began collecting Burr's Hill human remains and objects by purchase from local collectors and by exchange with the Museum of the American Indian (Heye Foundation).

Burr's Hill is believed to be located on the southern border of Sowams, a Wampanoag village. Sowams is identified in historic documents of the 17th and 18th centuries as a Wampanoag village, and was ceded to the English in 1653 by Massasoit and his eldest son Wamsutta (Alexander). Based the presence of European trade goods and types of cultural items, these cultural items have been dated to between A.D. 1600–1710. Based on accession records and condition of the cultural items, these cultural items have been determined to be grave goods.

Based on the above-mentioned information, officials of the Haffenreffer Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), these 180 cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the Haffenreffer Museum of Anthropology also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these items and the Wampanoag Repatriation Confederation, representing the Wampanoag Tribe of Gay Head (Aquinnah), the Mashpee Wampanoag (a non-Federally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a non-Federally recognized Indian group). This notice has been sent to officials of the Wampanoag Repatriation Confederation, representing the Wampanoag Tribe of Gay Head, the Mashpee Wampanoag (a non-Federally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a non-Federally recognized Indian group), the Narragansett Indian Tribe of Rhode Island, and the Council of Seven/Royal House of Pokanoket/Pokanoket Tribe/Wampanoag Nation (a non-Federally recognized Indian group). Representatives of any other Indian tribe that believes itself to be culturally affiliated with these unassociated funerary objects should contact Thierry Gentis, NAGPRA Coordinator, Haffenreffer Museum of Anthropology, Mount Hope Grant, Bristol, RI 02805, telephone (401) 253–8388, facsimile (401) 253–1198, before November 1, 2000. Repatriation of these unassociated funerary objects to the Wampanoag Repatriation Confederation, representing the Wampanoag Tribe of Gay Head, the Mashpee Wampanoag (a non-Federally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a non-Federally recognized Indian group) may begin after that date if no additional claimants come forward.

Dated: September 21, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00–25128 Filed 9–29–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Repatriate Cultural Items in the Possession of the Rhode Island Historical Society, Providence, RI

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items in the possession of the Rhode Island Historical Society, Providence, RI that meet the definition of ''unassociated funerary object'' under Section 2 of the Act.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency

that has control of these cultural items. The National Park Service is not responsible for the determinations within this notice.

The four cultural items are two latten spoons and two small copper bells.

In 1800, these four cultural items were recovered from burials during excavations conducted by person(s) unknown at the Burr's Hill site, Warren, RI. In 1835, these cultural items were purchased by the Rhode Island Historical Society from ''Chesebrough.'' Museum documentation identifies these spoons as having come from an Indian interment. No further documentation is present.

Burr's Hill is believed to be located on the southern border of Sowams, a Wampanoag village. Sowams is identified in historical documents of the 16th and 17th centuries as a Wampanoag village, and was ceded to the English in 1653 by Massasoit and his eldest son Wamsutta (Alexander). Sporadic finds and excavations have been made at this site since the middle of the 19th century through the early 20th century. Based the presence of European trade goods and types of cultural items, these cultural items have been dated to between A.D. 1600–1710. Based on accession records and condition of the cultural items, these cultural items have been determined to be grave goods.

Based on the above-mentioned information, officials of the Rhode Island Historical Society have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), these four cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of an Native American individual. Officials of the Rhode Island Historical Society also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these items and the Wampanoag Repatriation Confederation, representing the Wampanoag Tribe of Gay Head (Aquinnah), the Mashpee Wampanoag (a non-Federally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a non-Federally recognized Indian group). This notice has been sent to officials of the Wampanoag Repatriation Confederation, the Wampanoag Tribe of Gay Head (Aquinnah), the Mashpee Wampanoag (a non-Federally recognized Indian group), the Assonet Band of the Wampanoag Nation (a non-Federally recognized Indian group), the Narragansett Indian Tribe of Rhode Island, and the Council of Seven/Royal House of Pokanoket/Pokanoket Tribe/Wampanoag Nation (a non-Federally recognized Indian group). Representatives of any other Indian tribe that believes itself to be culturally affiliated with these unassociated funerary objects should contact Linda Eppich, Chief Curator, The Rhode Island Historical Society, 110 Benevolent Street, Providence, RI 02906, telephone (401) 331–8575, before November 1, 2000. Repatriation of these unassociated funerary objects to the Wampanoag Repatriation Confederation, representing the Wampanoag Tribe of Gay Head (Aquinnah), the Mashpee Wampanoag (a non-Federally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a non-Federally recognized Indian group) may begin after that date if no additional claimants come forward.

Dated: September 21, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00–25129 Filed 9–29–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from Iowa in the Possession of the State Historical Society of Iowa, Des Moines, IA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.2 (d)(1), of the completion of an inventory of human remains and associated funerary objects in the possession of the State Historical Society of Iowa, Keyes Collection, Des Moines, IA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the Office of the State Archaeologist of Iowa professional staff in consultation with representatives of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

In 1934 and 1939, human remains representing 10 Mill Creek individuals were excavated from site 13PM1, Broken Kettle, Plymouth County, northwestern Iowa, by Ellison Orr, under the direction of Charles R. Keyes. No known individuals were identified. The 89 associated funerary objects include clamshells, pottery fragments, a chert flake, and a fire-cracked rock.

In 1939, human remains representing nine individuals were excavated from the Kimball site, 13PM4, Plymouth County, northwestern Iowa, by Ellison Orr, under the direction of Charles R. Keyes. No known individuals were identified. No associated funerary objects are present.

In 1934, human remains representing six individuals were excavated from site 13PM127, Ossuary 2, Plymouth County, northwestern Iowa, by Ellison Orr, under the direction of Charles R. Keyes. No known individuals were identified. No associated funerary objects are present.

The human remains and associated funerary objects included in this notice were recovered from excavations undertaken by Charles R. Keyes and Ellison Orr in northwestern Iowa between 1934 and 1939. They now form part of the Charles R. Keyes Archaeological Collection. Based on archeological and biological evidence, and similarities in material culture, these sites and remains have been identified as belonging, or probably belonging, to the Mill Creek cultural group that occupied this area in the 12th and 13th centuries. The Mandan and Hidatsa peoples are believed to be possibly culturally affiliated with the Mill Creek based on tenuous continuities of material culture and historical documents.

Based on the above-mentioned information, officials of the State Historical Society of Iowa have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 25 individuals of Native American ancestry. Officials of the State Historical Society of Iowa also have determined that, pursuant to 43 CFR 10.2 (d)(2), the 89 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the State Historical Society of Iowa have

determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Mandan and Hidatsa tribes, members of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

This notice has been sent to officials of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Jerome Thompson, State Historical Society of Iowa, New Historical Building, 600 East Locust, Des Moines, IA 50319–0290, telephone (515) 281–4221, before November 1, 2000. Repatriation of these human remains and associated funerary objects to the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota may begin after that date if no additional claimants come forward.

Dated: September 19, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00–25254 Filed 9–29–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the University of Nebraska-Lincoln, Lincoln, NE

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the University of Nebraska-Lincoln, Lincoln, NE.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains and associated funerary objects was made by University of Nebraska-Lincoln professional staff in consultation with representatives of the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; the Iowa Tribe of Oklahoma; the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; the Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; the Omaha Tribe of Nebraska; the Pawnee Nation of Oklahoma; the Ponca Tribe of Nebraska; the Ponca Tribe of Indians of Oklahoma; the Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; the Santee Sioux Tribe of the Santee Reservation of Nebraska; the Winnebago Tribe of Nebraska; the Yankton Sioux Tribe of South Dakota; and the North Dakota Intertribal Reinterment Committee representing the Standing Rock Sioux Tribe of North and South Dakota; the Spirit Lake Tribe, North Dakota; the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and the Turtle Mountain Band of Chippewa Indians of North Dakota.

In 1955, human remains representing one individual were recovered from the Sheep Mountain site (25BN1), Banner County, NE during a University of Nebraska field school directed by E.M. Davis. No known individual was identified. No associated funerary objects are present.

Based on archeological evidence, this individual has been identified as Native American from the Archaic period.

In 1977, human remains representing one individual from site 25BO8, Boone County, NE was acquired under unknown circumstances from person(s) unknown. No known individual was identified. The one associated funerary object is a soil sample with red ochre.

Based on dental morphology and wear, the condition of the human remains, and the presence of red ochre, this individual has been identified as Native American from the Archaic period.

In 1973, human remains representing nine individuals were excavated from an ossuary (probably 25BO12) located north of Cedar Rapids, Boone County, NE by Steve Holen and John O'Shea. In 1976, these human remains were transferred to the University of Nebraska State Museum from the University of Nebraska Department of Anthropology. No known individuals were identified. No associated funerary objects are present.

The condition of these human remains resembles those from known Archaic, Woodland, or Central Plains Tradition sites, however, these human remains are too fragmentary to assign temporal or cultural affiliation.

In 1937, human remains representing one individual were recovered from a sand pit at the Hemmingford fossil quarries in Box Butte County, NE by a Works Progress Administration worker. No known individual was identified. No associated funerary objects are present.

Based on the recovery location and copper staining of the human remains, this individual has been determined to be Native American from the historic period.

During the 1970's, human remains representing one individual were recovered from site 25BF179, Buffalo County, NE by members of the University of Nebraska Department of Anthropology. No known individual was identified. The one associated funerary object present is an antler fragment.

In the 1960's, this individual was originally disturbed by county residents and re-interred in a metal can. The original burial was said to have been in a sitting position. An additional associated funerary object, a bannerstone believed to be mid-Archaic, was retained by πBus' Curd of Amherst, NE.

Based on the reported manner of interment, associated funerary objects, and highly mineralized condition of the human remains, this individual has been identified as Native American from the Archaic period.

In 1958, human remains representing seven individuals were excavated from site 25BF229, 2.5–3 miles southeast of Gibbon, Buffalo County, NE by T. Witty and P. Holder. No known individuals were identified. No associated funerary objects are present.

Based on the condition of the human remains, these individuals have been identified as Native American, dating to the Woodland period.

In 1913, human remains representing one individual were lent to the University of Nebraska State Museum by A.A. McReynolds of Nehawka, NE. These remains are presumed to have been recovered from the vicinity of Nehawka, Cass County, NE. These human remains now are considered part of the permanent collection. No known individual was identified. No associated funerary objects are present.

Based on dental morphology and the condition of the human remains, this individual has been identified as Native American dating to the Woodland or Central Plains Tradition period.

In 1965, human remains representing one individual were catalogued into the collections of the University of Nebraska State Museum. The associated

designation is 25CC0 ''A15965,'' indicating derivation from Cass County, NE. No known individual was identified. No associated funerary objects are present.

No documentation exists for these human remains, but they are presumed to have been recovered from Cass County, NE. Based on dental morphology and the condition of the human remains, this individual has been identified as Native American dating to the Archaic to Woodland period.

At an unknown date, human remains representing two individuals were removed from the Sterns site (25CC28) in Cass County, NE by person(s) unknown. Remains of one of the individuals are highly mineralized and probably date from an earlier period than the other individual. No known individuals were identified. No associated funerary objects are present.

Between 1914–1968, the Sterns site (also known as the Walker-Gilmore site) was investigated numerous times. Based on material culture and the preservation of the human remains, these individuals have been identified as Native American from a multiple site with Late Woodland (Sterns Creek) and Nebraska Phase components.

At an unknown date, human remains representing three individuals were recovered from the Swallow Hill site (25CC47), Cass County, NE by R. Cuming. No known individuals were identified. The one associated funerary object is a split-rib awl.

Based on dental wear, the associated funerary object, and red ochre staining on the human remains, these individuals have been identified as Native American, dating to the Woodland period or earlier.

In 1951 and 1959, human remains representing eight individuals were recovered from the Ashland Burial Mound (Ossuary) site, Cass County, NE by R. Wood or Dr. Hathaway of the Anthropology Lab at the University of Nebraska-Lincoln. No known individuals were identified. A minimum of 124 associated funerary objects includes a minimum of 15 shell bead fragments, 1 fragmented shell pendant, a minimum of 8 pieces of unmodified shell, and a minimum of 100 wood fragments.

Based on the condition of the human remains, the manner of interment (bundle burials), and the east-west burial orientation, these individuals have been identified as Native American from the pre-contact period, probably Woodland.

In 1941, human remains representing five individuals were recovered from the Ferber site (25CD10), Cedar County, NE during Works Progress Administration excavations conducted by A.C. Spaulding under the direction of J. Champe. No known individuals were identified. No associated funerary objects are present.

Based on the condition of the human remains, these individuals have been identified as Native American dating to the Great Oasis/Late Woodland period.

In 1941, human remains representing two individuals were recovered from the Fort site, 25CD11, in Cedar County, NE during excavations conducted under the supervision of A. C. Spaulding and John Champe of the University of Nebraska. No known individuals were identified. A minimum of 152 associated funerary objects includes a minimum of 149 glass beads, 1 shell bead, and 1 cup and 1 mirror broken into a minimum of 12 fragments.

Based on the associated funerary objects and red staining on the human remains, these individuals have been identified as Native American from the historic period.

At an unknown date, human remains representing one individual were recovered from site 25CD12, Cedar County, NE by members of the Department of Anthropology at the University of Nebraska-Lincoln. No known individual was identified. No associated funerary objects are present.

Based on the condition of the human remains and material culture at site 25CD12, this individual has been identified as Native American dating to the Great Oasis/Late Woodland period.

In 1958, human remains representing seven individuals were excavated from the Burney site (25CD21), Cedar County, NE during a University of Nebraska field school under the direction of Franklin Fenenga. No known individuals were identified. The 27 associated funerary objects are beads made from bone and shell, and pieces of worked and unworked shell.

Based on ceramics, the Burney site has been identified as a multi-component site with both Woodland and Central Plains Tradition occupations. Based on archeological evidence, including ceramics and the condition of the human remains, these individuals have been identified as Native American dating to the Loeske Creek or Sterns Creek foci of the Woodland period and the Central Plains Tradition period.

In 1958, human remains representing one individual were recovered from the Elliot site (25CD22), Cedar County, NE by the University of Nebraska-Lincoln Field School. No known individual was identified. No associated funerary objects are present.

Based on the condition of the human remains, this individual has been identified as Native American, most likely dating to the Woodland period.

At an unknown date, human remains representing one individual from Chase County, NE were sent to the University of Nebraska State Museum by Sheriff Clifton Morrison of Imperial, NE. No known individual was identified. No associated funerary objects are present.

Based on dental wear and morphology, this individual has been identified as Native American.

In 1973, human remains representing one individual were donated to the University of Nebraska by James Lutter of Valentine, NE. These human remains are believed to have come from Cherry County, NE. No known individual was identified. No associated funerary objects are present.

Based on osteological features and the condition of the human remains, this individual has been identified as Native American.

In 1949, human remains representing one individual were excavated by Morris Skinner and his father from a ''blowout'' on a ranch belonging to Henry Voss in southern Cherry County, NE. No known individual was identified. The three associated funerary objects include one leather knife sheath with associated metal and leather fragments, a piece of glass, and a red paint stone.

Based on the associated funerary objects, this individual has been determined to be Native American from the historic period.

In 1962, human remains representing one individual were collected from a wet gravel pit near West Point, Cuming County, NE by the Central Gravel Company and donated to the University of Nebraska. No known individual was identified. No associated funerary objects are present.

At the time of acquisition, this individual was identified as Native American by museum staff. Based on osteololgical evidence and the wet gravel pit location of these human remains, this individual has been identified as Native American from an unknown period.

At an unknown date, human remains representing one individual were found in a box with material from the gravel pits in Cuming County, NE. No known individual was identified. No associated funerary objects are present.

Based on the condition of the human remains, this individual has been identified as Native American. The remains are highly mineralized,

indicating either great antiquity or possibly the effects of burial in gravel. The remains are from an unknown period.

At an unknown date, human remains representing one individual were collected from the Wisner sand pit, Cuming County, NE by unknown person(s) and donated to the University of Nebraska. No known individual was identified. No associated funerary objects are present.

Based on osteological evidence and the sand pit settling location where these human remains were recovered, this individual has been identified as Native American from an unknown period.

During the 1940's, human remains representing two individuals were recovered from the Schmidt gravel pit, west of West Point, Cuming County, NE by unknown person(s) and donated to the University of Nebraska. No known individual was identified. No associated funerary objects are present.

Based on osteological evidence and the condition of the human remains, these individuals have been determined to be Native American from an unknown period.

At an unknown date, human remains representing four individuals were collected from a wet gravel pit (25CM2) near West Point, Cuming County, NE by unknown person(s) and donated to the University of Nebraska. No known individuals were identified. No associated funerary objects are present.

Based on osteological evidence, these individuals have been identified as Native American from an unknown period. One individual has been suggested to date to the Paleoindian or Early Archaic periods.

At an unknown date, human remains representing two individuals were dug out of a hilltop near Cornstock, Custer County, NE by unknown parties and donated to the University of Nebraska. No known individuals were identified. No associated funerary objects are present.

Based on osteological evidence, these individuals have been identified as Native American from an unknown period.

At an unknown date, human remains representing one individual were found behind a schoolhouse in Dakota County, NE by person(s) unknown. No known individual was identified. No associated funerary objects are present.

Based on geographic location and the condition of the human remains, this individual has been identified as Native American dating to the Archaic or Woodland period.

In 1926, human remains representing four individuals from the vicinity of Homer, Dakota County, NE were donated to the University of Nebraska State Museum by H. Green. No known individuals were identified. No associated funerary objects are present.

Based on the condition of the human remains and skeletal evidence, these individuals have been identified as Native Americans from the pre-contact period.

In 1939, human remains representing 35 individuals were recovered from the Ryan site (25DK2A), Dakota County, NE during Works Progress Administration excavations. No known individuals were identified. No associated funerary objects are present.

Based on material culture and the condition of the human remains, site 25DK2A has been identified as a Woodland burial mound. Based on material culture, skeletal morphology and the condition of the human remains, these individuals have been identified as Native American from the Woodland period.

In 1939, human remains representing one individual were excavated from a mound at the Ryan site (25DK2B), Dakota County, NE during a Works Project Administration project. No known individual was identified. No associated funerary objects are present.

The Ryan site consists of a series of three mounds with multi-component features. Based on the good condition of these human remains, this individual has been identified as Native American from the late pre-contact or historic periods.

In 1941, human remains representing one individual were collected by S. Bartos, Jr. following their disturbance by the Nebraska State Highway Department in Dakota County, NE from site 25DK16. No known individual was identified. No associated funerary objects are present.

Based on skeletal morphology, this individual has been identified as Native American from an unknown period.

At an unknown date, human remains representing one individual from site 25DK17 were acquired by the University of Nebraska State Museum under unknown circumstances. No known individual was identified. No associated funerary objects are present.

This individual has been identified as Native American from an unknown period.

In 1938 and 1959, human remains representing 35 individuals were recovered from the Brewer site (25DX3), Dixon County, NE. The 1938 excavations were by S. Bartos, Jr. and S. Wimberley during Works Progress Administration Project #4842 under the direction of Earl H. Bell; the 1959 excavations were conducted by Messrs. Champe and Kenagy. No known individuals were identified. No associated funerary objects are present.

Based on material culture and the condition of the human remains, these individuals have been identified as Native American dating to the Woodland period.

In 1938, human remains representing 105 individuals were excavated by S. Bartos, Jr. from the farm of A. E. Enders (25DX4), Dixon County, NE during Works Progress Administration Project #4148 conducted under the direction of Earl H. Bell. No known individuals were identified. The three associated funerary objects are bone beads.

Based on the associated funerary objects and reported manner of interments, these individuals have been identified as Native American dating to the Woodland period.

In 1950, human remains representing one individual were collected from a gravel pit (25DD101) in Dodge County, NE by members of the Division of Vertebrate Paleontology, University of Nebraska State Museum. No known individual was identified. No associated funerary objects are present.

Based on the circumstances of discovery of the human remains during paleontological excavations and the geologic location from which the human remains were recovered, this individual has been identified as Native American from an unknown period.

At an unknown date, human remains representing one individual were recovered from Scribner Air Base in Dodge County, NE. The remains were donated to the University of Nebraska State Museum by Robert E. Lucas. No known individual was identified. The one associated funerary object is a copper ring.

Based on the associated funerary object, this individual has been determined to be Native American from the historic period.

In 1895, human remains representing one individual from Omaha, Douglas County, NE were donated to the University of Nebraska State Museum by the City of Omaha, NE. No known individual was identified. No associated funerary objects are present.

These human remains were boxed together in the museum collection with remains collected from the ''Loess Man'' site 25DO26 excavated by R.F. Gilder in 1906. This individual is likely to be from an earlier collection by Mr. Gilder. This individual has been identified as Native American from an unknown period.

In 1906, human remains representing 15 individuals were excavated from Long's Hill, north of Florence, Douglas County, NE by R.F. Gilder, who described the site as a burial mound. No known individuals were identified. No associated funerary objects are present.

Based on archeological evidence and the condition of the human remains, these individuals have been identified as Native American from the Woodland period.

In 1908, human remains representing one individual were donated to the University of Nebraska State Museum by person(s) unknown following the discovery of these human remains under a porch at 1318 Colonial Avenue, Omaha, Douglas County, NE. No known individual was identified. No associated funerary objects are present.

Given the circumstances of discovery in 1908 and the condition of the remains, this individual has been identified as Native American from the historic period.

In 1917, human remains representing four individuals were removed from site 25DO8, known as the ''Indian burial ground'' at Cabannes Trading Post in Douglas County, NE during excavations by R.F. Gilder. No known individuals were identified. The one associated funerary object is a tin cup.

Based on the associated funerary object, copper staining, and the preservation of the human remains, these individuals have been identified as Native American from the historic period.

In 1905, human remains representing eight individuals were excavated at the Fort Lisa site (25DO9001), Douglas County, NE by R.F. Gilder. No known individuals were identified. No associated funerary objects are present.

Based on the skeletal morphology and the condition of the human remains, these individuals have been identified as Native American possibly from the Woodland or Central Plains Tradition periods.

In 1930, human remains representing one individual were recovered southeast of Ohiowa, Fillmore County, NE by Harry Theobald and Miles Hurley who donated these human remains to the University of Nebraska State Museum. The remains were transferred to the University of Nebraska State Museum by J.C. Steele and Dr. Hartford of Ohiowa. No known individual was identified. No associated funerary objects are present.

Based on the condition of the human remains, the individual has been identified as Native American possibly from the Woodland period.

At an unknown date, human remains representing one individual were recovered from the Dill site (25FR10), near Oak Grove, Franklin County, NE by person(s) unknown. No known individual was identified. No associated funerary objects are present.

Based on the condition of the human remains and reported presence of Woodland ceramics at the Dill site, this individual has been identified as Native American dating to the Woodland period.

At an unknown date, human remains representing one individual were recovered from Frontier County, NE from ''25FT Burial 1'' by person(s) unknown under unknown circumstances. No known individual was identified. No associated funerary objects are present.

Based on the condition of the human remains, this individual has been identified as Native American from the historic period.

In 1942, human remains representing one individual were recovered from the Dunn Ossuary (25FT2) in Frontier County, NE by A.T. Hill in an excavation for the Nebraska State Historical Society. No known individual was identified. The seven associated funerary objects are three shell beads and four shell fragments.

Based on material culture, the Nebraska State Historical Society attributes this site to the Woodland period. This individual has been identified as Native American from the Woodland period.

In 1955, human remains representing 16 individuals were recovered from the Flodine site (25FN11), Fumas County, NE during excavations conducted under the supervision of E. Mott Davis and F. Fenenga of the University of Nebraska Department of Anthropology. No known individuals were identified. A minimum of 1,942 associated funerary objects includes a minimum of 169 disc-shaped beads, 4 worked fragments from freshwater clam shells, a minimum of 1,768 beads made from cut sections of mammal bones and rodent incisors, and a triangular shell pendant broken into 3 fragments.

Based on associated funerary objects and the condition of the human remains, these individuals have been identified as Native American dating to the Woodland period.

Prior to 1960, human remains representing five individuals were turned over to the University of Nebraska from the County Attorney's Office in Grand Island, Hall County, NE. No known individuals were identified. No associated funerary objects are present.

The individuals have been identified as Native American from an unknown period.

At an unknown date, human remains representing one individual were recovered under unknown circumstances by person(s) unknown from Harlan County, NE. No known individual was identified. No associated funerary objects are present.

Based on the condition of the human remains, the individual has been identified as Native American from the pre-contact period.

In 1930, human remains representing two individuals were recovered from Marshall Ossuary (25HN1) west of the Graham Site (25HN5) in Harlan County, NE by W. Wedel in an excavation under the direction of W. D. Strong for the Nebraska State Archaeological Survey. No known individuals were identified. The 41 associated funerary objects include 39 freshwater shell beads, shell fragments, 1 piece of burnt antler, and 1 stone tool.

Based on material culture and the condition of the human remains, these individuals have been identified as Native American from the Woodland period.

In 1950, human remains representing three individuals were recovered from the Sappa Creek Site (25HN17) in Harlan County, NE by J. and D. Gunnerson and J. Champe. No known individuals were identified. No associated funerary objects are present.

Based on the derivation of the human remains from a known Native American archeological site and the condition of the human remains, these individuals have been identified as Native American from an unknown period.

At an unknown date, human remains representing one individual were recovered from the north shore of Harlan County Reservoir (25HN46) near Republican City, Harlan County, NE by Sandy Frazier. No known individual was identified. No associated funerary objects are present.

Based on the condition of the human remains, this individual has been determined to be Native American from an unknown period. In 1978, archeological investigations described site 25HN46 as a pit burial, including evidence of bark lining, charcoal, and yellow ochre fragments, that is not present in University of Nebraska-Lincoln collections. No known individual was identified. No associated funerary objects are present.

Based on the condition of the human remains and on the manner of interment (pit burial), this individual has been determined to be Native American from an unknown period.

In 1936, human remains representing one individual were pumped out of a gravel pit at McCook, Hitchcock County, NE and donated to the University of Nebraska State Museum by W.B. Hall, Stratton, NE. No known individual was identified. No associated funerary objects are present.

Based on osteological evidence and on circumstances of the recovery, this individual has been identified as Native American from an unknown period.

In 1950, human remains representing five individuals were collected from the Massacre Canyon site (25HK13), Hitchcock County, NE by M. Kivett. No known individuals were identified. No associated funerary objects are present.

Based on Nebraska State Historical Society records and the condition of the human remains, these individuals have been identified as Native American dating to the Middle Woodland period.

In 1938, human remains representing 22 individuals were excavated by P. Newell and S. Bartos from the Eagle Creek site (25HT1), Holt County, NE during Works Project Administration Project #4841. No known individuals were identified. The six associated funerary objects are chipped and ground stone tools.

Based on material culture at the Eagle Creek site and manner of interments, these individuals have been identified as Native American dating to the Woodland period.

At an unknown date, human remains representing one individual were recovered from the Mallory Dam site (25HT9), Holt County, NE by F. Hood. No known individual was identified. No associated funerary objects are present.

Based on a ceramic sherd at the site and the condition of the human remains, this individual has been identified as Native American dating to the Woodland period

In 1947, human remains representing two individuals were recovered near Mullen, Hooker County, NE and donated to the University of Nebraska State Museum by Ioa Campbell. No known individuals were identified. No associated funerary objects are present.

Based on the condition of the human remains, these individuals have been identified as Native American. One individual may be from the historic period; the other individual is from an unknown period.

In 1962, human remains representing one individual believed to be from either Omaha Beach at Lake McConaughy or the ''Foundation'' site (location unknown) were excavated by ''McEvoy,'' a student in the University of Nebraska Department of Anthropology. No known individual was identified. No associated funerary objects are present.

Based on the circumstances of recovery, this individual has been identified as Native American from an unknown period.

In 1931, human remains representing one individual from a site southeast of Verdigre, Knox County, NE were donated to the University of Nebraska State Museum by Vac Randa following the disturbance of this burial during plowing by Frank Haylick. No known individual was identified. No associated funerary objects are present.

Based on skeletal morphology and dental wear patterns, this individual has been identified as a mixed-blood Native American/Caucasian from the historic period. According to the documentation for this individual, the remains were found enclosed in a box in a sitting position. It is not known whether the burial dates from the post-reservation period.

In 1937, human remains representing 31 individuals were excavated from the Davis site (35KX6), Knox County, NE during Works Project Administration Work Project #3140 conducted under the direction of P. Newell of the Nebraska Archaeological Survey. No known individuals were identified. The minimum of 54 associated funerary objects are shell beads, bead fragments, and worked shell fragments.

Based on reported material culture, manner of interments, and the condition of the human remains, these individuals have been identified as Native American dating to the Woodland period.

In 1937, human remains representing two individuals were excavated from the Larson Mounds site (25KX8), Knox County, NE during Works Project Administration Project #165–81–8095, Work Project #3140, conducted under the direction of P. Newell of the Nebraska Archaeological Survey. No known individuals were identified. No associated funerary objects are present.

Based on the condition of the human remains and heavy dental wear patterns, these individuals have been identified as Native American dating to the Woodland period.

In 1937, human remains representing 15 individuals were excavated from the Niobara School site (25KX12), Knox County, NE by E. Bell for the Nebraska State Archaeological Survey. No known individuals were identified. The 58 associated funerary objects include 44 bone beads, 13 shell beads, and 1 bone artifact.

Based on associated funerary objects and the condition of the human remains, these individuals have been determined to be Native American from the Woodland or Central Plains Tradition periods.

In 1910, human remains representing one individual were donated to the University of Nebraska State Museum by ''Guthrie.'' No known individual was identified. No associated funerary objects are present.

Donor information states these human remains were recovered ''2–1/2 hours north of Havelock.'' Havelock since has been incorporated by the City of Lincoln, NE. The recovery location was probably in northern Lancaster County or southern Saunders County, NE. Based on the condition of the remains, this individual has been identified as Native American from an unknown period.

In 1907, human remains representing two individuals were donated to the University of Nebraska State Museum by J.R.C. Miller of Lincoln, NE. No known individuals were identified. No associated funerary objects are present.

Donor information states these human remains were recovered ''from near the B&M [railroad] cut through hill, and at the point of the divide, in Denton precinct in SE 1/4, Sec.T.9, R.5E'' in Lancaster County, NE. Based on the condition of the human remains, these individuals have been identified as Native American from the pre-contact period.

In 1935, human remains representing two individuals were sent to the University of Nebraska State Museum by H.E. Weakly, agronomist at the University of Nebraska. Documentation for these remains suggests that they were recovered from a gravel pit near North Platte, Lincoln County, NE. No known individuals were identified. No associated funerary objects are present.

Based on good preservation, copper staining, and osteological evidence of horseback riding, these individuals have been determined to be Native American from the historic period.

In 1935, human remains representing six individuals were donated to the University of Nebraska State Museum by H.E. Weakly, agronomist, University of Nebraska. The remains are believed to have been found in a gravel pit, probably near North Platte, Lincoln County, NE. No known individuals were identified. No associated funerary objects are present.

Based on osteological evidence and circumstances of recovery, these individuals have been determined to be Native American from an unknown period.

At an unknown date, human remains representing one individual were recovered from the Brady site (25LN0), Lincoln County, NE by Robert Parsons of Brady, NE. No known individual was

identified. No associated funerary objects are present.

Based on the geological strata of the burial and the condition of the human remains, this individual has been identified as Native American from the Paleo-Indian period.

At an unknown date, human remains representing one individual were recovered from the Norfolk Gravel Pit in Madison County, NE and donated to the University of Nebraska State Museum by Frank Medelman. No known individual was identified. No associated funerary objects are present.

Based on skeletal morphology, this individual has been identified as Native American from an unknown period.

In 1983, human remains representing one individual were recovered from the Medelman gravel pit (25MD101), Norfolk County, NE and donated to the University of Nebraska State Museum by S. Holen. No known individual was identified. No associated funerary objects are present.

Based on skeletal morphology, this individual has been identified as Native American from an unknown period.

At an unknown date, human remains representing two individuals were recovered during road grading from an undesignated site 100 feet from 25MO62, a surface site south of Alliance, Morrill County, NE by T.C. Middleswart. In 1994, these human remains were donated to the University of Nebraska-Lincoln by Mrs. Gwen Rusch, daughter of Mr. Middleswart. No known individuals were identified. The 20 associated funerary objects are 15 dentalia shells, 1 bone gaming piece, and 4 fragments of copper bracelets.

Based on dental morphology, associated funerary objects, and good preservation, these individuals have been identified as Native American from the historic period.

At an unknown date, human remains representing one individual were donated to the University of Nebraska State Museum by person(s) unknown. The tag with the remains has the designation ''MO10'' which may indicate derivation from Morrill County, NE. No known individuals were identified. No associated funerary objects are present.

Based on osteological evidence and skeletal morphology, this individual has been identified as Native American from an unknown period.

In 1926, human remains representing one individual were donated to the University of Nebraska State Museum by A.T. Lobdell of McCook, NE. No known individual was identified. No associated funerary objects are present.

These human remains are believed to have come from Red Willow County, NE. Based on osteological evidence, this individual has been identified as Native American from an unknown period.

At an unknown date, human remains representing one individual were recovered from a wet gravel pit (25Rw102) in Red Willow County, NE during excavations conducted by the University of Nebraska State Museum Vertebrate Paleontology Division. No known individual was identified. No associated funerary objects are present.

Based on location and the condition of the human remains, this individual has been identified as Native American from an unknown period.

At an unknown date, human remains representing one individual were recovered from a wet gravel pit (25Rw108) in Red Willow County, NE during excavations conducted by the University of Nebraska State Museum Vertebrate Paleontology Division. No known individual was identified. No associated funerary objects are present.

Based on location and the condition of the human remains, this individual has been identified as Native American.

At an unknown date, human remains representing one individual were recovered from a wet gravel pit (25Rw109) in Red Willow County, NE during excavations conducted by the University of Nebraska State Museum Vertebrate Paleontology Division. No known individual was identified. No associated funerary objects are present.

Based on location and the condition of the human remains, this individual has been identified as Native American from an unknown period.

At an unknown date, human remains representing two individuals were found 1.5 miles north of Rulo, NE and secured by the University of Nebraska State Museum from C. Edwards through Robert F. Gilder. Remains of six other individuals and a 15th century gold coin are known to have been found 7.5 feet below the surface of this site at a later date, but none of these are in the University collection. No known individuals were identified. No associated funerary objects are present.

Based on material culture reported from the same site, these individuals have been identified as Native American from an unknown period.

In 1960, human remains representing two individuals were recovered from the Leary site (25RH1), Richardson County, NE during excavations conducted by the University of Nebraska-Lincoln. No known individuals were identified. No associated funerary objects are present.

Based on archeological evidence, the Leary site has been identified as a primary Oneota occupation with a later Central Plains Tradition component. Based on the condition of the human remains, these individuals have been identified as Native American.

At an unknown date, human remains representing one individual were recovered from site 25RH20, Richardson County, NE by person(s) unknown under unknown circumstances. No known individual was identified. No associated funerary objects are present.

Based on material culture and the condition of the human remains, this individual has been identified as Native American from an unknown period.

At an unknown date, human remains representing one individual were removed during excavation for a courthouse from the Wahoo Creek burial ground on lots 1 and 2 during the original survey of the City of Wahoo, Saunders County, NE. In 1917, these human remains were donated to the University of Nebraska State Museum by Judge Newman through C. Petrus Peterson. No known individual was identified. No associated funerary objects are present.

While the Wahoo Creek burial ground has been identified as an historic Omaha cemetery, it cannot be determined whether the individual dates from the historic period. The individual has been identified as Native American from an unknown period.

During the late 1950's, human remains representing one individual from a cemetery west of Morse Bluffs, Saunders County, NE were donated to the University of Nebraska Museum by Adolph Havelka and Victor Pabien, who recovered these human remains while preparing a grave at the site. No known individual was identified. No associated funerary objects are present.

Based on skeletal and dental morphology and the preservation of the human remains, this individual has been identified as a mixed-blood Native American/Caucasian from the historic period.

In 1936, human remains representing four individuals were excavated from site 25SD10, Saunders County, NE by W. Wedel. No known individuals were identified. No associated funerary objects are present.

Based on the condition of these human remains, these individuals have been identified as Native American, possibly of great antiquity.

During 1931–1932, human remains representing three individuals were recovered from the Signal Butte site (25SF1), southeast of Scottsbluff in Scotts Bluff County, NE, possibly by C.

B. Schultz, who collected at the site following excavations conducted by the Smithsonian Institution. No known individuals were identified. No associated funerary objects have been identified in University of Nebraska State Museum collections.

Based on archeological evidence, the Signal Butte site has been identified as a multi-component occupation from the Archaic, Woodland, and Central Plains Tradition periods. Based on the condition of these human remains, these individuals have been identified as Native American, possibly from the Central Plains Tradition component.

In 1946, human remains representing 46 individuals were recovered from the Gering site (25SF10), Scotts Bluff County, NE during excavations conducted by M.F. Kivett for the Nebraska State Archaeological Survey. No known individuals were identified. A minimum of 134 associated funerary objects includes 102 bone beads, 17 chipped stone tools, 6 pieces of worked bone, 9 boatstones and groundstone artifacts.

Based on the associated funerary objects, manner of interments, and the condition of the human remains, these individuals have been identified as Native American dating to the Woodland period, approximately A.D. 600–800.

In 1936 and 1938, human remains representing two individuals were recovered from Stanton or Indian Creek Village site 25ST1 in Stanton County, NE. The recovery of one individual was by person(s) unknown. The other individual was recovered in 1938 was during an excavation under the direction of H. Angelino for the Works Project Administration. No known individuals were identified. No associated funerary objects are present.

Based on material culture, this is a mixed site that included Central Plains Tradition, Oneota, and Omaha cultural traditions. These individuals have been identified as Native American from an unknown period.

In 1938, human remains representing two individuals were recovered during construction of a basement in Stanton County, NE. No known individuals were identified. No associated funerary objects are present.

Based on the preservation of the human remains that suggests great antiquity, and the absence of any indication of a marked grave, these individuals have been identified as Native American from an unknown period.

In 1907, human remains representing 11 individuals were recovered from a hilltop site on the Hovendick farm, 2 miles south of Blair, Washington County, NE during excavations conducted by R.F. Gilder. No known individuals were identified. No associated funerary objects are present.

Based on the condition of the human remains, these individuals have been identified as Native American. Based on dental evidence, the individuals are possibly from the pre-contact period.

At an unknown date, human remains representing one individual were recovered in western Washington County, NE (25WN31) by Alan Wite. No known individual was identified. No associated funerary objects are present.

Based on the condition of the human remains, this individual is identified as Native American possibly from the pre-contact period.

In 1947, human remains representing one individual were found ''on the banks of the Republican River near Guide Rock, Webster County,'' NE and were donated to the University of Nebraska State Museum by the Webster County Attorney. No known individual was identified. No associated funerary objects are present.

Based on the condition of the human remains, this individual is identified as Native American possibly from the historic period.

Based on the above-mentioned information, officials of the University of Nebraska have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 491 individuals of Native American ancestry. Officials of the University of Nebraska also have determined that, pursuant to 43 CFR 10.2 (d)(2), the minimum of 2,896 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the University of Nebraska have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity on the basis of oral history and aboriginal homelands that can be reasonably traced between these Native American human remains and associated funerary objects from Nebraska and the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; the Iowa Tribe of Oklahoma; the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; the Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; the Omaha Tribe of Nebraska; the Pawnee Nation of Oklahoma; the Ponca Tribe of Nebraska; the Ponca Tribe of Indians of Oklahoma; the Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; the Santee Sioux Tribe of the Santee Reservation of Nebraska; the Winnebago Tribe of Nebraska; the Yankton Sioux Tribe of South Dakota; and the North Dakota Intertribal Reinterment Committee representing the Standing Rock Sioux Tribe of North and South Dakota; the Spirit Lake Tribe, North Dakota; the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and the Turtle Mountain Band of Chippewa Indians of North Dakota. This notice has been sent to officials of the Cheyenne River Sioux Tribe of the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; the Iowa Tribe of Oklahoma; the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; the Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; the Omaha Tribe of Nebraska; the Pawnee Nation of Oklahoma; the Ponca Tribe of Nebraska; the Ponca Tribe of Indians of Oklahoma; the Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; the Santee Sioux Tribe of the Santee Reservation of Nebraska; the Winnebago Tribe of Nebraska; the Yankton Sioux Tribe of South Dakota; the North Dakota Intertribal Reinterment Committee; the Standing Rock Sioux Tribe of North and South Dakota; the Spirit Lake Tribe, North Dakota; the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and the Turtle Mountain Band of Chippewa Indians of North Dakota. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Dr. Priscilla Grew, NAGPRA Coordinator, University of Nebraska-Lincoln, 301 Bessey Hall, Lincoln, NE 68588–0381, telephone (402) 472–7854, before November 1, 2000. Repatriation of the human remains and associated funerary objects to the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; the Iowa Tribe of Oklahoma; the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; the Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; the Omaha Tribe of Nebraska; the Pawnee Nation of Oklahoma; the Ponca Tribe of Nebraska; the Ponca Tribe of Indians of Oklahoma; the Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; the Santee Sioux Tribe of the Santee Reservation of Nebraska; the Winnebago Tribe of Nebraska; the Yankton Sioux Tribe of South Dakota; and the North Dakota Intertribal Reinterment Committee representing the Standing Rock Sioux Tribe of North and South Dakota; the Spirit Lake Tribe, North

Dakota; the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and the Turtle Mountain Band of Chippewa Indians of North Dakota may begin after that date if no additional claimants come forward.

Dated: September 19, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

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BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the University of Nebraska-Lincoln, Lincoln, NE

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the University of Nebraska-Lincoln, Lincoln, NE.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by University of Nebraska-Lincoln professional staff in consultation with representatives of the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; the Iowa Tribe of Oklahoma; the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; the Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; the Omaha Tribe of Nebraska; the Pawnee Nation of Oklahoma; the Ponca Tribe of Nebraska; the Ponca Tribe of Indians of Oklahoma; the Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; the Santee Sioux Tribe of the Santee Reservation of Nebraska; the Winnebago Tribe of Nebraska; the Yankton Sioux Tribe of South Dakota; and the North Dakota Intertribal Reinterment Committee representing the Standing Rock Sioux Tribe of North and South Dakota; the Spirit Lake Tribe, North Dakota; the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and the Turtle Mountain Band of Chippewa Indians of North Dakota.

At an unknown date, human remains representing one individual were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances. No known individual was identified. No associated funerary objects are present.

The collection number ''1–20–6–34'' has no known documentation. It resembles the ''Barbour numbers'' used by the Museum during the first half of the 20th century. Based on the condition of the human remains, this individual has been identified as Native American of an unknown period.

At an unknown date, human remains representing one individual were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances. No known individual was identified. No associated funerary objects are present.

The collection number ''11–0–13'' has no known documentation. It resembles the ''Barbour numbers'' used by the Museum during the first half of the 20th century. Based on dental morphology and the condition of the human remains, this individual has been identified as Native American, possibly from the pre-contact period.

At an unknown date, human remains representing one individual were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances. No known individual was identified. No associated funerary objects are present.

The collection number ''11–13–07'' has no known documentation. It resembles the ''Barbour numbers'' used by the Museum during the first half of the 20th century. This individual has been identified as Native American of an unknown period.

At an unknown date, human remains representing one individual were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances. No known individual was identified. No associated funerary objects are present.

The collection number ''2–23–11–03'' has no known documentation. It resembles the ''Barbour numbers'' used by the Museum during the first half of the 20th century. Based on the condition of the human remains, this individual has been identified as Native American possibly from the pre-contact period.

At an unknown date, human remains representing seven individuals were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum in 1895 as part of the ''Moody Collection.'' No known individuals were identified. No associated funerary objects are present.

The collection number ''28–22–4–95'' has no known documentation. Much of the ''Moody Collection'' is known to have been derived from Illinois or Ohio, but the source of these human remains is unknown. These individuals have been identified as Native American of an unknown period.

At an unknown date, human remains representing one individual were recovered from an unknown location by person(s) unknown under unknown circumstances. The human remains with collection number ''4–28–3–31'' were donated in 1931 to the University of Nebraska State Museum by Mrs. Charles Fritch of Pawnee County, Nebraska. No known individual was identified. No associated funerary objects are present.

This individual has been identified as Native American of an unknown period.

At an unknown date, human remains representing two individuals were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances. No known individuals were identified. No associated funerary objects are present.

The assigned number ''1229'' has no known documentation. Based on the condition of the human remains, these individuals have been identified as Native American possibly from the pre-contact period.

At an unknown date, human remains representing four individuals were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances. No known individuals were identified. No associated funerary objects are present.

The assigned number ''1230'' has no known documentation. Based on dental morphology and the condition of the human remains, these individuals have been identified as Native American possibly of the pre-contact period.

At an unknown date, human remains representing one individual were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances. No known individual was identified. No associated funerary objects are present.

The assigned number ''33StH Burial 1'' has no known documentation. This individual has been identified as Native American of an unknown period.

At an unknown date, human remains representing one individual were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances. No known individual was identified. No associated funerary objects are present.

The assigned number ''68/1929'' has no known documentation. Based on the condition of the human remains, this individual has been identified as Native American of an unknown period.

At an unknown date, human remains representing one individual were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances. No known individual was identified. No associated funerary objects are present.

The assigned collection number ''8–1–07'' has no known documentation. It resembles the ''Barbour numbers'' used by the Museum during the first half of the 20th century. Based on the condition of the human remains, this individual has been identified as Native American of an unknown period.

At an unknown date, human remains representing two individuals (collection number 977/1949) were recovered by Robert T. Gilder of Omaha, NE from an unknown location under unknown circumstances. In 1974, these human remains were transferred from the Joslyn Art Museum, Omaha, NE, to the University of Nebraska State Museum. These human remains had been transferred earlier to the Joslyn Museum on permanent loan from the Omaha Public Library, Omaha, NE. No known individuals were identified. No associated funerary objects are present.

Based on the condition of the human remains, these individuals have been identified as Native American, possibly of the Archaic or Woodland periods.

At an unknown date, human remains representing one individual were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances. No known individual was identified. No associated funerary objects are present.

The assigned collection number ''A30.11.07'' has no known documentation. Based on osteological evidence and dental morphology, this individual has been identified as Native American of an unknown period.

At an unknown date, human remains representing one individual were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances. No known individual was identified. No associated funerary objects are present.

The assigned number ''CK–39 B–35 (Mc008)'' has no known documentation. Based on the condition of the human remains, this individual has been identified as Native American of an unknown period.

At an unknown date, human remains representing one individual were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances. No known individual was identified. No associated funerary objects are present.

The assigned number ''GV2(Mc008)'' has no known documentation. This individual has been identified as Native American of an unknown period.

At an unknown date, human remains representing two individuals were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances. No known individuals were identified. No associated funerary objects are present.

The assigned number ''LF27'' has no known documentation. These individuals have been identified as Native American of an unknown period.

At an unknown date, human remains representing three individuals were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances. No known individuals were identified. No associated funerary objects are present.

The assigned number ''LF28'' has no known documentation. These individuals have been identified as Native American from an unknown period.

At an unknown date, human remains representing two individuals were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances. No known individuals were identified. No associated funerary objects are present.

The assigned number ''Lb.AK.1 (Mc008)'' has no known documentation. These individuals have been identified as Native American of an unknown period.

At an unknown date, human remains representing one individual were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances. No known individual was identified. No associated funerary objects are present.

The assigned number ''Lf Be 1–26 (Mc008)'' has no known documentation. These individual has been identified as Native American of an unknown period.

At an unknown date, human remains representing one individual were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances. No known individual was identified. No associated funerary objects are present.

The assigned number ''Lf Cpl (Mc008)'' has no known documentation. This individual has been identified as Native American of an unknown period.

At an unknown date, human remains representing two individuals were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances. No known individuals were identified. No associated funerary objects are present.

The assigned number ''MLvl (Mc008)'' has no known documentation. These individuals have been identified as Native American of an unknown period.

At an unknown date, human remains representing three individuals were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances. No known individuals were identified. No associated funerary objects are present.

The assigned number ''Mc008'' has no known documentation. These individuals have been identified as Native American of an unknown period

At an unknown date, human remains representing one individual were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances. No known individual was identified. No associated funerary objects are present.

The assigned number ''Mc009'' has no known documentation. This individual has been identified as Native American of an unknown period.

At an unknown date, human remains representing one individual were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances. No known individual was identified. No associated funerary objects are present.

The assigned number ''N–4–1–7'' has no known documentation. Based on osteological evidence and the condition of the human remains, this individual has been identified as Native American of an unknown period.

At an unknown date, human remains representing two individuals were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances as part of the ''Hugo T. Rice Collection.'' No known individuals were identified. No associated funerary objects are present.

The assigned number ''Nelson Site (Mc008)'' has no known documentation. The location of the ''Nelson Site'' is unknown. Based on the condition of the human remains, these individuals have been identified as Native American possibly of the historic period.

At an unknown date, human remains representing two individuals were recovered from an unknown location by person(s) unknown under unknown circumstances. In 1981, they were transferred from the Zoology Division of the University of Nebraska State Museum to the Anthropology Division of the Museum. No known individuals were identified. No associated funerary objects are present.

The assigned collection number ''A81–4'' has no associated documentation. Based on osteological evidence and the condition of the human remains, these individuals have been identified as Native American of an unknown period.

At an unknown date, human remains representing one individual were recovered from an unknown location by person(s) unknown under unknown circumstances. They were acquired by the University of Nebraska State Museum at an unknown date under unknown circumstances. No known individual was identified. No associated funerary objects are present.

The assigned number ''Wa–5 B15 (Mc008)'' has no known documentation. This individual has been identified as Native American of an unknown period.

At an unknown date, human remains representing two individuals were recovered from an unknown location by person(s) unknown under unknown circumstances. At an unknown date, they were acquired by the University of Nebraska Department of Anthropology under unknown circumstances. No known individuals were identified. No associated funerary objects are present.

Based on copper staining and the condition of the human remains, these individuals have been identified as Native American from the historic period.

At an unknown date, human remains representing 43 individuals were recovered from an unknown location by person(s) unknown under unknown circumstances. At an unknown date, they were acquired by the University of Nebraska Department of Anthropology under unknown circumstances. No known individuals were identified. No associated funerary objects are present.

These individuals have been identified as Native American of an unknown period.

At an unknown date, human remains representing eleven individuals were recovered from an unknown location by person(s) unknown under unknown circumstances. At an unknown date, they were acquired by the University of Nebraska Department of Anthropology under unknown circumstances. No known individuals were identified. No associated funerary objects are present.

The designation ''Bass, 1960, unprovenienced'' has no known documentation. These individuals have been identified as Native American of an unknown period.

At an unknown date, human remains representing one individual were recovered from an unknown location by person(s) unknown under unknown circumstances. At an unknown date, they were acquired by the University of Nebraska Department of Anthropology under unknown circumstances. No known individual was identified. No associated funerary objects are present.

The designation ''Bass, 1960, unprovenienced'' has no known documentation. Based on osteological evidence and the condition of the human remains, this individual has been determined to be mixed-blood Native American/Negroid or possibly Negroid from the historic period.

At unknown date(s), human remains representing a minimum of 185 individuals were recovered from unknown location(s) by person(s) unknown under unknown circumstances. At unknown date(s), they were acquired by the University of Nebraska Department of Anthropology under unknown circumstances. No known individuals were identified. No associated funerary objects are present.

The human remains were sorted by bone elements at unknown date(s) and were part of the former teaching collection of the Department of Anthropology, University of Nebraska. No documentation is available for any of the human remains. These individuals have been identified as Native American of unknown periods.

At unknown dates, human remains representing a minimum of 41 individuals were recovered from unknown locations by persons unknown under unknown circumstances. They were acquired by the University of Nebraska at unknown dates under unknown circumstances. No known individuals were identified. No associated funerary objects are present.

The human remains were inventoried by Peer Moore-Jansen in 1998 and 1999. Four of the individuals have designations of unknown significance: ''M002 G,'' ''7,'' ''8–875,'' and ''14–2.'' No documentation is available for any of these human remains. Based on osteological evidence and the condition of the human remains, these individuals have been identified as Native American of unknown periods.

The majority of documented Native American human remains in the possession of the University of Nebraska-Lincoln are derived from Nebraska, making it likely that many of the human remains listed above in this notice also were derived from the area of the present State of Nebraska.

Based on the above-mentioned information, officials of the University of Nebraska have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of a minimum of 330 individuals of Native American ancestry. In accordance with the recommendations of the NAGPRA Review Committee, officials of the University of Nebraska have determined that, pursuant to 43 CFR 10.2 (e), there is no relationship of shared group identity that can reasonably be traced between these Native American human remains and any present-day Indian tribe or group, and the disposition of these Native American human remains will be to the following tribes with historic or aboriginal cultural ties to the area of the present State of Nebraska: Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; the Iowa Tribe of Oklahoma; the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; the Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; the Omaha Tribe of Nebraska; the Pawnee Nation of Oklahoma; the Ponca Tribe of Nebraska; the Ponca Tribe of Indians of Oklahoma; the Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; the Santee Sioux Tribe of the Santee Reservation of Nebraska; the Winnebago Tribe of Nebraska; the Yankton Sioux Tribe of South Dakota; and the North Dakota Intertribal Reinterment Committee representing the Standing Rock Sioux Tribe of North and South Dakota; the Spirit Lake Tribe, North Dakota; the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and the Turtle Mountain Band of Chippewa Indians of North Dakota. This notice has been sent to officials of the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; the Iowa Tribe of Oklahoma; the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; the Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; the Omaha Tribe of Nebraska; the Pawnee Nation of Oklahoma; the Ponca Tribe of Nebraska; the Ponca Tribe of Indians of Oklahoma; the Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; the Santee Sioux Tribe of the Santee Reservation of Nebraska; the Winnebago Tribe of Nebraska; the Yankton Sioux Tribe of South Dakota; and the North Dakota Intertribal Reinterment Committee representing the Standing Rock Sioux Tribe of North and South Dakota; the Spirit Lake Tribe, North Dakota; the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and the Turtle Mountain Band of Chippewa Indians of North Dakota. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Dr. Priscilla Grew, NAGPRA Coordinator, University of Nebraska-Lincoln, 301 Bessey Hall, Lincoln, NE 68588–0381, telephone (402) 472–7854, before November 1, 2000. Repatriation of the human remains to the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; the Iowa Tribe of Oklahoma; the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; the Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; the Omaha Tribe of Nebraska; the Pawnee Nation of Oklahoma; the Ponca Tribe of Nebraska; the Ponca Tribe of Indians of Oklahoma; the Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; the Santee Sioux Tribe of the Santee Reservation of Nebraska; the Winnebago Tribe of Nebraska; the Yankton Sioux Tribe of South Dakota; and the North Dakota Intertribal Reinterment Committee representing the Standing Rock Sioux Tribe of North and South Dakota; the Spirit Lake Tribe, North Dakota; the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and the Turtle Mountain Band of Chippewa Indians of North Dakota may begin after that date if no additional claimants come forward.

Dated: September 20, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00–25127 Filed 9–29–00; 8:45 am]

BILLING CODE 4310–70–F

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–540 and 541 (Review)]

Certain Welded Stainless Steel Pipes From Korea and Taiwan

Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping duty orders on certain welded stainless steel pipes from Korea and Taiwan would be likely to lead to continuation of recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Background

The Commission instituted these reviews on July 1, 1999 (64 FR 35694) and determined on October 1, 1999, that it would conduct full reviews (64 FR 55961, October 15, 1999). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in **Federal Register** on March 31, 2000 (64 FR 17308). The hearing was held in Washington, DC, on August 1, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on September 22, 2000. The views of the Commission are contained in USITC Publication 3351 (September 2000), entitled Certain Stainless Steel Pipe from Korea and Taiwan: Investigations Nos. 731–TA–540 and 541 (Review).

Issued: September 25, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–25232 Filed 9–29–00; 8:45 am]

BILLING CODE 7020–02–M

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Commissioner Thelma J. Askey dissenting with respect to Korea.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2087–00; AG Order No. 2327–2000]

RIN 1115–AE26

Extension of Designation of Montserrat Under Temporary Protected Status Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice extends the Attorney General's designation of Montserrat under the Temporary Protected Status (TPS) program until August 27, 2001. Eligible nationals of Montserrat (or aliens having no nationality who last habitually resided in Montserrat) may re-register for TPS and an extension of employment authorization. Re-registration is limited

to persons who registered during the initial registration period, which ended on August 27, 1998, or who registered after that date under the late initial registration provision. Persons who are elilgible for late initial registration may register for TPS during this extension.

EFFECTIVE DATES: The extension of the TPS designation for Montserrat is effective August 28, 2000, and will remain in effect until August 27, 2001. The 30-day re-registration period begins October 2, 2000 and will remain in effect until November 1, 2000.

FOR FURTHER INFORMATION CONTACT: Michael Valverde, Residence and Status Services Branch, Adjudications, Immigration and Naturalization Service (INS), Room 3214, 425 I Street, NW., Washington, DC 20536, telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

What Authority Does the Attorney General Have To Extend the Designation of Montserrat Under the TPS Program?

Section 244(b)(3)(A) of the Immigration and Nationality Act (Act) states that at least 60 days before the end of an extension or a designation, the Attorney General must review conditions in the designated foreign state. 8 U.S.C. 1254a(b)(3)(A). If the Attorney General determines that the foreign state continues to meet the conditions for designation, the period of designation is extended, pursuant to section 244(b)(3)(C) of the Act. 8 U.S.C. 1254a(b)(3)(C). With respect to Montserrat, such an extension makes TPS available only to persons who have been continuously physically present since August 28, 1997, and have continuously resided in the United States from August 22, 1997.

Why Did the Attorney General Decide To Extend the TPS Designation for Montserrat?

On August 28, 1997, the Attorney General initially designated Montserrat for TPS for a period of 12 months. 62 FR 45685 (Aug. 28, 1997). Based on conditions since then, the Attorney General twice has extended the TPS designation, which ran through August 27, 2000. See 64 FR 48190 (Sept. 2, 1999); 63 FR 45864 (Aug. 27, 1998).

The Departments of State and Justice have recently reviewed conditions within Montserrat. The review resulted in a consensus that a further 12-month extension is warranted. The reasons for the extension are explained in a State Department memorandum that states: ''Since the eruptions of the Soufriere Hills volcano began in the southern part of Montserrat in 1997, the island has remained in a state of crisis. Most recently, in March 2000, the volcano turned deadly again.'' The memorandum also states that ''[t]he most recent reports from the center that monitors the volcano's activity indicate that another such event may occur very soon.''

Based on these reviews, the Attorney General finds the situation in Montserrat meets the conditions for extension under section 244(b)(3)(C) of the Act. 8 U.S.C. 1254a(b)(3)(C). There continues to be a substantial, but temporary, disruption of living conditions in Montserrat as a result of environmental disaster, and Montserrat continues to be unable, temporarily, to handle adequately the return of its nationals. 8 U.S.C. 1254a(b)(1)(B)(i)–(ii). The review failed to show that country conditions have improved to a degree that supports termination. Since the Attorney General did not determine that the conditions in Montserrat no longer warrant TPS, the designation was automatically extended by operation of statute on August 28, 2000. 8 U.S.C. 1254(a)(b)(3)(C).

On the basis of these findings, the Attorney General finds that the TPS designation for Montserrat should be extended for an additional 12-month period, rather than the six month period automatic extension provided for in the statute. 8 U.S.C. 1254a(b)(3)(C).

If I Currently Have TPS, How Do I Register for an Extension?

Only persons previously granted TPS under the initial Montserrat designation may apply for an extension by filing a Form I–821, Application for Temporary Protected Status, without the fee, during the re-registration period that begins October 2, 2000 and ends November 1, 2000. Additionally, you must file a Form I–765, Application for Employment Authorization. To determine whether you must submit the one-hundred dollar ($100) filing fee with the Form I–765, see the chart below.

CHART 1

If	Then
You are applying for employment authorization through August 27, 2001.	You must complete and file the Form I–765, Application for Employment Authorization, with the one-hundred dollar ($100) fee.
You already have employment authorization or do not require employment authorization.	You must complete and file the Form I–765 with no fee.
You are applying for employment authorization and are requesting a fee waiver.	You must complete and file the Form I–765, the requisite fee waiver request, and affidavit (and any other information), in accordance with 8 CFR 244.20.

To re-register for TPS, you also must include two identification photographs (1½″ x 1½″).

Where Should I File for an Extension of TPS?

Persons seeking to register for an extension of TPS must submit an application and accompanying materials to the INS district office that has jurisdiction over the applicant's place of residence.

When Can I Register for an Extension of TPS?

The 30-day re-registration period begins October 2, 2000 and will remain in effect until November 1, 2000.

How Does an Application for TPS Affect My Application for Asylum or Other Immigration Benefits?

An application for TPS does not preclude or affect an application for asylum or any other immigration benefit. A national of Montserrat (or alien having no nationality who last habitually resided in Montserrat) who is otherwise eligible for TPS and has applied for or plans to apply for asylum, but who has not yet been granted asylum or withholding of removal, may also apply for TPS. Denial of an application for asylum or any other immigration benefit does not affect an applicant's ability to register for TPS, although the grounds of denail may also be grounds of denail for TPS. For example, a person who has been convicted of a particularly serious crime is not eligible for asylum or TPS. 8

U.S.C. 1158(b)(2)(A); 8 U.S.C. 1254a(c)(2)(B).

Is Late Initial Registration Possible?

In addition to timely re-registration, late initial registration is possible for some persons from Montserrat under 8 CFR 244.2(f)(2). Late initial registration applicants must meet the following requirements:

- Be a national of Montserrat (or an alien having no nationality who last habitually resided in Montserrat);
- Have been continuously physically present in the United States since August 28, 1997;
- Have continuously resided in the United States since August 22, 1997; and
- Be admissible as an immigrant, except as provided under section 244(c)(2)(A) of the Act, and not ineligible under section 244(c)(2)(B) of the Act.

Additionally, the applicant must be able to demonstrate that, during the initial registration period from August 28, 1997, through August 27, 1998, he or she:

- Was in valid nonimmigrant status, or had been granted voluntary departure status or any relief from removal;
- Had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal pending or subject to further review or appeal; or
- Was a parolee or has a pending request for reparole; or was the spouse or child of an alien currently eligible to be a TPS registrant.

8 CFR 244.2(f)(2).

An applicant for late initial registration must register no later than sixty (60) days from the expiration or termination of the qualifying status listed above. 8 CFR 244.2(g).

Does This Extension Allow Nationals of Montserrat (or Aliens Having No Nationality Who Last Habitually Resided in Montserrat) Who Entered the United States After August 28, 1997, To File for TPS?

No, this is a notice of an extension of the existing TPS designation for Montserrat, not a notice of redesignation of Montserrat under the TPS program. An extension of TPS does not change the required dates of continuous physical presence and residence in the United States, and it does not expand the TPS program to include nationals of Montserrat (or aliens having no nationality who last habitually resided in Montserrat) who arrived in the United States after the date of the initial designation (in this case, August 28, 1997) or the date designated for continuous residence (in this case, August 22, 1997).

Notice of Extension of Designation of Montserrat Under the TPS Program

By the authority vested in me as Attorney General under sections 244(b)(3)(A) and (C), and (b)(1) of the Act, I have consulted with the appropriate agencies of the government concerning whether the conditions under which Montserrat was initially designated for TPS continue to exist. As a result, I determine that the conditions for the initial designation of TPS for Montserrat continue to be met. 8 U.S.C. 1254a(b)(3)(A), (C), and (b)(1). Accordingly, I order as follows:

(1) The designation of Montserrat under section 244(b) of the Act is extended for an additional 12-month period from August 28, 2000, until August 27, 2001. 8 U.S.C. 1254a(b)(3)(C).

(2) I estimate that there are approximately 300 nationals of Montserrat (or aliens having no nationality who last habitually resided in Montserrat) who have been granted TPS and who are eligible for re-registration.

(3) In order to be eligible for TPS during the period from August 28, 2000, through August 27, 2001, a national of Montserrat (for alien having no nationality who last habitually resided in Montserrat) who received a grant of TPS (or has an application pending) during the initial period of designation from August 28, 1997, until August 27, 1998, must re-register for TPS by filing a new Application for Temporary Protected Status, Form I–821, along with an Application for Employment Authorization, Form I–765, within the 30-day period beginning October 2, 2000 and ending on November 1, 2000. Late re-registration will be allowed only for good cause pursuant to 8 CFR 244.17(c).

(4) Pursuant to section 244(b)(3)(A) of the Act, the Attorney General will review, at least 60 days before August 27, 2001, the designation of Montserrat under the TPS program to determine whether the conditions for designation continue to be met. 8 U.S.C. 1254a(b)(3)(A). Notice of that determination, including the reasons underlying it, will be published in the **Federal Register**.

(5) Information concerning the TPS program for nationals of Montserrat (or aliens having no nationality who last habitually resided in Montserrat) will be available at local INS offices upon publication of this notice and on the INS website at http://www.ins.usdoj.gov.

Dated: September 25, 2000.

Janet Reno,

Attorney General.

[FR Doc. 00–25250 Filed 9–29–00; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Employment and Training Administration

Solicitation for Technical Assistance and Training Grants Employment and Training Administration, U.S. Department of Labor

ACTION: Notice of Solicitation for Grant Applications (SGA) for training and capacity building of case management system staff of grantees for the National Farmworkers Jobs Program (NFJP); Capacity Building of Service Delivery Staff.

SUMMARY: The U.S. Department of Labor (DOL), Employment and Training Administration (ETA) announces a Solicitation for Grant Applications (SGA) to create staff development opportunities for National Farmworkers Jobs Program grantees.

This notice contains all of the necessary information and forms needed to apply for grant funding.

DATES: The closing date for receipt of applications for grant awards shall be October 31, 2000 by 4 p.m. eastern standard time. No exceptions to the mailing and hand-delivery conditions will be granted. Applications that do not meet the conditions set forth in this notice will not be considered. Tele facsimile (FAX) applications will not be honored.

ADDRESSES: Applications shall be mailed or hand-delivered to: U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: Lorraine Saunders, 200 Constitution Avenue, NW, Room S–4203; Washington, DC 20210. Reference: SGA/DFA–00–112.

FOR FURTHER INFORMATION CONTACT: Fax questions to Lorraine Saunders, Division of Federal Assistance at (202) 219–8698, ext. 145. This is not a toll-free number. All inquiries sent via fax should include the SGA number (DFA–00–112) and a contact name, fax and phone number. This solicitation will also be published on the Internet on the Employment and Training Administration's Home Page at http://doleta.gov. Award notifications will also be published on this Homepage.

Part I. Introduction

The purpose of these funds is for training and staff development activities, of the service delivery system staff, that would not otherwise be performed by the NFJP grantee. Emphasis should be placed on the training needs of staff who work directly with WIA § 167 migrant and seasonal farm workers (MSFW), such as case management, outreach, intake, and other staff who interact directly with WIA § 167 clients. This SGA encourages strategies to utilize grantee focused staff training approaches and discourages large conference type approaches. To the extent possible, training options are local focused and will use local resources.

The proposal must consist of four (4) Sections covering the applicants understanding of the requirement: Proposed Training Module(s) and Strategy (Section 1), Expected outcomes (Section 2), Consortium Arrangement (Section 3), and Proposed Budget (Section 4). Any pertinent Attachments may be included in (Section 5), which is optional.

For rating purposes, each of the first four sections is assigned a number of possible points, and the sum of the maximum possible points for the four sections total 100. The most heavily weighted criteria is Section 2, which covers the expected outcome.

Authority

Section 167 (§ 669.110) of WIA authorizes the Department to provide funds for capacity enhancement as part of technical assistance activities provided to grantees. The MSFW program has an established record of support for grantee staff development and training funded from the discretionary budget allocated to the MSFW program.

Eligible Applicants

DSFP has long supported a peer-to-peer approach in the delivery of training within the NFJP community. This SGA thus seeks to use grantee supported consortiums to ensure a grantee focused training strategy. The following organizations are eligible to apply:

(1) Non-profit (501C–3) associations/organizations of NFJP grantees;

(2) Consortiums of cooperating NFJP grantees serving a specific regional geographic area.

Funding

The Department has reserved up to $500,000 nationally for this purpose. The final awards will attempt to include every NFJP service delivery area and it will promote capacity building of case management system through staff development.

Grant Duration and Period of Performance

The Department anticipates that grants will be funded for one year with an option to extend for one additional year, as necessary. The period of performance is expected to commence during December, 2000.

Part II. Application Process and Guidelines

Submission of the Grant Application Package

In accordance with the requirements above, applicants must also submit an original and three (3) copies of their proposal, with original signatures.

Applications must be mailed no later than five (5) days prior to the closing date for the receipt of applications. However if applications are hand-delivered, they must be received at the designated place by 4:00 p.m., Eastern Time on October 31, 2000, the closing date for receipt of applications. All overnight mail will be considered to be hand-delivered and must be received at the designated place by the specified time and closing date. Telegraphed and/or faxed proposals will not be honored. Applications that fail to adhere to the above instructions will not be honored.

Late Applications

Any application received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it

(a) Was sent by U.S. Postal Service registered or certified mail not later than the fifth calendar day before the closing date specified for receipt of applications (*e.g.* an offer submitted in response to a solicitation requiring a receipt of application by the 30th of January must have been mailed by the 25th): or

(b) Was sent by U.S. Postal Service Express Mail Next Day Service—Post Office to Addressee, not later than 5 p.m. at the place of mailing two working days prior to the date specified for receipt of application. The term ''working days'' excludes weekends and U.S. Federal holidays.

The only acceptable evidence to establish the date of a late application sent by U.S. Postal Service registered or certified mail is the U.S. postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. Both postmarks must show a legible date or the proposal will be processed as if it had been mailed late. ''Postmark'' means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been applied or affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore, applicants should request the postal clerk to place a legible hand cancellation ''bulls eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the date of mailing of a late application sent by ''Express Mail Next Day Service—Post Office to Addressee'' is the date entered by the post office receiving clerk on the Express Mail Next Day—Post Office to Addressee label and the postmarks on both the envelope and the wrapper and the original receipt from the U.S. Postal Service. ''Postmark'' has the same meaning as defined above. Therefore, an applicant should request the postal clerk to place a legible hand cancellation ''bulls eye'' postmark on both the receipt and the envelope or wrapper.

Withdrawal of Applications

Applications may be withdrawn by written notice or telegram (including mailgram) received at any time before award. Applications may be withdrawn in person by the applicant or by an authorized representative thereof, if the representative's identity is made known and the representative signs a receipt for the proposal.

Grant Application Package

The grant application package must consist of:

(1) The proposal shall contain the Standard Form (SF) 424, ''Application for Federal Assistance'' (Appendix A). All copies of the (SF) 424 must have original signatures of the legal entity applying for grant funding. Applicants shall indicate on the (SF) 424 the organization's IRS status, if applicable. According to the Lobbying Disclosure Act of 1995, Section 18, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities is not eligible for the receipt of federal funds constituting an award, grant, or loan.

(2) A certification prepared within the last six months, attesting to the adequacy of the entity's fiscal management and accounting systems to account for and safeguard Federal funds properly. The Certification should be obtained as follows:

(a) For incorporated organizations, a certification from a Certified Public Accountant; or

(b) for a public agency, a certification by its Chief Financial Officer;

(3) A statement indicating the entity's legally constituted authority under which the organization functions. A nonprofit organization should submit a copy of its Charter or Articles of Incorporation, including proof of the organization's nonprofit status;

(4) The applicant's employer identification number (EIN) issued by the Internal Revenue Service;

(5) Applications from a Consortium of organizations must include a copy of the Consortium agreement and must identify the consortium which will act as the administrative entity for the project. The agreement must include stated arrangements for administrative and financial responsibility that are acceptable to the Grant Officer.

(6) Budget Information Sheet with a narrative description of each line item. (Attached)

(7) Copy of most current Indirect Cost Rate Agreement issued by the cognizant federal agency, if applicable.

(8) the entity's application for grant funding as described below:

Format of the Grant Application Package

The grant proposal text is limited to 30 double-spaced, single-side, numbered 8½″ × 11″ pages, in 12-point type and having margins measuring at least one inch (Page numbers may be placed within the margin space.) This includes attachments.

To ensure full consideration, the application must follow the numerical sequence of the Sections 1 through 4 as listed below, and must include a table of contents. All attachments are to be included in Section 5. Credit may not be afforded in instances where items are not addressed in the proper section.

Contents of the Grant Application

All grant proposals accepted for consideration must be prepared in accordance with the requirements set forth below.

Section 1. Proposed Training Module(s) and Strategy

The applicant must describe the proposed area of service and the training strategy/approach in response to the staff training needs within the identified area. The design proposed must be one that will bring a local focus on training NFJP case management system staff.

Address identified needs: The proposal must identify specific challenges and staff training needs to be addressed.

Incorporate a Design Characteristics: Training strategies/approaches must respond to the identified needs and should be designed to incorporate at least one of the following characteristics for purposes of regional application.

- Ease of portability.
- Ease of replicability.
- Flexibility (use of optional learning styles).
- Credentialing development through an accredited institution.

Rating basis for Part II, Section 1: 25 points. Scoring will be based on the strength of the design and strategies proposed to:

- Respond to the identified training needs;
- Incorporate at least one design characteristic
- Meet the training needs of the identified geographic area; and,

sbull The capacity of its delivery approach/design to successfully implement the training.

Section 2. Expected Outcomes

This section should describe the expected outcomes and benefits to be gained by the participating program staff and how the proposal is designed to deliver those outcomes. The proposed training strategy and design must include at least two knowledge and skills area. Training may include, but is not limited to, any of the following and other areas as identified by the proposer and relevant to the delivery of the NFJP.

- Developing staff knowledge and skills for managing of clients' Individual Service Strategies (e.g. developing interviewing skills, building trust, making objective assessments through evaluation and testing, etc.);
- The case management process and needed associated skills. (e.g. developing and monitoring appropriate training activities, determining appropriate referrals and other intervention point);
- WIA One-Stop System Partnerships (including cross training, client advocacy skills, building community support for the NFJP program and farmworkers);
- Building resources for NFJP grantee case management systems.
- Other identified training needs such as credentialed training (relevant to NFJP), use of technology.

Rating basis for Part II, Section 2: 60 points. This section will be scored based on how capacity of participating staff would be enhanced via the proposed training and training method, and capacity of the training modules to be a replicable, potable, comprehensive and consistent approach to capacity enhancement of skills for staff in the identified service area.

Section 3. Consortium Arrangement

For purposes of this proposal, an acceptable consortium arrangement shall consist of three or more signatory eligible applicants, supported by a Consortium Working Agreement between all the cooperating parties under the proposed design. The agreement must designate one of the consortium's members as the responsible administrative entity under the grant. Please:

- Identify each state service area and the respective NFJP grantee included in the composition of the regional area proposed to be served under this proposal (a state area may be included in only one proposed regional service area/consortium agreement);
- Identify by number and job title (*e.g.:* 3 case managers), the estimated staff which will participate in the proposed training (cumulative for the regional area included in this proposal);

Rating basis for Part II, Section 3: 10 points. The scoring will be based on the demonstrated capacity of the agreements to sustain the training strategy.

Section 4. Budget

Please submit a proposed budget for costs associated with the proposed training strategy. Administrative costs for purposes of the project are limited to 10% of total costs. Include a narrative explanation for how proposed costs are determined.

Rating basis for Part II, Section 4: 5 points. The scoring will be based on the demonstrated reasonableness of the budget request relative to the proposed training and area to be served.

Section 5: Attachments

All attachments referenced in the proposal are to be included in this section of the proposal. The first page in this section should itemize the included attachments.

Part III. Review Process of Grant Application

Panel Review

The Grant Officer will select potential grantees utilizing all information available to him/her. A technical review panel will rate each proposal using the specified criteria cited above. Panel results are advisory in nature and are not binding on the Grant Officer.

The Grant Officer may, at his or her discretion, request an applicant to submit additional or clarifying information if deemed necessary to make a selection. However, selections may be made without further contact with the applicants.

Responsibility Review

Prior to awarding a grant to any applicant, the Department will conduct a responsibility review. The responsibility review is an analysis of available information and records to determine if an applicant has established a satisfactory history of accounting for Federal funds and property. The responsibility review is independent of the competitive process. Applicants failing to meet the requirements of this action may be disqualified for designation as a grantee without respect to their standing in the competitive process. An applicant that is not selected as a result of the Grant Officer's responsibility review will be advised of its appeal rights.

Notification of Non Selection

Any applicant that is not selected as a potential grantee, or that has its grant application denied in whole or in part by the Department for receipt of funds, will be notified in writing by the Grant Officer and will be advised of all appeal rights.

Notification of Selection

Applicants that are selected will be notified in writing by the Grant Officer. Formal designation as a grantee will be contingent on the successful negotiation of a grant agreement for the first year of operation

Part IV. Reporting Requirements

Activity Reporting

Grantees must provide a quarterly narrative statement describing the staff training and technical assistance activities obtained under the grant. Copies of all training modules and actual training curriculum delivered are to accompany each quarterly report.

Financial Reporting

Standard Form 269 or financial report is due to be reported 45 days following close of the grant activity.

Cost Flexibility and Limitations

(a) These grant funds are discretionary WIA § 167 funds earmarked for staff training and technical assistance and serving as a supplement to the grantee's on-going staff training activities. The administrative cost limitation applicable to the WIA § 167 employment and training grants also apply to these grants.

(b) Grant funds may be used for per diem and lodging costs as otherwise appropriate. Transportation will not be covered under these grants.

Signed at Washington, DC, on this 25th day of September 2000.

Lorraine H. Saunders,

Grant/Contracting Officer/DOL/ETA.

BILLING CODE 4510–30–P

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction / Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, State and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code):

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐-☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐-☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, States, etc.):

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:	
a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which ave established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3.	State use only (if applicable)
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake this assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided. - "New" means a new assistance award. - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is required.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of the project.
12.	List only the largest political entities affected (e.g., State, counties, cities.
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. Totals		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges *(sum of 6a-6h)*					
j. Indirect Charges					
k. TOTALS *(sum of 6i and 6j)*	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-102

Previous Edition Usable

SECTION C - NON-FEDERAL RESOURCES				
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTAL *(sum of lines 8-11)*	$	$	$	$

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL *(sum of lines 13 and 14)*	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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Standard Fonn 424A (Rev. 7-97) Page 2

INSTRUCTIONS FOR THE SF-424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0044), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary Lines 1-4 Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in *Column* (a) and the respective Catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g)

For new applications, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 - Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Line 6a-i - Show the totals of Lines 6a to 6h in each column.

Line 6j - Show the amount of indirect cost.

Line 6k - Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7 - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount, Show under the program

INSTRUCTIONS FOR THE SF-424A (continued)

narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8-11 Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) - Enter the contribution to be made by the applicant.

Column (c) - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) - Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) - Enter totals of Columns (b), (c), and (d).

Line 12 - Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 - Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 - Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 - Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16-19 - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 - Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 - Provide any other explanations or comments deemed necessary.

[FR Doc. 00–25060 Filed 9–29–00; 8:45 am]
BILLING CODE 4510–30–C

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Blue Mountain Energy, Inc.

[Docket No. M–2000–095–C]

Blue Mountain Energy, Inc., 3607 County Road, #65, Rangely, Colorado 81648 has filed a petition to modify the application of 30 CFR 75.1902(c)(2)(i), (ii), and (iii)(underground diesel fuel storage-general requirements) to its Deserado Mine (I.D. No. 05–03505) located in Rio Blanco County, Colorado. The petitioner requests a modification of the existing standard as it pertains to temporary underground diesel fuel storage area location. The petitioner proposes to: (i) Store the temporary diesel transportation unit no more than 5 cross-cuts from the loading point and/or protected loading point during equipment installation, and the last loading point during equipment removal; (ii) equip the diesel fuel transportation unit with an automatic fire suppression device according to 30 CFR 75.1911; and (iii) physically examine the diesel fuel transportation unit twice each shift when work is being performed inby the diesel storage area. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Plateau Mining Corporation

[Docket No. M–2000–096–C]

Plateau Mining Corporation, One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, Pennsylvania 15219 has filed a petition to modify the application of 30 CFR 75.1909(a)(1) (nonpermissible diesel-powered equipment; design and performance requirements) to its Willow Creek Mine (I.D. No. 42–02113) located in Carbon County, Utah. The petitioner requests a modification of the existing standard to permit the use of 3304 PCT diesel engines at its mine and affiliated mine to haul equipment and supplies and for travel through the mines. The petitioner states that the 3304 PCT diesel engines have been tested according to the requirements of 30 CFR Part 7 and the testing has indicated that the use of these engines meet the requirements of MSHA's testing protocol. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

3. Twentymile Coal Company

[Docket No. M–2000–097–C]

Twentymile Coal Company, One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, Pennsylvania 15219 has filed a petition to modify the application of 30 CFR 75.1909(a)(1) (nonpermissible diesel-powered equipment; design and performance requirements) to its Foidel Creek Mine (I.D. No. 05–03836) located in Routt County, Colorado. The petitioner requests a modification of the existing standard to permit the use of 3304 PCT diesel engines at its mine and affiliated mine to haul equipment and supplies and for travel through the mines. The petitioner states that the 3304 PCT diesel engines have been tested according to the requirements of 30 CFR Part 7 and the testing has indicated that the use of these engines meet the requirements of MSHA's testing protocol. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

4. Black Beauty Coal Company

[Docket No. M–2000–098–C]

Black Beauty Coal Company, P.O. Box 312, Evansville, Indiana 47702–0312 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its Air Quality #1 Mine (I.D. No. 12–02010) located in Knox County, Indiana. The petitioner proposes to use the intake air off the belt and neutral entries to ventilate working sections. The petitioner states that a carbon monoxide monitoring system already in place is maintained along the belt haulage entries. The petitioner asserts that mine personnel working at the sections would not be adversely affected, that intake air from the belt haulage entries would improve ventilation at the working sections, and that the ability to meet the regulatory volume and control requirements at each working section would be enhanced by the approval of this modification.

5. San Juan Coal Company

[Docket No. M–2000–099–C]

San Juan Coal Company, P.O. Box 561, Waterflow, New Mexico 87421 has filed a petition to modify the application of 30 CFR 75.500(d) (permissible electric equipment) to its San Juan South Mine (I.D. No. 29–02170) and San Juan Deep Mine (I.D. No. 29–02201) located in San Juan County, New Mexico. The petitioner proposes to use the following nonpermissible low-voltage or battery powered electronic testing and diagnostic equipment inby the last open crosscut: lap top computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, infrared temperature devices, insulation testers (meggers), voltage, current, and power measurements devices, signal analyzer devices, ultrasonic thickness gauges, electronic component testers, electronic tachometers, and may use other testing and diagnostic equipment if approved by the District Office. The petitioner states that all other test and diagnostic equipment use in or inby the last open crosscut will be permissible. The petitioner has listed in this petition for modification specific procedures that would be followed when using this equipment. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

6. Black Beauty Coal Company

[Docket No. M–2000–100–C]

Black Beauty Coal Company, 6641 State Road 46, Terre Haute, Indiana 47802 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its Vermilion Grove Mine (I.D. No. 11–03060) located in Vermilion County, Illinois. The petitioner proposes to use the intake air off the belt and neutral entries to ventilate working sections. The petitioner states that a carbon monoxide monitoring system already in place is maintained along the belt haulage entries. The petitioner asserts that mine personnel working at the sections would not be adversely affected, that the use of intake air from the belt haulage entries would improve ventilation at the workings sections, and that the ability to meet the regulatory volume and control requirements at each working section would be enhanced by the approval of this modification.

7. Genwal Resources, Inc.

[Docket No. M–2000–101–C]

Genwal Resources, Inc., P.O. Box 1420, Huntington, Utah 84528 has filed a petition to modify the application of 30 CFR 75.701 (grounding metallic frames, casings, and other enclosures of electric equipment) to its Crandall Canyon Mine (I.D. No. 42–01715) located in Emery County, Utah. The petitioner requests a modification of the existing standard to permit an alternative method for grounding of a diesel generator. The petitioner

proposes to use a 480 volt, wye connected, 320 KW portable diesel powered generator for utility power and to move electrically powered mining equipment in and around the mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

8. Genwal Resources, Inc.

[Docket No. M–2000–102–C]

Genwal Resources, Inc., P.O. Box 1420, Huntington, Utah 84528 has filed a petition to modify the application of 30 CFR 75.901 (protection of low-and medium-voltage three-phase circuits used underground) to its Crandall Canyon Mine (I.D. No. 42–01715) located in Emery County, Utah. The petitioner requests a modification of the existing standard to permit an alternative method for grounding of a diesel generator. The petitioner proposes to use a 480 volt, wye connected, 320 KW portable diesel powered generator for utility power and to move electrically powered mining equipment in and around the mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

9. West Ridge Resources, Inc.

[Docket No. M–2000–103–C]

West Ridge Resources, Inc., P.O. Box 1420, Huntington, Utah 84528 has filed a petition to modify the application of 30 CFR 75.701 (grounding metallic frames, casings, and other enclosures of electric equipment) to its West Ridge Mine (I.D. No. 42–02233) located in Carbon County, Utah. The petitioner requests a modification of the existing standard to permit an alternative method for grounding of a diesel generator. The petitioner proposes to use a 480 volt, wye connected, 320 KW portable diesel powered generator for utility power and to move electrically powered mining equipment in and around the mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

10. West Ridge Resources, Inc.

[Docket No. M–2000–104–C]

West Ridge Resources, Inc., P.O. Box 1420, Huntington, Utah 84528 has filed a petition to modify the application of 30 CFR 75.901 (protection of low-and medium-voltage three-phase circuits used underground) to its West Ridge Mine (I.D. No. 42–02233) located in Carbon County, Utah. The petitioner requests a modification of the existing standard to permit an alternative method for grounding of a diesel generator. The petitioner proposes to use a 480 volt, wye connected, 320 KW portable diesel powered generator for utility power and to move electrically powered mining equipment in and around the mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

11. Gibson County Coal, LLC

[Docket No. M–2000–105–C]

Gibson County Coal, LLC, P.O. Box 1269, Princeton, Indiana 47670 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Gibson Mine (I.D. No. 12–02215) located in Gibson County, Indiana. The petitioner proposes to plug and mine through oil and gas wells using the specific procedures outlined in this petition for modification. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

12. San Juan Coal Company

[Docket No. M–2000–106–C]

San Juan Coal Company, P.O. Box 561, Waterflow, New Mexico 87421 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its San Juan South Mine (I.D. No. 29–02170) and its San Juan Deep Mine (I.D. No. 29–02201) located in San Juan County, New Mexico. The petitioner requests a modification of the existing standard to permit mining within a 300 foot diameter of abandoned oil and gas wells. The petitioner proposes to plug and mine through oil and gas wells using the specific procedures outlined in this petition for modification. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

13. Sidney Coal Company, Inc.

[Docket No. M–2000–107–C]

Sidney Coal Company, Inc., P.O. Box 299, Sidney, Kentucky 41564 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Rockhouse Energy Mining Company Mine No. 1 (I.D. No. 15–17651) located in Pike County, Kentucky. The petitioner proposes to plug and mine through oil and gas wells using the specific procedures outlined in this petition for modification. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

14. San Juan Coal Company

[Docket No. M–2000–108–C]

San Juan Coal Company, P.O. Box 561, Waterflow, New Mexico 87421 has filed a petition to modify the application of 30 CFR 75.1002–1(a) (location of other electric equipment; requirements for permissibility) to its San Juan South Mine (I.D. No. 29–02170) and its San Juan Deep Mine (I.D. No. 29–02201) located in San Juan County, New Mexico. The petitioner proposes to use the following nonpermissible low-voltage or battery powered electronic testing and diagnostic equipment inby the last open crosscut: lap top computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, infrared temperature devices, insulation testers (meggers), voltage, current, and power measurements devices, signal analyzer devices, ultrasonic thickness gauges, electronic component testers, electronic tachometers, and may use other testing and diagnostic equipment if approved by the District Office. The petitioner states that all other test and diagnostic equipment used in or inby the last open crosscut will be permissible. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

15. The American Coal Company

[Docket No. M–2000–109–C]

The American Coal Company, P.O. Box 727, Harrisburg, Illinois 62946 has filed a petition to modify the application of 30 CFR 75.900 (low- and medium-voltage circuits serving three-phase alternating current equipment; circuit breakers) to its Galatia Mine (I.D. No. 11–02752) located in Saline County, Illinois. The petitioner requests a modification of the existing standard to allow the use of a combination of suitable sized fuses or non-undervoltage release circuit breaker contactor, ground fault device, and three phase undervoltage relay, serving a three-phase low- or medium-voltage alternating current circuit. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

16. Gibson County Coal, LLC

[Docket No. M–2000–110–C]

Gibson County Coal, LLC, P.O. Box 1269, Princeton, Indiana 47670 has filed a petition to modify the application of

30 CFR 75.350 (air courses and belt haulage entries) to its Gibson Mine (I.D. No. 12–02215) located in Gibson County, Indiana. The petitioner proposes to use belt haulage entries as intake air courses to ventilate active working places. The petitioner proposes to use a low-level carbon monoxide detection system to monitor all belt haulage entries and have a visual or audible alarm signal in place to detect any emergency conditions, and if an emergency condition exists, a qualified person would be dispatched immediately to the affected area to determine the reason for the alarm and appropriate action would be taken to safeguard the persons underground. Petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the existing standard.

17. Plateau Mining Corporation

[Docket No. M–2000–111–C]

Plateau Mining Corporation, One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, Pennsylvania 15219–1410 has filed a petition to modify the application of 30 CFR 75.901(a) (protection of low- and medium-voltage three-phase circuits used underground) to its Willow Creek Mine (I.D. No. 42–02113) located in Carbon County, Utah. The petitioner proposes to use an alternative method of compliance to ground the portable diesel generator to a low ground field. The petitioner proposes to incorporate a ground fault system for the power circuits that would de-energize mining equipment such as continuous miners, roof bolters, and longwall equipment when being transported throughout the mine, if a phase to frame fault occurs. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

18. Plateau Mining Corporation

[Docket No. M–2000–112–C]

Plateau Mining Corporation, One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, Pennsylvania 15219–1410 has filed a petition to modify the application of 30 CFR 75.701 (grounding metallic frames, casings, and other enclosures of electric equipment) to its Willow Creek Mine (I.D. No. 42–02113) located in Carbon County, Utah. The petitioner proposes to use an alternative method of compliance to ground the portable diesel generator to a low ground field. The petitioner proposes to incorporate a ground fault system for the power circuits that would de-energize mining equipment such as continuous miners, roof bolters, and longwall equipment when being transported throughout the mine, if a phase to frame fault occurs. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

19. Blue Mountain Energy, Inc.

[Docket No. M–2000–113–C]

Blue Mountain Energy, Inc., 3607 Co. Rd. 65, Rangely, Colorado 81648 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its Deserado Mine (I.D. No. 05–03505) located in Rio Blanco County, Colorado. The petitioner proposes to use air coursed through conveyor belt entries to ventilate working places. The petitioner proposes to install a carbon monoxide monitoring system as an early warning fire detection system in all belt entries used as intake air to a working place. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners and that the proposed alternative method would provide at least the same measure of protection as the existing standard.

20. San Juan Coal Company

[Docket No. M–2000–114–C]

San Juan Coal Company, San Juan Coal Company, P.O. Box 561, Waterflow, New Mexico 87421 has filed a petition to modify the application of 30 CFR 75.701 (grounding metallic frames, casings, and other enclosures of electric) to its San Juan South Mine (I.D. No. 29–02170) and San Juan Deep Mine (I.D. No. 29–02201) located in San Juan County, New Mexico. The petitioner proposes to use a portable diesel generator to move and operate electrically powered mobile equipment and pumps throughout the mine and to provide temporary power to mobile equipment and pumps when power centers are not readily available and where power centers cannot easily be installed without major construction work. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

21. San Juan Coal Company

[Docket No. M–2000–115–C]

San Juan Coal Company, San Juan Coal Company, P.O. Box 561, Waterflow, New Mexico 87421 has filed a petition to modify the application of 30 CFR 75.901 (protection of low- and medium-voltage three-phase circuits used underground) to its San Juan South Mine (I.D. No. 29–02170) and San Juan Deep Mine (I.D. No. 29–02201) located in San Juan County, New Mexico. The petitioner proposes to use a portable diesel generator to move and operate electrically powered mobile equipment and pumps throughout the mine and to provide temporary power to mobile equipment and pumps when power centers are not readily available and where power centers cannot easily be installed without major construction work. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

22. San Juan Coal Company

[Docket No. M–2000–116–C]

San Juan Coal Company, San Juan Coal Company, P.O. Box 561, Waterflow, New Mexico 87421 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its San Juan South Mine (I.D. No. 29–02170) and San Juan Deep Mine (I.D. No. 29–02201) located in San Juan County, New Mexico. The petitioner proposes to use high-voltage (4,160 volt) cables in/by the last open crosscut and within 150 feet of pillar workings. The petitioner proposes a number of safeguards and asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

23. Genwal Resources, Inc.

[Docket No. M–2000–117–C]

Genwal Resources, Inc., P.O. Box 1420, Huntington, Utah 84528 has filed a petition to modify the application of 30 CFR 75.1002–1(a) (location of other electric equipment; requirements for permissibility) to its Crandall Canyon Mine (I.D. No. 42–01715) located in Emery County, Utah. The petitioner proposes to use the following nonpermissible low-voltage or battery powered electronic testing and diagnostic equipment inby the last open crosscut: lap top computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, infrared temperature devices and recorders, pressures and flow measurement devices, signal analyzer devices, ultrasonic thickness gauges, electronic component testers, electronic tachometers, and may use other testing and diagnostic equipment if approved by the District Office. The petitioner states that all other test and diagnostic equipment use in or inby the last open crosscut will be permissible. The

petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

24. West Ridge Resources, Inc.

[Docket No. M–2000–118–C]

West Ridge Resources, Inc., P.O. Box 1420, Huntington, Utah 84528 has filed a petition to modify the application of 30 CFR 75.1002–1(a) (location of other electric equipment; requirements for permissibility) to its West Ridge Mine (I.D. No. 42–02233) located in Carbon County, Utah. The petitioner proposes to use the following nonpermissible low-voltage or battery powered electronic testing and diagnostic equipment inby the last open crosscut: lap top computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, infrared temperature devices and recorders, pressures and flow measurement devices, signal analyzer devices, ultrasonic thickness gauges, electronic component testers, electronic tachometers, and may use other testing and diagnostic equipment if approved by the District Office. The petitioner states that all other test and diagnostic equipment use in or inby the last open crosscut will be permissible. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

25. Plateau Mining Corporation

[Docket No. M–2000–119–C]

Plateau Mining Corporation, One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, Pennsylvania 15219–1410 has filed a petition to modify the application of 30 CFR 75.500(d) (permissible electric equipment) to its Willow Creek Mine (I.D. No. 42–02113) located in Carbon County, Utah. The petitioner proposes to use the following nonpermissible low-voltage or battery powered electronic testing and diagnostic equipment in its continuous miner development sections: lap top computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, infrared temperature devices, voltage, current and power measurement recorders, pressure and flow measurement devices, signal analyzer devices, ultrasonic thickness gauges, and electronic tachometers, and may use other testing and diagnostic equipment if approved by the District Office. The petitioner states that all other test and diagnostic equipment used inby the last open crosscut will be permissible. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners and that the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

26. Plateau Mining Corporation

[Docket No. M–2000–120–C]

Plateau Mining Corporation, One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, Pennsylvania 15219–1410 has filed a petition to modify the application of 30 CFR 75.1002–1(a) (location of other electric equipment; requirements for permissibility) to its Willow Creek Mine (I.D. No. 42–02113) located in Carbon County, Utah. The petitioner proposes to use the following nonpermissible low-voltage or battery powered testing and diagnostic equipment in its longwall section: lap top computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, infrared temperature devices, voltage, current and power measurement recorders, pressure and flow measurement devices, signal analyzer devices, ultrasonic thickness gauges, and electronic tachometers, and may use other testing and diagnostic equipment if approved by the District Office. The petitioner states that all other test and diagnostic equipment used within 150 feet of pillar workings will be permissible. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners and that the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

27. Marfork Coal Company, Inc.

[Docket No. M–2000–121–C]

Marfork Coal Company, Inc., P.O. Box 457, Whitesville, West Virginia 25209 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Coon Cedar Grove Mine (I.D. No. 46–08837) located in Raleigh County, West Virginia. The petitioner proposes to use high-voltage (2,400 volt) cables to power longwall mining equipment. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

28. Sierra Minerals Corporation

[Docket No. M–2000–007–M]

Sierra Minerals Corporation, 6164 S. Newport St., Suite 2000, Englewood, Colorado 80111 has filed a petition to modify the application of 30 CFR 57.17010 (electric lamps) to its Colorado Yule Marble, Yule Quarry Operation (I.D. No. 05–04438) located in Gunnison County, Colorado. The petitioner requests a modification of the existing standard to eliminate the use of cap lamps during daylight hours at its quarry operation. The petitioner states that: (i) There is natural lighting in all working areas of the quarry that provides illumination under all operating conditions; (ii) supplemental light stands are used in some areas and if power is lost to those lights there is more than sufficient natural light available for safe exit from the working areas; (iii) all escapeways are well lit with natural light during daylight hours; (iv) work in the quarry is done only during daylight hours and if work is extended into hours of darkness, at that time, all persons would use cap lamps. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

29. Sierra Minerals Corporation

[Docket No. M–2000–008–M]

Sierra Minerals Corporation, 6164 S. Newport St., Suite 2000, Englewood, Colorado 80111 has filed a petition to modify the application of 30 CFR 57.15031 (location of self-rescue devices) to its Colorado Yule Marble, Yule Quarry Operation (I.D. No. 05–04438) located in Gunnison County, Colorado. The petitioner requests a modification of the existing standard to permit its quarry to be operated without the use of self-rescue devices by persons underground. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners and that an alternative method of achieving the result of the existing standard exists that would provide at least the same measure of protection as the existing standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to ''comments@msha.gov,'' or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 1, 2000. Copies of these petitions are available for inspection at that address.

Dated: September 25, 2000.

Carol J. Jones,

Director, Office of Standards,, Regulations, and Variances.

[FR Doc. 00–25110 Filed 9–29–00; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Pension and Welfare Benefits Administration (PWBA) is announcing that a collection of information has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA 95) and 5 CFR 1320 for the Application for EFAST Electronic Signature and Codes for EFAST Transmitters and Software Developers (Form EFAST–1). This notice announces the OMB approval number and expiration date.

FOR FURTHER INFORMATION CONTACT: Address requests for copies of the information collection request (ICR) or additional comments on the ICR to Gerald R. Lindrew, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Room N–5647, Washington, DC 20210. Telephone: (202) 219–4782. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On March 9, 2000, PWBA published a notice in the **Federal Register** (65 FR 12577) announcing its intent to request renewal under the PRA of the Application for EFAST Electronic Signature and Codes for EFAST Transmitters and Software Developers. On September 25, 2000, OMB renewed its approval of the information request under OMB control number 1210–0117. The approval expires on March 3, 2002.

Under 5 CFR 1320.5(b), an Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Dated: September 27, 2000.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 00–25231 Filed 9–29–00; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL COUNCIL ON DISABILITY

Renewal of Advisory Committees

AGENCY: National Council on Disability (NCD).

SUMMARY: This notice announces the renewal of NCD's advisory committees—International Watch and Technology Watch.

FOR FURTHER INFORMATION CONTACT: Mark S. Quigley, Public Affairs Specialist, National Council on Disability, 1331 F Street NW., Suite 1050, Washington, DC 20004–1107; 202–272–2004 (voice), 202–272–2074 (TTY), 202–272–2022 (fax), mquigley@ncd.gov (e-mail).

AGENCY MISSION: The National Council on Disability is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

International Watch

The purpose of NCD's International Watch is to share information on international disability issues and to advise NCD's Foreign Policy Team on developing policy proposals that will advocate for a foreign policy that is consistent with the values and goals of the Americans with Disabilities Act.

Technology Watch

NCD's Technology Watch (Tech Watch) is a community-based, cross-disability consumer task force on technology. Tech Watch provides information to NCD on issues relating to emerging legislation on technology and helps monitor compliance with civil rights legislation, such as Section 508 of the Rehabilitation Act of 1973, as amended.

These committees are necessary to provide advice and recommendations to NCD on international disability issues and technology accessibility for people with disabilities.

We currently have balanced membership representing a variety of disabling conditions from across the United States.

Signed in Washington, DC, on September 26, 2000.

Ethel D. Briggs,

Executive Director.

[FR Doc. 00–25104 Filed 9–29–00; 8:45 am]

BILLING CODE 6820–MA–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Advanced Computational Infrastructure & Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meetings of the Special Emphasis Panel in Advanced Computational Infrastructure & Research (#1185):

Date and Time: October 11, 2000, 8:30 a.m.–5 p.m. and October 12, 2000 8:30 a.m.–12 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Suite 1120, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Charles H. Koelbel, Program Director, Advanced Computational Research Program, Suite 1122, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 306–1962.

Purpose of Meeting: To provide recommendations and advice concerning Software Proposals submitted to NSF for financial support.

Agenda: To review and evaluate Proposals in the Advanced Computational Research Program as part of the selection process for awards.

Date and Time: October 13, 2000, 8:30 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Suite 1120, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Charles H. Koelbel, Program Director, Advanced Computational Research Program Suite 1122, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 306–1962.

Purpose of Meeting: To provide recommendations and advice concerning CAREER proposals submitted to NSF for financial support.

Agenda: To review and evaluate Proposals in the Advanced Computational Research Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25209 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Astronomical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Astronomical Sciences (1186).

Date and Time: October 23, 2000, 10 a.m.–5 p.m., October 24, 2000, 8:30 a.m.–5 p.m.; October 25, 2000, 8:30 a.m.–2 p.m.

Place: Room 920, National Science Foundation, 4201 Wilson Blvd, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Daniel Weedman, Program Manager, Division of Astronomical Sciences, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: 703/292–4909.

Purpose of Meeting: Reserve site visit for National Optical Astronomy Observatory (NOAO) and National Solar Observatory (NSO) for providing advice regarding management of NOAO and NSO by Association of Universities for Research in Astronomy (AURA).

Agenda: To evaluate presentations by NOAO and NSO Directors and AURA President.

Reason for Closing: The presentations being reviewed include information of a proprietary or confidential nature, including financial data such as salaries and personal information concerning individuals associated with NOAO, NSO, and AURA. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25208 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biomolecular Processes; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Biomolecular Processes—(5138) (Panel A).

Date and Time: Wednesday, Thursday and Friday, October 25–27, 2000, 9 a.m.–6 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 320, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Persons: Dr. Hector Flores, Program Director, and Dr. Susan Porter Ridley, Program Officer, for Metabolic Biochemistry, Room 655, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. (703) 292–8441.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Metabolic Biochemistry Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25216 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biomolecular Structure and Function; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Biomolecular Structure and Function—(1134) (Panel B).

Date and Time: October 23–25, 2000, 8:30 a.m. to 6 p.m.

Place: National Science Foundation, Room 340, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Kamal Shukla and Dr. Dagmar Ringe, Program Directors, Molecular Biophysics, National Science Foundation, Room 655, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 292–8444.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Molecular Biophysics Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c),(4) and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25212 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel In Chemical and Transport Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemical and Transport Systems (1190).

Date and Time: November 7, 2000; 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 530, Arlington, VA 22230, (703) 292–8371.

Type of Meeting: Closed.

Contact Person: Dr. Thomas Chapman, Program Director, Separation and Purification Processes, National Science foundation, 4201 Wilson Boulevard, Room 525, Arlington, VA 22230. (703) 292–7036.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate nominations for the FY 2000 Career Panel of proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25201 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Chemical and Transport Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemical and Transport Systems (1190).

Date and Time: November 3, 2000, 8 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, 365 Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Geoffrey Prentice, Program Director, Division of Chemical and Transport Systems (CTS), Room 525, (703) 292–8371.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate for FY 2000 Career Panel of proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25202 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Chemical and Transport Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemical and Transport Systems (1190).

Date and Time: November 6, 2000; 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 530, Arlington, VA 22230. (703) 292–8371.

Type of Meeting: Closed.

Contact Person: Dr. Farley Fisher, Program Director, Division of Chemical and Transport Systems (CTS), National Science Foundation, 4201 Wilson Boulevard, Room 525, Arlington, VA 22230. (703) 292–8371.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate nominations for the FY 2000 Career Panel of proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25203 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Chemical and Transport Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemical and Transport Systems (1190).

Date and Time: November 8, 2000; 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 530, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Maria Burka, Program Director, Division of Chemical and Transport Systems (CTS), National Science Foundation, 4201 Wilson Boulevard, Room 525, Arlington, VA 22230. (703) 292–8371.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate nominations for the FY 2000 Career Panel of proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25204 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Chemistry; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemistry (#1191).

Date and Time: October 23–24, 2000, 8 a.m.–5 p.m.

Place: Orgonne National Lab, Chicago, IL.

Type of Meeting: Closed.

Contact Person: Dr. Joan M. Frye, National Science Foundation contact person, Telephone (703) 292–4953 and Dr. P. James Viccaro, University of Chicago contact person, Telephone (773) 702–1598.

Purpose of Meeting: To provide advice and recommendations concerning a proposal for renewed support of the Institute for Chemistry.

Agenda: Listen to presentations and discuss merits of proposal.

Reason for Closing: The proposal being reviewed includes information of a proprietary or confidential nature, including technical information; and information on personnel. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25199 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Chemistry; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemistry (#1191).

Date and Time: November 6–7, 2000; 8 a.m.–5:30 p.m.

Place: Rooms 1020, 1060, and 920, NSF, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. John Stevens, Program Officer, Special Projects Office, Chemistry Division, Room 1055, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–8840.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for Sites for Research Experiences for Undergraduates in Chemistry as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C.552b(c), (4) and (6) of the Government in the Sunshine Act.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25200 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Civil and Mechanical Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Civil and Mechanical Systems (1205).

Date and Time: November 6, 2000, 8 a.m. to 5 p.m.

Place: NSF, 4201 Wilson Boulevard, Room 360, Arlington, Virginia 22230.

Type of Meeting: Closed.

Contact Person: Dr. Richard J. Fragaszy, Program Director, Geomechanics and Geotechnical Systems, Division of Civil and Mechanical Systems, National Science Foundation, 4201 Wilson Boulevard, Room 545, Arlington, VA 22230. (703) 292–8360.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate nominations for the FY'01 CAREER Geotech Review Panel as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25194 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Ecological Studies; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meetings for the Advisory Panel for Ecological Studies (1751):

Date and Time: October 12, 2000, 8 a.m.–5 p.m.; and October 13, 2000, 8 a.m.–Adjourn.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 375, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Penelope Firth, Program Officer or Dr. Carol Johnston, Program Officer, Ecological Studies, Room 640N, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. Telephone: (703) 292–8481.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning proposals to the National Science Foundation (NSF) for financial support.

Agenda: To review and evaluate proposals submitted in response to the Ecological Studies Ecosystem Studies Program Solicitation (99–2).

Date and Time: October 11, 2000, 8 a.m.–5 p.m.; and October 13, 2000, 8 a.m.–Adjourn.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 375, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Scott L. Collins, Program Officer or Mr. Aaron Kinchen, Program and Technology Analyst, Ecological Studies, Room 640N, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. Telephone: (703) 292–8481.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning proposals to the National Science Foundation (NSF) for financial support.

Agenda: To review and evaluate proposals submitted in response to the Ecological Studies Ecosystem Studies Program Solicitation (99–2).

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25205 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Economics, Decision and Management Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub L. 92–463, as amended), the National Science Foundation (NSF) announces the following meetings of the Advisory Panel for Economics, Decision, Risk and Management Sciences and Innovation and Organization Change (#1759):

Date & Time: November 10–11, 2000; 9 a.m. to 5 p.m.

Room: 920–970.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Dan Newlon, Program Director for Economics, National Science Foundation, 4201 Wilson Boulevard, Suite 995, Arlington, VA 22230. Telephone: (703) 292–7276.

Agenda: To review and evaluate Economics proposals as part of the selection process for awards.

Date & Time: October 30–31, 2000; 9 a.m. to 5 p.m.

Room: 970.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Ann Bostrom, Program Director for Decision, Risk & Management Sciences (DRMS), National Science Foundation, 4201 Wilson Boulevard, Suite 995, Arlington, VA 22230. Telephone: (703) 292–7263.

Agenda: To review and evaluate DRMS proposals as part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Reason for Closings: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25207 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Electrical and Communications Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis panel in Electrical and Communications Systems (1196).

Date and Time: November 20–21, 2000—8:30 a.m. to 5 p.m.

Place: National Science Foundation, Room 680, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Usha Varshney, Program Director, Electronic, Photonics and Device Technologies (EPDT), Division of Electrical and Communications Systems, National Science Foundations, 4201 Wilson Boulevard, Room 675, Arlington, VA 22230. Telephone: (703) 292–8339.

Purpose: To provide advice and recommendations concerning CAREER proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals in the Electronics, Photonics and Device Technologies program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as

salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of 5 U.S.C. 552b(c), (4) and (6) the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen Y. York,

Committee Management Officer.

[FR Doc. 00–25198 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended) the National Science Foundation announces the following meeting:

Name: Advisory Committee for Engineering (#1170).

Date and Time: November 1, 2000; 8:30 a.m.–5 p.m.; November 2, 2000; 8:30 a.m.–12 p.m.

Place: Hilton Arlington & Towers (adjacent to the NSF), 950 North Stafford Street, Arlington, Virginia 22203.

Type of Meeting: Open.

Contact Person: Elbert L. Marsh, Deputy Assistant Director for Engineering, National Science Foundation, Suite 505, 4201 Wilson Boulevard, Arlington, VA 22203; Telephone: (703) 292–4609. If you are attending the meeting and need access to the NSF building, please contact Maxine Byrd at 703–292–4601 or at *mbyrd@nsf.gov* so that your name can be added to the building access list.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice, recommendations and counsel on major goals and policies pertaining to Engineering programs and activities.

Agenda: The principal focus of the forthcoming meeting will be on strategic issues, both for the Directorate and the Foundation as a whole.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25210 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Committee on Equal Opportunity in Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Committee on Equal Opportunities in Science and Engineering (1173).

Date/Time: October 12, 2000 (8 a.m.–5 p.m.) and October 13, 2000 (8:30 a.m.–3:30 p.m.).

Place: Room 1295, National Science Foundation, 4201 Wilson Blvd., Arlington, VA

Type of Meeting: Open.

Contact Person: Bernice Anderson, Executive Secretary, CEOSE, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Phone (703) 292–5151.

Minutes: May be obtained from the Executive Secretary at the above address.

Purpose of Meeting: To advise NSF on policies and activities of the Foundation to encourage full participation of women, minorities, and persons with disabilities currently underrepresented in scientific, engineering, professional, and technical fields and to advise NSF concerning implementation of the provisions of the Science and Engineering Equal Opportunities Act.

Agenda

Thursday October 12, 2000 8:00 a.m.–5:00 p.m.
- 8:00 a.m.—Breakfast with NSF Staff
- 8:30 a.m.—Welcome; Approval of June 2000 Minutes
- 8:45 a.m.—Report of Executive Council Liaison
- 9:00 a.m.—NSF Workforce Initiative
- 10:15 a.m.—Directorate for Engineering Dialogue
- 11:15 a.m.—Glenn Commission, Status Report
- 1:15 p.m.—Directorate for Social, Behavioral, and Economic Sciences Dialogue
- 2:15 p.m.—CEOSE 2000 Biennial Report—working session
- 5:00 p.m.—Adjourn

Friday, October 13, 2000 8:30 a.m.—3:30 p.m.
- 9:00 a.m.—AAAS Report on Research Needs Related to SME Student and Faculty Diversity in Higher Education
- 10:00 a.m.—CEOSE 2000 Biennial Report—working session
- 11:00 a.m.—NSF Deputy Director
- 1:30 p.m.—CEOSE 2000 Biennial Report—working session

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25217 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Human Resource Development; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Human Resource Development (#1199).

Date and Time: October 19th and 20th, 2000; 9 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 814, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Larry S. Scadden, Program Director, Human Resource Development Division, Room 815, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–8636.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate formal proposals submitted to the Program for Persons with Disabilities.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25197 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Information and Intelligent Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting.

Name: Special Emphasis Panel in Information and Intelligent System (1200).

Date and Time: October 24, 2000, 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, Room 1120, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Ephraim Glinert, Deputy Division Director, Division of Information and Intelligent Systems, Room 1115, National Science Foundation, 4201 Wilson Boulevard, Arlington, Va 22230, Telephone: (703) 292–8930.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Human and Computer Interaction Career proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25189 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Information and Intelligent Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting.

Name: Special Emphasis Panel in Information and Intelligent Systems (1200).

Date and Time: November 13, 2000, 8:30 a.m.–5 p.m.

Place: National Science Foundation, Room 1150, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Persons: Ephraim Glinert, Deputy Division Director, Division of Information and Intelligent Systems, Room 1115, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–8930.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Computer and Social Systems Career proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempted under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25190 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Information and Intelligent Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting.

Name: Special Emphasis Panel in Information and Intelligent Systems (1200).

Date and Time: October 23–24, 2000, 8:30 a.m.–5 p.m.

Place: National Science Foundation, Room 1150, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Persons: Ephraim Glinert, Deputy Division Director, Division of Information and Intelligent Systems, Room 1115, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–8930.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Robotics and Human Augmentation Computer Vision Career proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25191 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Information and Intelligent Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting.

Name: Special Emphasis Panel in Information and Intelligent Systems (1200).

Date and Time: October 16–17, 2000, 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, Room 390, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Persons: Ephraim Glinert, Deputy division Director, Division of Information and Intelligent Systems, Room 1115, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–8930.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Robotics and Human Augmentation Career proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25192 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Information and Intelligent Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meetings of the Special Emphasis Panel in Information and Intelligent Systems (1200):

Date and Time: October 24–26, 2000, 8:30 a.m.–5 p.m.

Place: One Washington Circle Hotel, Deluxe Board Room 203, 1 Washington Circle NW, Washington, DC 20037.

Type of Meeting: Closed.

Contact Person: Ephraim Glinert, Deputy Division Director, Division of Information and Intelligent Systems, Room 1115, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–8930.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Information and Data Management Career proposals as part of the selection process for awards.

Date and Time: October 31, 2000, 8:30 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd, Room 1120, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Ephraim Glinert, Deputy Division Director, Division of Information and Intelligent Systems, Room 1115, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–8930.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Knowledge and Cognitive Systems Career proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25193 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Integrative Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub L. 92–

463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Integrative Activities (1373).

Date and Time: November 15, 2000, 7 p.m.–9 p.m., November 16–17, 2000, 8:30 a.m.– 5:30 p.m.

Place: Rooms 130, 220, 340, 360, 365, 370, 380, 470, 530, 580, and 730, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Nathaniel G. Pitts, Director, Office of Integative Activities, Room 1270, 4201 Wilson Blvd, Arlington, VA 22230; Telephone: (703) 292–8040.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate preproposals submitted to the Science and Technology Centers: Integrative Partnerships Program.

Reason for Closing: The meeting is closed to the public because the Panel is reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they were disclosed. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25218 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Oversight Council for the International Arctic Research Center; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Oversight Council for the International Arctic Research Center (9535).

Date and Time: October 25, 2000, 1 p.m. to 2 p.m.

Place: National Science Foundation, Room 755, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed (Meeting via Telephone Conference Call).

Contact Person: Charles Myers, National Science Foundation, 4201 Wilson Blvd., Suite 755. Telephone: (703) 292–7434.

Purpose of Meeting: To provide advice and recommendations concerning further support for the International Arctic Research Center (IARC).

Agenda: To review and evaluate the current and proposed activities of the IARC.

Reason for Closing: The information being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the IARC. These matters are exempt under 5 U.S.C. 552b(c), (4), and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25215 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Mathematical and Physical Sciences; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Mathematical and Physical Sciences (66).

Date and Time: November 2, 2000, 8:30 a.m.–6 p.m.; November 3, 2000, 8:30 a.m.–3 p.m.

Place: 4201 Wilson Boulevard, Room 1235 Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Dr. Morris L. Aizenman, Senior Science Associate, Directorate for Mathematical and Physical Sciences, Room 1005, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 292–8807.

Purpose of Meeting: To provide advice and recommendations concerning NSF science and education activities within the Directorate for Mathematical and Physical Sciences.

Agenda: Current status of Directorate; Review by MPSAC of Directorate GPRA performance; Science Presentations.

Summary Minutes: May be obtained from the contact person listed above.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25214 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Mathematical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Mathematical Sciences (1204).

Date and Time: November 29–December 1, 2000; 8:30 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Rooms 320, 330, and 365, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Lockhart, Program Director, Room 1025 National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–8870.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals concerning the Focused Research Group Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25196 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Physics (1208).

Date and Time: Wednesday, Nov. 8, 2000; 6 p.m.–9 p.m.; Thursday, Nov. 9, 2000; 8:30 a.m.–6 p.m.; Friday, Nov. 10, 2000; 8:30 a.m.–3 p.m.

Place: Room 1020, NSF, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Terrence W. Rettig, Program Director for the Physics REU Site proposals, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–7381.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate the Research Experiences for Undergraduates (REU) Sites proposals, as part of the selection process.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) and (6) of the Government in Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25195 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Physiology and Ethology; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name: Advisory Panel for Physiology and Ethology (1160).

Date and Time: October 18, 19 and 20, 2000, 8:30 a.m.–6 p.m.

Place: NSF, Room 365, 4201 Wilson Blvd., Arlington, Virginia.

Type of Meeting: Part-Open.

Contact Person: Stephen H. Vessey, Program Director, Animal Behavior Program of Integrative Biology and Neuroscience, Room 685N, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–8421.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: October 19, 2000, 12:30 p.m. to 1:30 p.m.—discussion on research trends, opportunities and assessment procedures in Animal Behavior.

Closed Session: October 18, 2000, 8:30 a.m.–6 p.m.; October 19, 2000, 8:30 a.m. to 4 p.m. and 5 p.m. to 6 p.m.; and October 20, 2000, 8:30 a.m. to 6 p.m. To review and evaluate Animal Behavior proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25211 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Systematic and Population Biology; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meetings of the Advisory Panel for Systematic and Population Biology (1753):

Date and Time: October 17–20, 2000.

Place: National Science Foundation, 4201 Wilson Blvd., Rooms 310 and 390 Arlington, VA.

Contact Person: Mark Courtney, Division of Environmental Biology, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–8481.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Population Biology proposals as part of the selection process for awards.

Date and Time: October 24–27, 2000; 8:30 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 375, Arlington, VA.

Contact Person: Matthew Kane, Division of Environmental Biology, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–8481.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Systematic Biology proposals as part of the selection process for awards.

Type of Meetings: Closed.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c),(4) and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25206 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Undergraduate Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Undergraduate Education (1214).

Date and Time: November 30–December 2, 2000; 8 a.m. to 5 p.m.

Place: Radison Hotel, 901 N. Fairfax Street, Alexandria, VA 22314.

Type of Meeting: Closed.

Contact Person: Drs. Elizabeth J. Teles and Gerhard L. Salinger, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–4643/5116.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Advanced Technological Education proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 27, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–25213 Filed 9–29–00; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Amergen Energy Company, LLC;

[Docket No. 50–461]

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–62 issued to AmerGen Energy Company, LLC (the licensee), for operation of the Clinton Power Station (CPS) located in DeWitt County, Illinois.

The proposed amendment would allow placing a static VAR compensator into service with just one of the two protective subsystems operable.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant

hazards by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

The accident analyses assume that the offsite AC electrical power sources have sufficient capacity, capability, redundancy and reliability to ensure the availability of necessary power to safety-related systems so that the fuel, reactor coolant system, and containment design limits are not exceeded and that the postulated transients and accidents are effectively mitigated such that offsite radiation exposure criteria are not exceeded. The SVCs [static VAR compensators] provide voltage support, when required, for the associated offsite AC power circuits to the safety-related buses and equipment supplied by those circuits. The SVC protection systems described in LCO [Technical Specification limiting condition for operation] 3.8.11 protect safety-related equipment from potential SVC failure modes that could damage or degrade Class 1E electrical equipment.

The proposed request to add an LCO 3.0.4 exception to TS [Technical Specification] 3.8.11 Required Action A.1 would result in the ability to place an SVC back into service with only one protection subsystem Operable for up to 30 days. This request would allow an SVC to provide voltage support for onsite loads, as necessary, and thus assist in ensuring an adequate power source to safety-related electrical equipment. Restoring an SVC to service provides automatic voltage support, when required, rather than relying on manual means to monitor offsite grid conditions to ensure adequate onsite power voltage. This request continues to limit the duration of inoperability of the SVC protective subsystem to 30 days as required by LCO 3.8.11 Required Action A.1.

SVC failure, with or without an Operable protective subsystem, is a plausible initiator for those accidents evaluated in the Updated Safety Analysis Report (USAR) Chapters 6 and 15 that result from an interruption of an offsite power source; for example, a loss of RHR [residual heat removal system] during shutdown conditions when supplied by an offsite power circuit. However, no facility design changes are associated with the SVCs or their associated offsite circuits that would cause a change in component failure probability; hence reliability of the SVCs is maintained at their previous levels. Therefore, no change in plausible initiation mechanisms or frequencies has occurred. In addition, following approval of this request, the remaining protective subsystem would continue to be required Operable. When combined with the proposed 30-day limitation on the proposed request, the assumed conditions and failure probabilities used to derive the basis for the Required action and associated Completion Times for Conditions B and C of TS 3.8.11 are preserved. Thus, no significant increase in the probability of any accident previously evaluated results from this change.

For those accidents that rely on the availability of the offsite power circuit for successful mitigation, no change has been introduced to alter the assumed failure modes or effects. One SVC protective subsystem will continue to provide a level of protection consistent with the analyses provided for the basis for the Required Actions and associated Completion Times for Conditions B and C of TS 3.8.11. Thus, the assumed failure of the SVC would not alter the assumptions of the accident analyses nor consequences resulting from the accident analyses. Therefore, no significant increase in consequences of any accident evaluated previously results from this change.

Based on the above, the proposed amendment does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. The proposed change would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change to the SVC protection subsystem minimum requirements will not introduce any new or different accident. No changes have been introduced into the design or operation of the SVC or the associated offsite circuit that would result in a new or different failure mode or effect. No failures previously considered incredible would be made credible as a result of allowing an LCO 3.0.4 exception to place an SVC into service with only one protective subsystem Operable. Therefore, sufficient protection against SVC malfunctions will continue to exist for the duration of this change and, thus, the proposed change does not create the possibility of a new or different kind of accident than previously evaluated.

3. The proposed change will not involve a significant reduction in the margin of safety.

Although the minimum requirements for an SVC Protection Subsystem are proposed to be changed, the SVCs will continue to be protected from all of its postulated failures. Because of the reliable design of the protective subsystems and the demonstrated reliability and predictable behavior of the SVC during its previous service, the redundant protective subsystem provides a negligible increase in the margin of safety associated with the overall protection system. Thus, the request to allow an LCO 3.0.4 exception to place an SVC into service with only one protective subsystem Operable does not involve a significant reduction in the margin of safety. Further, the benefit of having the SVC in service to support offsite circuit Operability, as needed, provides a greater margin of safety than the margin lost due to the reduction in protective system redundancy.

Based on the above, it is concluded that the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By Wednesday November 1, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public

Document Room, One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Kevin P. Gallen, Morgan, Lewis & Bockius LLP, 1800 M Street, NW, Washington, DC 20036–5869, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 20, 2000, which is available for public inspection at the Commission's Public Document Room, One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, 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 September, 2000.

For the Nuclear Regulatory Commission.

Jon B. Hopkins,

Senior Project Manager, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–25237 Filed 9–29–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Reactor Oversight Process Initial Implementation Evaluation Panel

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of establishment of the Reactor Oversight Process Initial Implementation Evaluation Panel.

SUMMARY: Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L., 94–463, Stat. 770–776) the U.S. Nuclear Regulatory Commission (NRC) announces the Establishment of the Reactor Oversight Process Initial Implementation Evaluation Panel (IIEP). The Nuclear Regulatory Commission has determined that establishment of the Panel is necessary and is in the public interest in order to obtain advice and recommendations on the revised reactor oversight process (ROP). This action is being taken in accordance with the Federal Advisory Committee Act after consultation with the Committee Management Secretariat, General Services Administration (GSA).

Background: The ROP for commercial reactors is described in NRC Inspection Manual Chapter 2515. Information on the development of the ROP is contained in Commission papers SECY–99–007, ''Recommendations For Reactor Oversight Process Improvements,'' dated January 8, 1999, SECY–99–007A, ''Recommendations For Reactor Oversight Process Improvements (Follow-up to SECY–99–007),'' dated March 22, 1999, and SECY–00–049, ''Results of the Revised Reactor Oversight Process Pilot Program,'' dated February 24, 2000.

These Commission papers describe the scope and content of performance indicator reporting, a new risk-informed baseline inspection program, a new assessment process, and revisions to the enforcement policy. Commission paper SECY–00–049 also describes the results from the Pilot Program Evaluation Panel (a previous Federal Advisory Committees Act (FACA) panel), including a recommendation from the panel to proceed with initial implementation of the ROP at all power reactor facilities. On March 28, 2000, the Commission approved initial implementation of the ROP, and on May 17, 2000, the Commission directed the NRC staff to convene another evaluation panel under FACA to evaluate the first year of implementation of the ROP. The staff has established this IIEP in response to the Commission's directions.

The IIEP will function as a cross-disciplinary oversight group to independently monitor and evaluate the results of the first year of implementation of the ROP and provide advice and recommendations to the Director of the Office of Nuclear Reactor Regulation on reforming and revising the ROP. The IIEP will provide a written report containing an overall evaluation of the ROP to the Director of the Office of Nuclear Reactor Regulation. Meetings of the Panel will be publically announced in advance, open to the public, and all material reviewed placed in the public document room. A meeting summary will be prepared following each meeting to document the results of the meeting.

The Panel membership will include participants from NRC headquarters and regional offices, a representative from the Nuclear Energy Institute, reactor licensee management representatives, a representative from the Union of Concerned Scientists (a public interest group), and representatives from State Governments.

The establishment of the Panel will be effective with the filing of its charter with the standing committees of Congress having legislative jurisdiction over the NRC, the Library of Congress, and GSA.

FOR FURTHER INFORMATION CONTACT: Andrew L. Bates, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555: Telephone 301–415–1963.

Dated: September 26, 2000.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 00–25235 Filed 9–29–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Fire Protection; Notice of Meeting

The ACRS Subcommittee on Fire Protection will hold a meeting on October 16 (Room T–2B3) and 17 (Room T–2B1), 2000, 11545 Rockville Pike, Rockville, Maryland.

The agenda for the subject meeting shall be as follows:

Monday, October 16, 2000—8:30 a.m. until the conclusion of business

Tuesday, October 17, 2000—8:30 a.m. until the conclusion of business

The Subcommittee will review the revised draft NFPA 805 Performance Standard for Fire Protection for Light water Reactor Electric Generating Plants, Draft Regulatory Guide on Fire Protection for Operating Nuclear Power Plants, post-fire safe shutdown circuit analysis, and other fire protection related issues. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, and other interested persons regarding this review.

Further information regarding the Chairman's ruling on requests for the opportunity to present oral statements and the time for topics to be discussed, whether the meeting has been canceled or rescheduled, and allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Amarjit Singh (telephone 301/415–6899) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: September 26, 2000.

James E. Lyons,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 00–25234 Filed 9–29–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8027]

Decommissioning of Sequoyah Fuels Corporation Uranium Conversion Facility in Gore, Oklahoma: Notice of Intent To Conduct a Public Outreach Meeting for Sequoyah Fuels Uranium Conversion Facility

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Intent To Conduct a Public Outreach Meeting.

SUMMARY: The NRC will conduct a meeting to discuss the status of the environmental review of decommissioning activities at the SFC facility near Gore, Oklahoma, and to obtain public comments on the environmental impacts that need to be addressed. Ample time will be provided for public comment at the meeting, although comments and questions will generally be limited to the remediation of the SFC facility. This meeting is part of the continuing process to keep affected stakeholders and the public informed of plans, schedules and important issues related to the remediation of the SFC facility.

DATES: The NRC will meet with the public on Tuesday, October 17, 2000, from 7:00 to 10:00 p.m.

ADDRESSES: Gore Junior High School cafeteria, 1200 Highway 10N, Gore, Oklahoma.

SUPPLEMENTARY INFORMATION: The NRC is preparing an Environmental Impact Statement (EIS) for the decommissioning of the Sequoyah Fuels Corporation's (SFC) uranium conversion facility located in Gore, Oklahoma. From 1970 until 1993, SFC operated a uranium conversion facility at a site located in Gore, Oklahoma, under the authority of an NRC license issued pursuant to 10 CFR part 40. The main process was the conversion of uranium oxide (yellowcake) to uranium hexafluoride. A second process, begun

in 1987, consisted of the conversion of depleted uranium hexafluoride to uranium tetrafluoride.

SFC supplied formal notice of its intent to seek license termination in accordance with 10 CFR 40.42(e) in a letter dated February 16, 1993. Based on available information, at least some of the identified waste and contamination at the site is known to exceed NRC's existing radiological criteria for decommissioning. Therefore, SFC is required to remediate the SFC facility to meet the NRC's radiological criteria for license termination, as described 10 CFR Part 20.

In 1998 Sequoyah Fuels submitted to NRC a site characterization report, which is a technical analysis and description of the site's radiological contamination. A study of remediation alternatives was submitted, also in 1998, followed by a decommissioning plan in 1999. The alternatives study is the principal basis for the environmental review. The remediation alternative proposed by Sequoyah Fuels is an on-site disposal cell.

The NRC is conducting an environmental review of the decommissioning and will develop an EIS to determine whether the alternative proposed by SFC for remediation of the facility is acceptable. The EIS will evaluate the potential impacts of the licensee's proposal, including the effects on water resources, air quality, ecological resources, socioeconomic and community resources, human health, noise and environmental justice. The EIS will consider the licensee's proposed approach for onsite disposal, along with alternatives such as disposing of the contaminated material off-site in a licensed disposal facility. NRC will consider the EIS in reaching a decision on the acceptability of the licensee's proposed approach.

For the preparation of an EIS for the decommissioning of the SFC facility, a public scoping meeting was held on October 15, 1995, in Gore, Oklahoma. In February 1997, NRC issued a summary report of the scoping process. Since so much time has elapsed since the 1995 scoping meeting, NRC will hold a meeting to discuss the environmental impacts which will be addressed in the EIS and to give the public another chance to identify any additional environmental impacts that need to be addressed before we complete the draft EIS.

Other agencies and organizations cooperating in the environmental review are the Environmental Protection Agency; the Army Corps of Engineers; the U.S. Geological Survey; the Oklahoma Department of Environmental Quality; and the Cherokee Nation. All these agencies and organizations will be represented at the 7 p.m. meeting.

In addition to the Tuesday evening meeting, two other meetings are planned for that day. In the morning, from 9 a.m. to noon, NRC staff and its consultants will tour the SFC site. In the afternoon, from 2 to 4 p.m., NRC and SFC will hold a technical exchange related to environmental issues at the site. This meeting will be held at the SFC facility warehouse located at Interstate-40 and Highway 10.

The technical exchange will afford the NRC and its consultants an opportunity to discuss environmental issues prior to anticipated NRC requests for additional information from SFC. The meeting is open for public observation, but participation is limited to NRC and SFC personnel. The opportunity for full public participation will occur in the evening during the 7 p.m. meeting.

FOR FURTHER INFORMATION CONTACT: Phyllis Sobel, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, Telephone: 301–415–6714; fax 301–415–5397; or e-mail PAS@NRC.GOV.

Dated at Rockville, Maryland, this 19th day of September 2000.

For the Nuclear Regulatory Commission.

Thomas Essig,

Chief, Environmental and Performance Assessment Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 00–25236 Filed 9–29–00; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43329: File No. SR–NYSE–00–38]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. To Extend the Pilot Regarding Shareholder Approval of Stock Option Plans

September 22, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 21, 2000, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in items, I, II, III below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to extend, until November 30, 2000, the effectiveness of the amendments to Sections 312.01, 312.03 and 312.04 of the Exchange's Listed Company Manual with respect to the definition of a ''broadly-based'' stock option plan, which were approved by the Commission on a pilot basis (''Pilot'') on June 4, 1999.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below and is set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 13, 2000, the NYSE submitted a proposed rule change to extend the effectiveness of the Pilot until September 30, 2003.[4] On August 15, 2000, the Commission, in response to a commenter's request, extended the comment period for the 3-Year Extension Proposal until September 20, 2000.[5] The original comment period was to expire on August 31, 2000.[6] The Pilot is scheduled to expire on September 30, 2000. Therefore, to accommodate the extended comment period on the 3-Year Extension Proposal, the Exchange proposes to extend the effectiveness of the Pilot until November 30, 2000.

2. Basis

The Exchange believes that the proposed rule change is consistent with

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 41479, 64 FR 31667 (June 11, 1999).

[4] Securities Exchange Act Release No. 43111 (August 2, 2000), 65 FR 49046 (August 10, 2000) (''3-year Extension Proposal'').

[5] Securities Exchange Act Release No. 43155 (August 15, 2000), 65 FR 51382 (August 23, 2000).

[6] *See* 3-Year Extension Proposal, note 4 *supra.*

the requirements of Section 6(b)(5)[7] of the Act because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)[8] of the Act and Rule 19b–4(f)(6)[9] thereunder.[10]

A proposed rule change filed under rule 19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii)[12] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and public interest. The Exchange seeks to have the proposed rule change become operative on or before September 30, 2000, in order to allow the Pilot to continue in effect on an uninterrupted basis.

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change operative immediately through November 30, 2000. The extension of the Pilot will provide the Commission with additional time to review and evaluate the 3-Year Extension Proposal.

The Commission notes that unless the Pilot is extended, the Pilot will expire and the provisions in Sections 312.01, 312.03 and 312.04 of the Exchange's Listed Company Manual that were amended in the Pilot will revert to that which were effective prior to June 4, 1999. The Commission believes that such a result could lead to confusion.

Based on these reasons, the Commission believes that it is consistent with the protection of investors and the public interest that the proposed rule change become operative immediately through November 30, 2000. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–00–38 and should be submitted by October 23, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–25134 Filed 9–29–00; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43328; File No. SR–PCX–00–13]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the Pacific Exchange, Inc. Relating to the Entry of Computer-Generated Orders

September 22, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 16, 2000, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. On August 16, 2000, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice of filing and order granting accelerated approval to the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt Rule 6.88 (''Rule'') to restrict the entry of certain electronically created option orders on the Exchange via the Exchange's Member Firm Interface (''MFI''). The text of the Rule is set forth below.

POETS

Pacific Options Exchange Trading System

Rule 6.88

(a) POETS is the Exchange's automated trading system comprised of the options order routing system, the automated execution system (Auto-Ex), the on-line limit

[1] 15 U.S.C. 788s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange revised the proposed rule to allow computer-generated orders to be sent to the Exchange via the Member Firm Interface (''MFI'') if they are properly designated as such. *See* Letter from Michael Pierson, Vice President, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated August 15, 2000 (''Amendment No. 1'').

order book system (Auto-Book), and the automatic market quote update system (Auto-Quote). Orders may be sent to POETS via the Exchange's Member Firm Interface (MFI).

(b) Except as provided in subsection (b)(1), Member firms may not enter orders via the MFI or permit the entry of orders via the MFI if those orders are created and communicated electronically without manual input (''computer generated orders''). Except as provided in subsection (b)(1), order entry by public customers or associated persons of Member Firms must involve manual input such as entering the terms of an order into an order-entry screen or manually selecting a displayed order so that the order will be sent. Nothing in this Rule prohibits Member Firms from electronically sending to the Exchange orders manually entered by customers into front-end communications systems (*e.g.,* Internet gateways, online networks, etc).

(1) Computer generated orders may be sent to the Exchange via the MFI only if they are properly designed with a ''CG'' in the ''additional instruction'' field. Orders so designated will be re-routed for representation by a Floor Broker. Computer generated orders are not eligible for automatic execution via the Auto-Ex System.

¶5232 Exchange Sponsored Hand Held Terminals for Floor Brokers

Rule *6.89*[6.88]—No change.

¶5233 Proprietary Brokerage Order Priority Terminals

Rule *6.90*[6.89]—No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item V below. The Exchange has prepared summaries, set forth in Sections A, B and below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to restrict the direct entry of certain option orders that are created and communicated electronically, *i.e.,* without manual imput, into the Exchange's POETS system.[1] The Exchange represents that the text of the Rule is similar to the text of Rule 717(f) of the International Securities Exchange (''ISE'').[5]

Subsection (a) of the Rule briefly describes the POETS system. Specifically, Subsection (a) states that POETS is the Exchange's automated trading system comprised of the options order routing system, the automatic execution system (''Auto-Ex''), the on-line limit order book system (''Auto-Book''), and the automatic market quote update system (''Auto-Quote''). Subsection (a) further states that orders may be sent to POETS via the Exchange's MFI. This subsection is intended to provide background for the provision on computer-generated orders, which is contained in Subsection (b).

Subsection (b) states that except as provided in subsection (b)(1), member firms may not enter orders via the MFI or permit the entry of orders via the MFI if those orders are created and communicated electronically without manual input. Subsection (b) defines such orders as ''computer-generated orders.'' It further states that, except as provided in subsection (b)(1), order entry by public customers or associated persons of member firms must involve manual input such as entering the terms of an order into an order-entry screen or manually selecting a displayed order so that the order will be sent. It further states that nothing in the Rule prohibits member firms from electronically sending orders that are manually entered by customers into front-end communications system (*e.g.,* Internet gateways, online networks, etc.) to the Exchange.

Subsection (b)(1) of the Rule states that computer-generated orders may be sent to the Exchange via the MFI only if they are properly designated with a ''CG'' in the ''additional instruction'' field. Orders so designated will be re-routed for representation by a floor broker. Finally, Subsection (b)(1) states that computer-generated orders are not eligible for automatic execution via the Auto-Ex system.

The Exchange represents that its business model depends upon market makers for competition and liquidity. Public customer orders on the PCS receive priority over market maker bids and offers.[6] The Exchange believes that allowing electronic entry directly into the Exchange's POETS system could give customers with order-generating systems a significant advantage over market makers. In its view, this could undercut the Exchange's business model. The Exchange notes that under the proposed rule change, computer-generated orders can still be sent for execution on the Exchange; however, they may not be sent for execution directly via POETS. The Exchange also notes that the Rule is similar to ISE Rule 717(f); however, the ISE Rule permits computer-generated orders to be entered on the ISE only if they are ''nonmarketable limit orders to buy (sell) that are priced higher (lower) than the best bid (offer) on the Exchange.'' By contrast, the PCX proposal allows *all* computer-generated orders to be entered on the PCX.

Currently, PCX member firms that are located off the trading floor may send option orders to the trading floor in three different ways. First, a member firm representative may call a PCX member firm representative on the trading floor on the telephone and place an order. The member firm representative, while present in a member firm booth on the trading floor, would then either have the order taken manually to a floor broker in the trading crowd for representation of the order, or have the order sent electronically to a floor broker (via a hand-held terminal) in the trading crowd who would then represent it. Second, a member firm

[4] *See* Securities Exchange Act Release No. 27633 (January 18, 1990), 55 FR 2466 (January 24, 1990) (approving implementation of POETS). POETS is the Exchange's automated trading system. It is more fully described *infra.*

[5] ISE Rule 717(f) states:

''Members may not enter, nor permit the entry of, orders created and communicated electronically without manual input (*i.e.,* order entry by Public Customers or associated persons of Members must involve manual input such as entering the terms of the order into an order-entry screen or manually selecting a displayed order against which an off-setting order should be sent), unless such orders are non-marketable limit order to buy (sell) that are priced higher (lower) than the best bid (offer) on the Exchange (*i.e.,* limit orders that improve the best price available on the Exchange). Nothing in this paragraph, however, prohibits Electronic Access Members from electronically communicating to the Exchange orders manually entered by customers into front-end communications systems (*i.e.,* Internet gateways, online networks, etc.).'' *See* Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11388 (March 2, 2000) (approving application of ISE for registration as a national securities exchange).

[6] See PCX Rules 6.52(a) (types of orders permitted to be maintained in the limit order book), 6.75(a)–(b) (priority of bids and offers), 6.86 (guaranteed markets for public customers) and 6.87(a) (eligibility of public customers for use of Auto-Ex System).

representative may send an order to a member firm representative in a booth on the trading floor via an electronic transmitter. (This transmitter would be proprietary equipment of a member firm). The member firm representative in the booth would then have the order represented in the trading crowd in one of the two ways described above. Third, a member firm representative may send an order electronically through the MFI, which links member firms with the Exchange's electronic trading system, POETS. Eligible orders sent through the MFI to POETS may be: (1) Automatically executed against orders in the limit order book; (2) placed in the limit order book (if they are not marketable); (3) automatically executed via Auto-Ex; or (4) routed to a floor broker hand-held terminal in the trading crowd.

Accordingly, under the rule change, computer-generated orders may be sent to the Exchange in any of the three ways described above. However, if they are submitted electronically to the Exchange via the MFI, they must be properly identified with a ''CG'' indicator. All properly identified computer-generated orders that are sent via the MFI will be re-routed for representation by a floor broker. When an order is re-routed, it is transmitted either: (1) To a member firm booth on the trading floor; or (2) to a floor broker in the trading crowd via the floor broker hand-held terminal,[7] depending upon the instructions of the member firm that is responsible for the order. As noted above, orders transmitted to a member firm booth may be subsequently transmitted to a floor broker in the trading crowd either by placing the order telephonically[8] or by manually taking the order to the floor broker in the crowd. An order that is transmitted to a floor broker may be placed in the limit order book for representation by the Order Book Official as long as that order is a ''non-broker/dealer customer order.''

The Exchange notes that under the rule change, properly marked computer-generated orders that are sent via the MFI will be-routed in the same manner in which broker-dealer orders that are sent via the MFI are currently re-routed. When a broker-dealer order is routed to a floor broker in the trading crowd, the order is vocalized and, if the order represents the best bid or offering price on the PCX, the Market Quote Terminal Operator (''MQTP'') will cause the order to be displayed. Computer-generated orders for the accounts of broker-dealers will be handled in the same manner under the proposed rule change. However, if a computer-generated order is for the account of a public customer, it may be represented by a floor broker in the trading crowd, in which case the MQTO will cause it to be displayed, or the floor broker may place the order in the limit order book, in which case the Order Book Official at that trading post will cause it to be displayed and will continue to represent it.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with with Section 6(b)[9] of the Act, in general, and furthers the objectives of Section 6(b)(5),[10] in particular, in that it facilitates transactions in securities, removes impediments to and perfects the mechanism of a free and open market and a national market system, and promotes just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Other

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The PCX has requested that the proposed rule change be given expedited review and accelerated effectiveness pursuant to Section 19(b)(2) of the Act.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the provisions of the Act applicable to a national securities exchange, particularly Section 6(b)(5)[11] and Section 6(b)(8)[12] of the Act, and the rules and regulations thereunder.[13]

The Commission has carefully considered whether the Rule inhibits competition between the PXC's automated customers and those who do not employ automated means of order entry. The Commission notes that in the equity markets, for example, limit orders from public customers have been a valuable source of quote competition. Nonetheless, the Commission recognizes that the PCX's business model depends on market makers for competition and liquidity. Allowing electronic order entry into Auto-Ex could give automated customers a significant advantage over market makers. This could undercut the PCX's business model. Moreover, the Rule would allow electronically generated orders to be sent o the Exchange via the MFI if they are properly designated with a ''CG'' in the instruction field. Properly designated orders are then routed to the trading crowd for representation by a floor broker. However, the order is not eligible for execution through Auto-Ex.

The Commission approved a similar rule for the fully automated options exchange, the ISE. In approving the application of the ISE for registration as a national securities exchange, the Commission explicitly recognized that the ISE's business model ''depends on market makers for competition and liquidity.''[14] Recognizing that allowing electronic order entry into the ISE could ''give automated customers a significant advantage over [the ISE's] market makers,'' the Commission stated that it was unable to conclude that the limitation violated the statutory requirements.[15]

ISE Rule 717(f) regarding computer-generated orders specifically permits the entry of non-marketable limited orders that improve the best price available on the ISE. This provision is designed to accommodate non-marketable limit orders because these orders serve to increase competition and improve quotes. Similarly, non-marketable electronically generated limit orders that improve the best price on the PCX will be permitted to enter the Exchange through the MFI, if they are properly designated with a ''CG'' in the ''additional instruction'' field. These

[7] See PCX Rule 6.88.

[8] See PCX Rule 6.2(h)(4)(C).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78f(b)(5). Section 6(b)(5) requires that the rules of a national securities exchange be designed to, among other things, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. It also requires that those rules not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

[12] 15 U.S.C. 78f(b)(8). Section 6(b)(8) requires that the rules of the exchange do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

[13] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] *See supra* note 4.

[15] *Id.*

orders will be routed from the MFI to the trading crowd for representation by a floor broker.

Although the ISE and PCX rules are not identical, both ISE Rule 717(f) and PCX Rule 6.88 permit non-marketable limit orders that improve the price to be sent to the exchange and routed to the relevant trading mechanism for execution. It is the Commission's view that the Exchange's approach strikes a reasonable balance. It provides protection to PCX market makers; at the same time, it permits properly designated electronically generated orders to be represented by a floor broker in the trading crowd. As it stated with respect to its approval of ISE Rule 717(f), the Commission is unable to conclude that the new PCX Rule violates any statutory requirements.

The Commission further notes that the Rule does not prohibit electronically generated orders from being sent to the PCX; rather, merely prevents them from being entered into Auto-Ex. Thus, properly designated electronically generated orders will be routed through the MFI to the trading crowd for representation by a floor broker. PCX rules require that all customer orders be executed at the PCX's displayed bid or offer at the time the order is represented in the crowd.[16] Depending upon the circumstances, the order may be filled at a price better than the PCX's displayed bid or offer. Therefore, although, electronically generated customer orders will not be eligible for automatic execution through Auto-Ex under the Rule, they will still be entitled to receive an execution price that is as good as or better than the PCX's displayed bid or offer.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after publication of notice thereof in the **Federal Register** pursuant to Section 19(b)(2) of the Act. Specifically, the Commission has approved similar proposals filed by the ISE[17] and the Chicago Board Options Exchange, Inc. (''CBOE'').[18] Approval of this proposal on an accelerated basis will enable the PCX to compete on an equal basis with these other exchanges and thus is consistent with Section 6(b)(8) of the Act.

V. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–00–13 and should be submitted by October 23, 2000.

VI. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–PCX–00–13), as amended, adopting Rule 6.88, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–25133 Filed 9–29–00; 8:45 am]

BILLING CODE 8010–01–M

[16] *See* PCX Rule 6.86(a).

[17] *See supra* note 5.

[18] Securities Exchange Act Release No. 43285 (September 12, 2000), 65 FR 56972 (September 20, 2000) (approving SR–CBOE–00–01).

[19] 17 CFR 200.30–3a(a)(12).

SMALL BUSINESS ADMINISTRATION

Region IX District Advisory Council Public Meeting

The U.S. Small Business Administration Hawaii District Advisory Council, will hold a public meeting at 10 a.m. on Wednesday October 11, 2000 located at the Business Information and Counseling Center, 1111 Bishop Street, Suite 204, Training Center, Honolulu, HI to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present. For further information write or call Andrew K. Poepoe, District Director U.S. Small Business Administration, 300 Ala Moana Boulevard, Room 2–235, Honolulu, Hawaii (808) 541–2965.

Bettie Baca,

Counselor to the Administrator/Public Liaison.

[FR Doc. 00–25186 Filed 9–29–00; 8:45 am]

BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

2000–2001 Allocation of the Raw Cane Sugar, Refined Sugar, and Sugar Containing Products Tariff-rate Quotas

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice of the country-by-country allocation of the in-quota quantity of the raw cane sugar, refined sugar, and sugar-containing products tariff-rate quotas for the period that begins October 1, 2000 and ends September 30, 2001.

EFFECTIVE DATE: October 1, 2000.

ADDRESSES: Inquiries may be mailed or delivered to Karen Ackerman, Agricultural Economist, Office of Agricultural Affairs (Room 421), Office of the United States Trade Representatives, 600 17th Street, NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Karen Ackerman, Office of Agricultural Affairs, 202–395–6127.

SUPPLEMENTARY INFORMATION: Pursuant to Additional U.S. Note 5 to chapter 17 of the Harmonized Tariff Schedule of the United States (HTS), the United States maintains tariff-rate quotas for imports of raw cane and refined sugar. The Secretary of Agriculture establishes the in-quota quantity the raw cane sugar and refined sugar tariff-rate quotas.

Section 404(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3601(d)(3)) authorizes the President to allocate the in-quota quantity of a tariff-rate quota for any agricultural product among supplying countries or customers areas. The President delegated this authority to the United States Trade Representative under paragraph (3) of Presidential Proclamation No. 6763 (60 FR 1007).

Accordingly, a tariff-rate quota quantity for raw cane sugar of 1,117,195 metric tons raw value, the minimum level to which the United States is committed under the Uruguay Round Agreement, is being allocated to the following countries:

Country	FY2001 allocation
Argentina	45,283
Australia	87,408
Barbados	7,372
Belize	11,584
Bolivia	8,425
Brazil	52,700
Colombia	25,274
Congo	7,258
Cote d'Ivoire	7,258
Costa Rica	15,797
Dominican Republic	185,346
Ecuador	11,584
El Salvador	27,381
Fiji	9,478
Gabon	7,258
Guatemala	50,549
Guyana	12,637
Haiti	7,258
Honduras	10,531
India	8,425
Jamaica	11,584
Madagascar	7,258
Malawi	10,531
Mauritius	12,637
Mexico	7,258
Mozambique	13,690
Nicaragua	22,115
Panama	30,540
Papua New Guinea	7,258
Paraguay	7,258
Peru	43,177
Philippines	142,169
South Africa	24,221
St. Kitts & Nevis	7,258
Swaziland	16,850
Taiwan	12,637
Thailand	14,743
Trinidad-Tobago	7,372
Uruguay	7,258
Zimbabwe	12,637
Total	1,117,195

These allocations are based on the countries' historical trade to the United States. The allocations of the raw sugar tariff-rate quota to countries that are net importers of sugar are conditioned on receipt of the appropriate verifications.

A tariff-rate quota quantity for refined sugar of 10,300 metric tons raw value (11,354 short tons raw value) is allocated to Canada as a result of an agreement reached with that country. In addition, 2,954 metric tons raw value (3,256 short tons raw value) of refined sugar will be allocated to Mexico. The remainder of the refined sugar tariff-rate quota quantity of 38,000 metric tons raw value will be available on a first-come, first-served basis, including the 17,656 metric tons raw value (19,462 short tons raw value) reserved for specialty sugars.

A quantity of sugar-containing products of 59,250 metric tons (65,312 short tons) of the tariff-rate quota for certain sugar-containing products maintained under ''Additional U.S. Note 8 to chapter 17 to the Harmonized Tariff Schedule of the United States'' is allocated to Canada as a result of an agreement with Canada. The remainder of the sugar-containing products tariff-rate quota will be available for other countries. Conversion factor: 1 metric ton = 1.10231125 short tons.

USTR is allocating an additional quantity of 105,788 metric tons raw value (116,611 short tons raw value), the quantity which the United States committed to provide to Mexico under the North American Free Trade Agreement (NAFTA), to Mexico.

Charlene Barshefsky,

United States Trade Representatives.

[FR Doc. 00–25106 Filed 9–29–00; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Renewal From the Office of Management and Budget (OMB) of Three Current Public Collections of Information

AGENCY: Federal Aviation Administration (FAA) (DOT)

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the FAA invites public comment on 3 current public information collections which will be submitted to OMB for renewal.

DATES: Comments must be submitted on or before December 1, 2000.

ADDRESSES: Comments may be mailed or delivered to FAA, at the following address: Ms. Judy Street, Room 612, Federal Aviation Administration, Standards and Information Division, APF–100, 800 Independence Avenue, S.W., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Street, at the above address or on (202) 267–9895.

SUPPLEMENTARY INFORMATION: The FAA solicits comments on any of the current collections of information in order to evaluate the necessity of the collection, the accuracy of the agency's estimate of burden, the quality, utility, and clarity of the information to be collected, and possible ways to minimize the burden of collection. Also note that 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.

Following are short synopses of the 3 information collection activities which will be submitted to OMB for requests for renewal:

1. 2120–0021, Certification: Pilots and Flight Instructors. The FAA is empowered to issue airmen certificates to properly qualified persons. This clearance request covers the burden imposed on airmen directly responsible for the control of aircraft. 14 CFR part 61 prescribes requirements for pilot and flight instructor certificates. Information collected is used to determined compliance and applicant eligibility. The number of respondents is estimated to be 770,000. The current burden for this collection is estimated to be 252,000 hours for reporting and recordkeeping.

2. 2120–0036, Notice of Landing Area Proposal. 14 CFR part 157 requires that each person who intends to construct, activate, deactivate, or changes the status of an airport, runway, or taxiway shall notify the FAA. FAA Form 7480–1, Notice of Landing Area Proposal, is used to collect the required information on an as needed basis. The current burden is estimated to be 2,500 hours, and the estimated number of respondents is estimated to be 3,400.

3. 2120–0620, Special Federal Aviation Regulation No. 71. SFAR No. 71 applies to air tour operators in Hawaii. SFAR 71 requires air tour operators to verbally brief the passengers on safety particularly related to overwater operations before each air tour flight.

Issued in Washington, DC on September 26, 2000.

Steve Hopkins,

Manager, Standards and Information Division, APF–100.

[FR Doc. 00–25263 Filed 9–29–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program Cleveland Hopkins Airport Cleveland, OH

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the city of Cleveland, Cleveland, Ohio, under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) and 14 CFR Part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On

February 25, 2000, the FAA determined that the noise exposure maps submitted by the city of Cleveland under Part 150 were in compliance with applicable requirements. On August 23, 2000, the FAA approved the Cleveland Hopkins International Airport noise compatibility program.

A total of fourteen (14) measures were included in the city of Cleveland's Noise Compatibility Plan, which continue or expand the intent of the approved 1987 NCP. Of the fourteen (14) measures included, seven (7) are listed as ''Noise Abatement Plan Measures'', four (4) are listed as ''Land Use Management Measures''. and three (3) are listed as ''Program Management Measures.'' All of the recommendations of the program were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Cleveland Hopkins International Airport noise compatibility program is August 23, 2000.

FOR FURTHER INFORMATION CONTACT: Ernest Gubry, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, 734–487–7280. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Cleveland Hopkins International Airport, effective August 23, 2000.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act, and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals or reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to the FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for project grants must be submitted to the FAA Detroit Airports District Office in Belleville, Michigan.

The City of Cleveland submitted to the FAA on February 23, 2000, noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from January, 1998 through May, 1999. The Cleveland Hopkins International Airport noise exposure maps were determined by the FAA to be in compliance with applicable requirements on February 25, 2000. Notice of this determination was published in the **Federal Register** on March 7, 2000.

The Cleveland Hopkins International Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 2006. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on February 25, 2000, and was required by a provision of the Act to approve and disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period would have been deemed to be an approval of such program.

The submitted program contained 14 proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the Assistant Administrator for Airports effective August 23, 2000.

Outright approval was granted for all of the specific program elements. Seven (7) of the fourteen (14) measures submitted are listed as ''Noise Abatement Measures''. Of the seven (7) measures, one (1) deals with ground run-ups, five (5) deal with departure flight tracks, and one (1) deals with approach flight tracks. Four (4) of the fourteen (14) measures submitted are listed as ''Land Use Measures''. These four (4) measures include encouraging local jurisdictions to adopt land use development controls and construction standards and real estate disclosure policies regarding airport noise, sound insulating residences within the higher levels of the noise exposure, 65+ DNL, and Sound insulating residences within or contiguous to the 60 DNL band of the NCP noise contours. Three (3) of the fourteen (14) measures submitted are listed as ''Program Management Measures''. These three (3) measures include providing system enhancements to the aircraft/airport noise monitoring system, implementing a ''Fly Quiet'' communication program, and continue periodic updates of the NCP and reviews of the NEMs.

These fourteen (14) determinations are set forth in detail in a Record of Approval endorsed by the Assistant Administrator for Airports on August 23, 2000. The Record of Approval, as well as other evaluation materials and documents which comprised the

submittal to the FAA, are available for review at the following locations:

Federal Aviation Administration, 800 Independence Avenue, S.W., Room 617, Washington, D.C. 20591;

Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111;

City of Cleveland, Department of Port Control, 5300 Riverside Drive, Cleveland, Ohio 44315–3193.

Questions may be directed to the individual named above under the hearing, **FOR FURTHER INFORMATION CONTACT.**

Issued in Belleville, Michigan, August 30, 2000.

James M. Opatrny,

Acting Manager, Detroit Airports District Office, Great Lakes Region.

[FR Doc. 00–25264 Filed 9–29–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2000–53]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before October 23, 2000.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, or Vanessa Wilkins (202) 267–8029 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to § 11.85 and 11.91 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on September 27, 2000.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 27001.

Petitioner: British Aerospace Regional Aircraft.

Section of the FAR Affected: 14 CFR § 25.62(c)(5) and 25.785(a).

Description of Relief Sought: To permit an extension of Exemption 5887F regarding the Head Injury Criteria (HIC) for front row passenger seats on Jetstream Model 4100 airplanes.

Petition for Exemption

Docket No.: 27001.

Petitioner: British Aerospace Regional Aircraft.

Regulations Affected: 14 CFR § 25.562(c)(5), 25.785(a).

Description of Petition: To allow an extension of Exemption 5887F regarding the Head Injury Criteria (HIC) for front row passenger seats on the Jetstream Model 4100 airplanes.

[FR Doc. 00–25265 Filed 9–29–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

Announcement of a National Customs Automation Program Test Regarding Submission to Customs of Electronic Air Cargo Manifest Information

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

ACTION: General notice.

SUMMARY: This notice announces Customs plan to conduct a prototype test program under the National Customs Automation Program that will permit qualified air carriers to submit electronic air cargo manifest information to Customs prior to arrival of the aircraft in the United States, and will eliminate the requirement that a Customs Form 7509 (Air Cargo Manifest) be submitted upon arrival. Electronic filing of air cargo manifest information will permit Customs to electronically review the data prior to arrival of the carrier in the U.S, facilitate cargo control and processing, and provide for the electronic release of cargo. This notice solicits public participation in the test program in accordance with the eligibility and procedural requirements set forth in this document, and invites comments concerning any aspect of the planned test.

EFFECTIVE DATES: The test will commence no sooner than January 2, 2001. Comments concerning the eligibility standards, selection criteria, procedural requirements, or information submission requirements must be received on or before November 1, 2000.

ADDRESSES: Written comments (preferably in triplicate) may be submitted to and inspected at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: For operational or policy matters: Sandra Hasegawa, Program Officer, (202) 927–0983; John Considine, Chief, Manifest & Conveyance, (202) 927–0042. For systems or automation matters: Assigned Client Representative or Michael Mohr, Client Representative, (703) 921–7072. For legal matters: Larry L. Burton, Attorney Advisor (202) 927–1287.

SUPPLEMENTARY INFORMATION:

Background

Title VI of the North American Free Trade Agreement Implementation Act (the Act), Public Law 103–182, 107 Stat. 2057 (December 8, 1993), contains provisions pertaining to Customs Modernization (107 Stat. 2170). Subtitle B of 3 title VI establishes the National Customs Automation Program (NCAP), an automated and electronic system for the processing of commercial importations. Section 631 of the Act creates sections 411 through 414 of the Tariff Act of 1930 (19 USC 1411 through 1414), which define and list the existing and planned components of the NCAP (section 411), establish program goals (section 412), provide for the implementation and evaluation of the program (section 413), and provide for

the remote location filing of entries (section 414). Requirements for conducting an approved test program or procedure designed to evaluate planned components of the NCAP are set forth in § 101.9 of the Customs Regulations (19 CFR 101.9).

I. Description of Test Program

Air Cargo Manifest

Section 122.42(c) of the Customs Regulations (19 CFR 122.42(c)), requires that the aircraft commander of an aircraft arriving in the United States from a foreign area, or his agent, must deliver upon arrival any required forms to the Customs officer at the place of entry. Section 122.48 of the Customs Regulations (19 CFR 122.48) provides that an air cargo manifest is required for all cargo on board a flight arriving in the United States from a foreign area, except for cargo arriving from and departing for a foreign country on the same through flight. Section 122.48(c) provides that the air cargo manifest must be on the Customs Form (CF) 7509.

Electronic Submission of Air Cargo Manifest Information

In an attempt to facilitate cargo processing and release, for the past several years Customs has accepted electronic air cargo manifest information from importing carriers. In such circumstances, however, submission of the paper CF 7509 was still required upon the carrier's arrival in the United States, even though an electronic submission of manifest data had already been submitted to Customs.

In a more comprehensive attempt to facilitate the control, processing and release of air cargo, Customs will permit, via this test program, participating Air Automated Manifest System (AAMS) air carriers who meet the electronic and procedural requirements set forth in this document to electronically file air cargo manifest information with Customs prior to the aircraft's arrival in the United States and will eliminate the requirement that a CF 7509 be submitted. For the duration of this test period, § 122.48(c) will be suspended for test program participants.

It is anticipated that the test program will run for approximately one year. In the event, however, that Customs determines that a longer test program period is required, the test program will continue to run, uninterrupted, until it is concluded by notice in the **Federal Register**.

Customs Objectives

Customs objectives in conducting this test program are:

1. To work with the trade community, government agencies, and other parties impacted by this program in the implementation and evaluation of the test program; and,

2. To gain experience from the test program relating to the design of automated systems, the development of operational procedures that facilitate cargo release (*i.e.*, communication, cargo movement), and whether participants can meet the test program requirements of transmitting timely, complete and accurate manifest data.

Regulatory Provision Suspended

As noted above, § 122.48(c), pertaining to the presentation of an air cargo manifest on the CF 7509, will be suspended during this test. Participants generally will not be required to submit a CF 7509 to Customs or have a copy on board the aircraft, but must be able to provide Customs with required information electronically or otherwise on demand. Participation in this test program does not preclude compliance with the applicable requirements of other government agencies as they relate to cargo manifest information. A CF 7507 General Declaration is still required and must be presented to Customs upon arrival at the port of entry. The CF 7507 is also required for flights proceeding in-land on a permit-to-proceed.

II. Test Program Eligibility Criteria

To be eligible for participation in the test program, an air carrier must demonstrate the following:

1. A carrier must be a qualified AAMS carrier. A qualified AAMS carrier has been tested and certified by Customs to possess the technical capability to transmit and receive all types of AAMS data. Technical requirements for AAMS carriers are set forth in the Customs publication entitled ''Customs Automated Manifest Interface Requirements—''Air'' (CAMIR). Those carriers that are not currently AAMS qualified, and wish to be, should submit a written request to become an AAMS participant to the Customs Client Representative Branch closest to the applicant's operational location. A list of Customs Client Representative offices may be obtained from United States Customs Service, Office of Information and Technology, Client Representative Branch, 7501 Boston Boulevard, Springfield, VA 22153, (703) 921–7500;

2. A qualified AAMS carrier must have completed a period of dual mode testing at a designated AAMS-automated Customs port. Dual mode testing requires that a carrier submit both a CF 7509 and an electronic transmission of air cargo manifest data to the designated AAMS-automated Customs port for a specified period of time. A carrier is required to participate in dual-mode testing at a designated AAMS-automated Customs port for a period generally not to exceed 45 days, although the time may be extended at the discretion of the port director; and

3. A carrier must possess the ability to electronically transmit to Customs complete air cargo manifest information, and any other required information, for all their flights arriving at the designated AAMS-automated Customs port, including in-bond cargo imported by a non-automated air carrier.

III. Test Program Application and Selection Process

Application Process

An air carrier that satisfies the eligibility criteria set forth in this document may apply to be a participant in this test program. Customs will accept applications from eligible air carriers for the duration of the test program. A written request to be considered for participation in the test program should be sent to the air carrier's designated Customs Client Representative (see above). The request must designate the AAMS-automated Customs port(s) to which the electronic air cargo manifest information will be transmitted, indicate the means by which the electronic transmissions will be sent (*i.e.* direct line, Service Center, etc.), designate a point of contact and telephone number within the applicant's organization, and be signed by an authorized official. Upon review of the application, Customs will notify the applicant in writing as to whether the request to be a test program participant has been approved or denied. If denied, Customs will issue written notice to the applicant that sets forth the basis for the denial and informs the applicant of the right to reapply after any deficiencies identified in the notice of denial have been corrected.

Participant Selection

Any importing air carrier that applies for permission to participate in the test program, and meets the eligibility requirements described above, will be given due consideration by Customs. Selection will be based on the extent of an applicant's electronic interface capabilities and the ability to meet the technical user requirements identified in the CAMIR as well as the requirements set forth in this notice.

Participation in this test program will not be considered confidential

information, and the identity of participants will be made available to the public upon written request.

IV. Test Program Procedures

Program procedures will be closely coordinated with all participating and affected parties. The following procedures apply to all participant air carriers and will be in effect for the duration of the test program:

1. All carriers must transmit full air cargo manifest data to AAMS at least one (1) hour prior to aircraft arrival. If this condition cannot be met, a paper manifest must be made available before cargo may be moved.

2. Copies of air waybills must be presented to Customs, on demand, for enforcement purposes.

3. All carriers must transmit specified quantities for cargo at the lowest deliverable level.

4. Full manifest data must be submitted to Customs by all air carriers and is to include all house air waybill information, including shipper/consignee information, and complete address data as shown on the paper air waybill.

5. Consolidations with only one house air waybill must be transmitted as a master air waybill along with a house air waybill. The carrier may not elect to send this information in as a simple air waybill for expediency purposes.

6. House air waybill numbers must be accurate. If an alpha prefix appears on the house air waybill as part of the air waybill number, this information must be included in the electronic transmission. The carrier may not elect to eliminate the alpha prefix from house air waybills when sending the electronic information.

7. If cargo is being transferred to an automated deconsolidator, the carrier may nominate the deconsolidator to complete the manifest information. If the cargo is being transferred to a non-automated deconsolidator, the carrier will be held responsible for the transmission of full house air waybill information.

8. Carriers must have electronic authorization from Customs to release cargo. If systemic problems preclude an electronic authorization for release, a paper request for release is required. A signed Customs Form 3461 alone will not be an authorization for release for the purposes of this test program.

9. Cargo may not be transferred without an authorization for transfer from Customs via the electronic system. Blanket permits to transfer will not be allowed during the test period for test participants.

10. If for any reason the electronic system becomes inoperative or Customs is unable to receive electronic manifest information, parties will be required to submit a paper air cargo manifest on Customs Form 7509 or any other Headquarters pre-approved document. If for any reason the Air Automated Manifest System, Cargo Selectivity, or other entry related automated system is inoperative and electronic cargo release and selectivity is not possible, a Customs port director, after a 2 hour waiting period, will implement procedures to allow for the non-electronic release of cargo until such time as electronic systems are again operative. The port director will ensure that any of the appropriate information on entries released under these manual procedures is properly entered into the electronic system as soon as possible.

V. Suspension From the Test Program and Administrative Review

Suspension, Penalties and Liquidated Damages

A test program participant's failure to comply with any of the procedural requirements or operational standards set forth in this document, or failure to adhere to all applicable laws and regulations, may result in the temporary or permanent suspension of the air carrier from the test program, and may subject the air carrier to penalties, liquidated damages, or other administrative sanctions.

Written Notice

Except in instances of willfulness on the part of the test program participant, or where public health, interest or safety is at issue, the port director at the designated AAMS-automated Customs port will issue a written notice of proposed suspension to the test program participant. The notice will inform the air carrier of the following:

The basis for the proposed action and all applicable terms and conditions;

2. The right to seek administrative review of the action, pursuant to the terms set forth in this document;

3. That any action will be held in abeyance for a period of 10 calendar days from the date of the notice or, if the test program participant timely seeks administrative review of the matter pursuant to the terms set forth in this document, pending conclusion of Customs review of the matter at the port level; and

4. That failure to seek administrative review of this matter pursuant to the terms set forth in this document will constitute acceptance of the terms and conditions set forth in the notice, will preclude any further administrative review of the matter, and the proposed suspension will automatically go into effect at midnight of the 10th calendar day from the date of the notice.

Where there is willfulness on the part of the test program participant, or where public health, interest or safety is concerned, suspension from the test program may go into effect immediately upon the issuance, by the port director to the test program participant, of an electronic notice setting forth the basis for the immediate suspension and any other related information. Within 5 calendar days from the date the electronic notice was issued, Customs will issue a written notice of immediate suspension to the test program participant. A notice of immediate action, whether in an electronic or paper format, will provide the same type of information as contained in a notice of proposed suspension. An immediate suspension will remain in effect pending conclusion of any administrative review of the action by Customs.

Administrative Review

To seek administrative review of a suspension from the test program, the air carrier must submit documentation to the port director of the Customs port that issued the suspension notice within 10 calendar days from the date the notice of proposed suspension or the electronic notice of immediate suspension was issued. The documentation must establish, to the satisfaction of Customs, that the alleged deficiencies which led to the action did not occur or have been corrected.

The port director will review the documentation and issue a written final notice to the test program participant within 30 calendar days from the date the documentation was received by Customs, unless this time period is extended upon due notice. The final notice will either impose a suspension, effective upon the date of the final notice, or provide notice that no suspension will be imposed.

In the case of an air carrier seeking administrative review of an immediate suspension, the same documentation requirements set forth above apply. The port director will review the documentation and issue a written final notice to the test program participant within 30 calendar days from the date the documentation was received by Customs, unless this time period is extended upon due notice. The final notice will inform the test program participant that either the suspension has been affirmed, or modified in its terms and conditions, or the suspension

has been revoked, effective upon the date of the final notice.

If a suspension is imposed, the suspended test program participant may seek a second level of administrative review and appeal the final notice of suspension by submitting documentation to the Assistant Commissioner, Office of Field Operations, within 10 calendar days from the date of the final notice.

The Assistant Commissioner, Office of Field Operations, or his designee, will issue to the suspended test program participant a written decision within 30 calendar days from the date the documentation was received, unless this time period is extended upon due notice. The decision will affirm, modify, or revoke the final notice of suspension and will set forth the basis for the determination, as well as all other applicable terms and conditions.

VI. Test Evaluation Criteria

Once participants are selected, Customs and the participants will meet publicly or in an electronic forum to review the comments received concerning the methodology of the test program or procedures, complete procedures in light of those comments, form problem-solving teams, and establish baseline measures and evaluation methods and criteria. Evaluations of the test program will be conducted and the final results will be published in the **Federal Register** and Customs Bulletin, as required by section 101.9(b), Customs Regulations.

The following evaluation methods and criteria have been suggested:

1. Establish baseline measurements through questionnaires to the trade and Customs personnel; and

2. Analyze statistical data obtained through the AAMS.

Preliminary evaluation criteria for Customs and other government agencies include workload impact (workload shifts, cycle time, etc.), policy and procedural accommodation, and trade compliance impact. Possible criteria for the trade participants include cost benefits and operational efficiency.

Dated: September 27, 2000.

Bonni G. Tischler,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 00–25182 Filed 9–29–00; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8869

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 8869, Qualified Subchapter S Subsidiary Election.

DATES: Written comments should be received on or before December 1, 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: Qualified Subchapter S Subsidiary Election.

OMB Number: 1545–1700.

Form Number: 8869.

Abstract: Effective for tax years beginning after December 31, 1996, Internal Revenue Code section 1361(b)(3) allows an S corporation to own a corporate subsidiary, but only if it is wholly owned. To do so, the parent S corporation must elect to treat the wholly owned subsidiary as a qualified subchapter S subsidiary (QSub). Form 8869 is used to make this election.

Current Actions: There are no changes being made to the form at this time.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 8 hrs., 9 mins.

Estimated Total Annual Burden Hours: 40,750.

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: September 20, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–25097 Filed 9–29–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2000–37

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

Revenue Procedure 2000–37, Reverse Like-Kind Exchanges.

DATES: Written comments should be received on or before December 1, 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 revenue procedure should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Reverse Like-Kind Exchanges.

OMB Number: 1545–1701.

Revenue Procedure Number: Revenue Procedure 2000–37.

Abstract: Revenue Procedure 2000–37 provides a safe harbor for reverse like-kind exchanges in which a transaction using a ''qualified exchange accommodation arrangement'' will qualify for non-recognition treatment under section 1031 of the Internal Revenue Code.

Current Actions: There are no changes being made to this revenue procedure 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: 1,600.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 3,200.

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: September 19, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–25098 Filed 9–29–00; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register
Vol. 65, No. 191
Monday, October 2, 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.

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Availability of Funding and Requests for Proposals for Guaranteed Loans Under the Section 538 Guaranteed Rural Rental Housing Program

Correction

In notice document 00–23504 beginning on page 55217 in the issue of Wednesday, September 13, 2000, make the following correction:

On page 55219, the table at the top of the page should appear as shown below:

Sample NOFA Response:

Lender Name	Lender organization name.
Lender Tax Id Number	Insert number
Lender Contact Name	Name of the lender contact for loan.
Mailing Address	Complete mailing address for lender.
Phone Number	Phone number for lender contact.
Fax Number	Insert number.
E-mail Address	Insert E-mail address.
Borrower Name And Type Of Ownership Entity.	Show official name, list any trade name as " d/b/a."
Borrower Tax Id Number	Insert number.
Principle Or Key Member	Insert name and title.
Borrower Information And Statement Of Housing Development Experience	Attach relevant information.
New Construction Or Repair/Rehab. Of At Least $15,000/Unit.	State whether the project is new construction or repair/rehab.
Project Location Town	Town in which the project is located.
Project County	County in which the project is located.
Project State	State in which the project is located.
Project Zip Code	Insert Number.
Project Congressional District	Congressional District for project location.
Project Name	Insert project name
Project Type	Family, Senior or Mixed
Property Description And Proposed Development Schedule	See Attached.
Total Project Development Cost	Enter amount for total project
Number Of Units	What is the total number of units in the project.
Cost Per Unit	Total development cost divided by number of units.
Bedroom Mix	Number of units by number of bedrooms.
Rent	What is the proposed rent structure?
Median Income For Community	Provide median income for the project community.
Evidence Of Site Control	Attach relevant information.
Description Of Any Environmental Issues	Attach relevant information.
Loan Amount	Insert the loan amount.
Borrower's Proposed Equity	Insert Amount
Other Sources Of Funds	List all funding sources
Loan To Value	Guarantee loan divided by value.
Debt Coverage Ratio	Net Operating Income divided by debt payments.
Percentage Of Guarantee	Percentage guarantee requested.
Collateral	Attach relevant information.
Approved by GRRHP, HUD, Fannie Mae or Freddie Mac to make multifamily housing	Yes or No, If no, attach evidence of eligibility as described in paragraph

loans?	VII(D) of this NOFA.
Lender Certification	Attach relevant information.
EZ/EC	Yes or No Is the project in EZ/EC community?
Colonia Or Tribal Lands	Yes or No Is the project in a Colonia or on an Indian Reservation?
Population	Must be within the 20,000 population limit set for the program.
Is A Guarantee For Construction Advances Being Requested?	Yes or No (The Agency will guarantee construction advances, only as part of a combination construction and permanent loan).
Loan Term	Fixed rate, up to a 40 year term, must be fully amortizing, i.e., balloon mortgages are not eligible.
Basis Points Over 30 Year Treasury	Insert relevant number.

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October 2, 2000

Part II

Environmental Protection Agency

40 CFR Part 35

Technical Assistance Grant Program; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[FRL–6872–1]

RIN 2050–AE33

Technical Assistance Grant Program

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is publishing today the final rule for the Technical Assistance Grant (TAG) Program under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). The Agency has developed a final rule designed to further streamline the TAG program by simplifying application and management procedures, and allowing advance payments up to $5,000 to new recipients. The intent of this final rule is to make grants for technical assistance more readily available to local community groups and to promote effective public participation in the Superfund cleanup process.

DATES: This final rule is effective October 2, 2000.

ADDRESSES: The official record for this rulemaking is maintained at the Superfund Docket and Document Center, located in Crystal Gateway #1, 1st Floor at the U.S. Environmental Protection Agency, 1235 Jefferson Davis Highway, Arlington, VA, 22202, telephone number 1–703–603–9232. The record is available for inspection, by appointment only, between the hours of 9:00 a.m. to 4:00 p.m. EST, Monday through Friday, excluding legal holidays. As provided in 40 CFR part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Lois Gartner, Office of Emergency and Remedial Response, 5204–G, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460 (703) 603–8889 or the RCRA/Superfund Hotline from 9:00 a.m. to 6:00 p.m., Monday through Friday, toll free at 1–800–553–7672 or in the Washington area, 703–412–3323 or TTD 703–412–3323.

SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline:

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A. General Changes
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F. How many groups can receive a TAG at one Superfund site? (§ 35.4040)
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I. How can my group get more than $50,000? (§ 35.4065)
J. How can my group spend TAG money? (§ 35.4070)
K. Are there things my group can't spend TAG money for? (§ 35.4075)
L. Can my group get an ''advance payment'' to help us get started? (§ 35.4085)
M. How much time do my group or other interested groups have to submit a TAG application to EPA? (§ 35.4120)
N. How does my group identify a qualified technical advisor? (§ 35.4190)
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A. Regulatory Flexibility Act (RFA as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq)
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I. Introduction

A. Authority

EPA issues this final rule under the authority of section 117(e) of the Comprehensive Environmental, Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9617(e)). Section 117(e) authorizes the President to make available Technical Assistance Grants to groups of individuals which may be affected by a release or threatened release at Superfund sites to obtain assistance in interpreting and disseminating information related to site activities. Section 117(e) requires the President to promulgate rules for issuing these grants before processing any grant applications. Executive Order 12580 subsequently delegated to EPA the authority to implement section 117(e).

B. Background of Rulemaking

In 1992, EPA promulgated a final rule to govern the award and administration of TAGs (57 FR 45311 (Oct. 1, 1992)). The Agency based the requirements codified in the final regulation on its early experience with the TAG program and comments generated by the Agency's interim final rule (IFR) (53 FR 9736 (Mar. 24, 1988)), and amendments to the interim final rule (54 FR 49848 (Dec. 1, 1989)). The IFR detailed the specific requirements for obtaining TAGs and enabled EPA to issue grants while it received comments for consideration in development of the final rule. Those comments and practical experience led the Agency to develop a final rule that streamlined the program's application and management procedures reflected in the IFR.

The Agency's experience with the TAG program in the years since it published the 1992 final rule has led the Agency to recognize the need to further streamline TAG application and management procedures. In addition, the Agency also recognized the need to rewrite the TAG regulations in a more readable format to increase accessibility to the program. In August 1999, the Agency published a notice of proposed rulemaking (NPRM) (64 FR 46234 (Aug. 24, 1999)) which set forth the Agency's proposal on how to reduce barriers to TAG participation. The Agency carefully reviewed and gave serious consideration to the comments it received in response to the NPRM. As a result of that review and consideration, the final rule published here today reflects, to the greatest extent possible, the accommodation of many of the comments offered.

II. Explanation of Changes to the Proposed Rule

A. General Changes

One commenter suggested that EPA include in the final TAG rule a more detailed explanation of the requirements at 40 CFR part 30, in particular how those requirements relate to the TAG rule at 40 CFR part 35, subpart M. The

regulations in both 40 CFR part 30 and part 35, subpart M apply to TAGs. Part 30 establishes uniform administrative requirements for Federal grants and cooperative agreements awarded to institutions of higher education, hospitals, and other nonprofit organizations. Because TAGs are awarded to nonprofit organizations, 40 CFR part 30 applies to all TAGs. Subpart M of 40 CFR part 35 (i.e., the TAG rule) establishes administrative and substantive requirements that apply only to TAGs. EPA included references to and summaries of several of the 40 CFR part 30 requirements in the proposed TAG rule to give recipients a general idea about those regulations.

For example, in § 35.4020, ''Is my community group eligible for a TAG?'', we have provided a general description of the management structure 40 CFR part 30 requires for groups to be eligible for a TAG. However, the summaries in the TAG rule of 40 CFR part 30 provisions are not intended to be substitutes for 40 CFR part 30. While EPA has established some of the administrative requirements in 40 CFR part 30, the specific sections of 40 CFR part 30 that do not apply to TAGs are listed in § 35.4012. Except for those provisions listed in § 35.4012, the 40 CFR part 30 provisions govern all TAG grants. If there is a conflict between a 40 CFR part 30 provision and a summary of that same provision in the TAG rule, the 40 CFR part 30 provision applies. In order to clarify the relationship between 40 CFR part 30 and part 35, EPA has revised §§ 35.4010 and 35.4011 as follows:

Section 35.4010 What Does This Subpart Do?

This subpart establishes the program-specific regulations for TAGs awarded by EPA.

Section 35.4011 Do the General Grant Regulations for Nonprofit Organizations Apply to TAGs?

Yes, the regulations at 40 CFR part 30 also apply to TAGs. 40 CFR part 30 establishes uniform administrative requirements for Federal grants and agreements to institutions of higher education, hospitals, and other nonprofit organizations. Because EPA awards TAGs to nonprofit organizations, 40 CFR part 30 applies to all TAGs.

B. What Is a Technical Assistance Grant? (§ 35.4005)

One commenter suggested we replace the word ''procure'' with ''hire'' when describing the process for communities securing the services of a contractor. The final rule continues to use ''procure'' because EPA wants to ensure readers understand there is a competitive procurement process that must be followed when TAG recipients seek a contractor. Moreover, the word ''hire'' implies that recipients hire a technical advisor as an employee rather than procuring the services of a technical advisor as a contractor.

Another commenter expressed concern that this section does not include any language about using TAG funds for redevelopment purposes. The exclusion of redevelopment as an example of how a technical advisor can assist a group was not intended to imply that technical advisors cannot interpret information regarding redevelopment of the site. Section 35.4005 (''What is a Technical Assistance Grant'') provides in part:

A TAG allows your group to procure independent technical advisors to help you interpret and comment on site-related information and decisions. Examples of how a technical advisor can help your group include, but are not limited to:

(a) Reviewing preliminary site assessment/site investigation data;

(b) Participating in public meetings to help interpret information about site conditions, proposed remedies, and the implementation of a remedy; and

(c) Visiting the site vicinity periodically during cleanup, if possible, to observe progress and provide technical updates to your group.

EPA does not believe any change is needed to § 35.4005 to clarify that a technical advisor may assist a group by interpreting information related to redevelopment. Section 35.4005 expressly states that the list of examples of how a Technical Advisor can assist a group is not exhaustive. Furthermore, § 35.4070 provides that technical advisors may help a TAG group understand ''the various stages of health and environmental investigations and activities'' at a site—a phrase which clearly encompasses redevelopment issues.

C. Is My Community Group Eligible for a TAG? (§ 35.4020)

Several commenters expressed concern about deeming ineligible those groups that receive money or services from a PRP. These commenters suggested communities can benefit from such assistance and that it also is a way to hold PRPs ''accountable.'' While we do not doubt that some forms of PRP assistance can be beneficial to TAG recipients, the final rule continues to consider organizations that receive assistance (services, supplies or money) from PRPs to be ineligible for TAG funding. Our continued prohibition on PRP assistance exists because we do not believe it is possible to determine when such assistance is given conditionally and, therefore, a group which accepts such assistance may appear to have a conflict of interest undermining its purpose of providing independent technical advice to the affected community.

D. Is There Any Aay My Group Can Get a TAG if It Is Currently Ineligible? (§ 35.4025)

Some commenters expressed support for banning a relationship between a TAG group and national organizations while others argued national organizations offer important benefits to local groups. EPA found the arguments in favor of allowing some kind of relationship between prospective TAG recipients and organizations focused on national issues to be compelling. A central theme to those arguments was that national organizations provide a valuable mentoring benefit to local grassroots organizations like TAG groups.

While we support the concept of some relationship between TAG recipients and national organizations, we also believe the regulatory language in the proposed rule allows for such a relationship. Rather than alter the relevant language in the proposed rule, we believe we need to better clarify what the term ''affiliated'' means. In the context of this regulation, prospective TAG groups that are ''affiliated'' with a national organization are not eligible for a TAG. The regulation specifically defines ''affiliated'' to mean ''a relationship between persons or groups where one group, directly or indirectly, controls or has the power to control the other, or, a third group controls or has the power to control both.'' Thus, for example, a prospective TAG organization that shares any kind of decisionmaking authority about its organizational affairs with any other organization would not be eligible for a TAG. This independence extends to all aspects of the TAG organization including fiduciary decisions—all financial decisions must rest entirely with the prospective TAG organization. Therefore, relationships can exist between TAG organizations and national organizations as long as those relationships do not in anyway impinge on the TAG group's independent decisionmaking authority.

To ensure further clarification of the meaning of ''affiliated'' as it appears in § 35.4270, ''Definitions,'' we added a parenthetical statement, ''(*e.g.,* centralized decisionmaking and

control),'' after ''interlocking management or ownership.''

E. Can I Be Part of a TAG Group If I Belong to an Ineligible Entity? (§ 35.4030)

A comment related to the eligibility criteria asked for clarification on what this section means when it says EPA may not allow an individual to participate in a TAG organization if EPA determines an individual has a ''significant financial involvement in a PRP.'' The commenter specifically cited a scenario in which individuals wishing to participate in a TAG organization are employees of the potentially responsible party (PRP) at a site and are homeowners in the town in which the site is located.

The intent of this provision, which is not new to the TAG regulations, is not to exclude employees of a PRP from participating in a TAG group. Rather, the intent is to give EPA the potential right to exclude any individual who EPA finds to own a significant or controlling interest in a PRP. Thus, an employee of a PRP could participate in a TAG organization as long as that individual participated as an affected individual and did not have an interest in a PRP deemed significant or controlling by EPA. The key to this provision is understanding that EPA's intention is to preclude those individuals who have a significant financial stake or other significant interest in a PRP. While it could easily be argued that employment is, for the individual, financially significant, it is not, in most cases, financially significant to the employer.

F. How Many Groups Can Receive a TAG at One Superfund Site? (§ 35.4040)

Two themes emerged from the comments offered relative to this section. Both comments spoke to EPA's interpretation of CERCLA section 117. One comment addressed concerns about how EPA has interpreted the word ''facility.'' A second commenter registered disagreement with EPA's interpretation of CERCLA to allow for a new recipient to receive TAG funding at a facility after EPA terminates a previous TAG recipient's agreement at the same facility.

Since the inception of the TAG program, EPA has interpreted the term ''facility'' in CERCLA section 117 to mean site. The commenter who dissented from this interpretation asserted that ''facility'' in CERCLA refers to what has evolved into operable units (OUs) and does not mean the entire site. Furthermore, this commenter believes EPA's interpretation of ''facility'' undermines program goals because it does not allow communities affected by specific operable units to have access to TAGs for individual OUs at those sites where the (OUs) are great distances apart and found in separate communities. This commenter wants EPA to allow separate grants for each OU or allow separate grants for communities or municipalities where the OUs of a site are located.

EPA does not agree with the commenter's interpretation of the term ''facility'' as used in section 117 of CERCLA. Section 117(e)(1) authorizes EPA to award TAGs ''at any facility which is listed on the National Priorities List (NPL) under the National Contingency Plan.'' As this language implies, EPA does not list individual operable units on the NPL but facilities which are often referred to as sites. Typically, a site includes more than one operable unit. If EPA were to adopt the interpretation of ''facility'' as operable unit for purposes of the TAG program and allow every operable unit (e.g., every lagoon, pit, or impoundment at a site) to be eligible for a $50,000 TAG, then EPA would quickly run out of funding. This interpretation could result in one site with multiple OUs receiving TAG funding for each OU while another site could end up with no TAG funding at all. Furthermore, EPA often does not determine a site's operable units until long after EPA lists a site on the NPL. If we waited until all operable units were known, communities could be deprived of technical assistance in the early stages of the cleanup action.

EPA is sympathetic to the difficulties that can exist for TAG groups at large Superfund sites where there are several different communities separated by large distances. As explained above, we cannot make multiple grants available for one site. We can, however, provide as much assistance as possible to help disparate communities find ways to work together including the provision of neutral facilitation services when funding for such services exist. (Readers interested in facilitation support should contact their EPA regional TAG contact about the availability of such facilitation services.) Examples exist in the TAG program where several communities affected by large Superfund sites have found ways to work together and address their individual concerns under one grant. We are eager to support other communities in finding the same success.

The second area of comment offered relative to this section took issue with EPA's interpretation of CERCLA to allow a new group to receive TAG funding at a site after a previous TAG recipient at the same site ends its participation in the TAG program. This commenter stated that such an interpretation exceeds the statutory limits because section 117(e)(2) of CERCLA provides that ''the amount of any grant under this subsection may not exceed $50,000 for a single grant recipient'' and ''[n]ot more than one grant may be made under this subsection with respect to a single facility, but the grant may be renewed to facilitate public participation at all stages of remedial action.'' Furthermore, according to the commenter, if EPA awards a grant to more than one recipient per site, then EPA would also exceed the statutory limitation in section117(e)(2) on the total amount of funding available to a TAG recipient. Thus, according to the commenter, EPA may renew a TAG, but only to the same recipient and the total sum the recipient can receive (regardless of the number of recipients) is $50,000, unless EPA waives the funding limit upon a determination that additional funding is necessary to carry out the purposes of section 117.

EPA disagrees. EPA explained its interpretation in the preamble to the proposed TAG rule: ''In the administration of this program, EPA has interpreted this provision to mean that there can be only one TAG recipient at a site at any one time during the Superfund process. This interpretation means that if a TAG to one recipient is terminated, EPA can make a new grant to a new recipient. Accordingly, while there can be only one TAG at a time there can be more than one recipient of a TAG at a single facility.'' Furthermore, while section 117(e) limits the number of ''grants'' to one per facility, it does not limit the number of consecutive grant recipients to one per facility. It would be unreasonable for EPA to read such a limitation into the statute, particularly if the result could be that affected communities would have no access to a TAG throughout all stages of the response action. Indeed, such a narrow interpretation would threaten the very purpose of section 117 of CERCLA: to facilitate public participation at Superfund sites. Therefore, the final rule continues to allow for multiple nonconcurrent recipients of TAGs at eligible Superfund sites.

G. What Requirements Must My Group Meet as a TAG Recipient? (§ 35.4045)

EPA received one comment that expressed disagreement with the requirement that groups incorporate as nonprofit organizations, a requirement not new to the proposed rule. The

commenter registered the disagreement on the grounds that ''requiring an existing organization to set up a separate 'shell' corporation to receive the grant is unfair to the contractor. If the contractor is not paid, he has no legal recourse against the government, and if the grant recipient is a 'shell' corporation there is no use suing it because it has no assets.''

This comment fails to consider that the intent of the TAG program generally and the incorporation requirement in particular, is not to secure or advance the legal position of a contractor. Rather, the requirement exists because it benefits both EPA and TAG recipients. As EPA explained in the preamble to the 1988 interim final rule:

''. . . incorporation offers advantages to both recipients and EPA, and does so at relatively little cost to both. Incorporation protects individual group members from potentially serious personal liability problems that may result if the technical assistance grant is awarded to a group or organization that is not incorporated. It also reduces or eliminates problems that might otherwise arise from the departure of any individual from the recipient group, if it lacked the structure created by incorporation. EPA also benefits from awarding every grant to a group with the same legal status: a corporation with bylaws, officers and official purposes.''

EPA believes the benefits outlined in the 1988 rule continue to exist, and therefore, the final rule continues to require groups to incorporate as nonprofit organizations.

The provisions in this section prohibiting TAG groups from restricting access by requiring membership dues or other means garnered both supporting and dissenting comments. Specifically, some commenters supported the idea of prohibiting TAG groups from restricting access by requiring membership dues or other means. Others expressed concern that such a prohibition could undermine the financial abilities of an organization.

EPA considered ways to accommodate both viewpoints expressed by commenters. We concluded, however, that we should not involve EPA in this level of TAG group operation. We determined that our regulation in this area should focus on making certain that groups are and remain eligible under § 35.4020 and that they administer their grant according to the provisions of their grant agreement. Therefore, we have removed § 35.4045(c) which stated groups could not restrict access by charging membership fees or by using other means to limit participation. TAG groups, however, are still obligated pursuant to § 35.4140 to disseminate information to the affected community.

H. Must My Group Contribute Toward the Cost of a TAG? (§ 35.4050)

Many commenters expressed satisfaction with EPA's decision to eliminate the ''good faith'' requirement for those communities seeking a waiver of the 20 percent cost share requirement. One commenter expressed support for EPA giving TAG groups the option to not provide a cost share altogether. Other commenters suggested that calculating the cost share as a part of the reimbursement process is onerous and confusing.

The cost share requirement is a statutory one and, therefore, is not a requirement EPA can eliminate through the TAG regulation. We can, and believe that this regulation does, make it easier for those groups who are financially disadvantaged to receive a waiver to the matching share requirement. We are also concerned about the burden associated with the cost share calculation tied to the reimbursement process. However, we do not believe the TAG rule is the appropriate place to address those concerns. Rather, we intend to provide guidance to recipients on how to calculate and account for the cost share throughout the life of the grant in the forthcoming revised TAG guidance. EPA is currently developing new guidance for both the regions and recipients, and anticipates having the guidance ready for distribution in early 2001.

I. How Can My Group Get More Than $50,000? (§ 35.4065)

This section elicited several comments about expanding the grounds for giving TAG recipients additional funding after they have expended the original award amount. Specifically, one commenter suggested that EPA should automatically grant a recipient a renewal of $50,000 after the first year without restriction if the recipient properly expended the first award amount. Another commenter suggested EPA add, as a reason why a site merits additional funding, the issuance of an ''Explanation of Significant Differences'' (ESD) by the agency leading the cleanup. Two other comments were also offered relative to this section. One commenter asked for clarification on what the ultimate cap is on the amount a recipient may receive, while the other registered disagreement about the fact that existing recipients can receive additional funding without having to compete with other community groups that are interested in obtaining a TAG.

Because of the underlying sentiment present in several of the comments tied to this section—that EPA should make additional funding easier—EPA has made changes to ''How can my group get more than $50,000?'' One change is that an ESD will now be another site condition factor that may merit additional funding for a site. This change means an ESD will be one of ten possible factors to be considered when groups want funding above the $50,000 level. Recipients will still have to demonstrate the presence of at least three of these ten factors and will also have to demonstrate effective management of previous awards.

A second change to ease funding is that the final rule contains no specific limit on how much money can be awarded to a TAG recipient. This change makes the regulation consistent with CERCLA, which contains no cap on the amount a TAG recipient can receive. The change also means EPA regional offices will have complete authority over the decision to fund TAGs above $50,000 and therefore, the waiver process will be accomplished more quickly. While the final rule contains no pre-determined limit on funding amounts, requests for waivers to the $50,000 limit will still have to meet the conditions found in § 35.4065. Also, such requests will be subject to the availability of funds.

EPA cannot automatically award grantees an additional $50,000 after the first year if the group managed its first funding amount effectively. Under section 117(e)(2) of CERCLA, the $50,000 limit may be waived ''where such waiver is necessary to carry out the purposes of this subsection.'' Thus, CERCLA requires EPA to make a determination that the waiver is necessary to carry out the purposes of section 117(e). Since a waiver may not in all instances be necessary after the first year, it would not be reasonable to provide an automatic waiver after one year. A waiver after one year is possible under the final rule if three of the ten site condition factors exist and the recipient has effectively managed previously awarded funds, but most TAG groups will not need a waiver at that time since they will still have unexpended funds under the initial grant. (Even though funding periods may be negotiated, EPA believes most recipients will want funding periods that are longer than one year).

The last subject touched upon by comments on this section was offered by a commenter who believes allowing a TAG recipient to seek additional funding without starting the competitive award process over again is unfair. This commenter also took issue with the Agency's assertion in the preamble to the proposed rule that there is usually

only one applicant per site. In the case of the Superfund site affecting the commenter, there are three groups active at the site. One group is a TAG recipient that has received funding above $50,000. The commenter feels the other two groups have been ''shut out'' because EPA does not allow competition when a site is eligible for additional funding.

This comment speaks to a scenario that has occurred in the TAG program over the past several years in which groups that did not apply for a grant when one was available take issue with the Agency's selection of a recipient. The Agency has decided not to change the rule to require another competition. Empirical evidence shows that the majority of TAGs awarded have involved sites where only one group submitted an application. Nonetheless, EPA recognized, when structuring the program, that there may be situations where there is more than one eligible candidate for a TAG. This recognition led the Agency to adopt an award procedure which includes advertising TAG availability to the broad community, encouraging the formation of coalitions where there are multiple interested parties and, when coalitions are unable to form, allowing for a competitive process to select one recipient. While the Agency can advertise TAGs, encourage potential applicants to apply, and facilitate the formation of coalitions, ultimately, the decision to apply for a grant must be made by organizations themselves.

Because we are anxious to see, to the greatest extent possible, multiple groups coalesce, EPA regional offices may, in some instances, provide neutral facilitation and dispute resolution services. These services could be used to build a consensus among groups unable to form coalitions on their own. Readers interested in this possible resource should contact their EPA regional office.

J. How Can My Group Spend TAG Money? (§ 35.4070)

As with the similar comment offered with respect to § 35.4005, ''What is a TAG?'', a commenter expressed concern that this section does not contain a specific reference to redevelopment as an acceptable focus of a TAG recipient. EPA believes the use of TAG funds for technical assistance in interpreting information regarding redevelopment at the site falls under the description of general activities found in this section. We have not modified this section of the final rule to explicitly include this activity, but § 35.4190, ''How does my group identify a qualified technical advisor?'' contemplates the use of TAG funds for technical assistance in interpreting information regarding redevelopment at the site by including the types of qualifications a redevelopment technical advisor must and should possess. Also, § 35.4005 contains an example of how a technical advisor might assist a community in interpreting information regarding redevelopment at a site.

K. Are There Things My Group Can't Spend TAG Money for? (§ 35.4075)

The Agency received several comments suggesting that TAG funds be available for various kinds of TAG recipient training. For example, one commenter suggested that TAGs should be able to fund health and safety training using TAG monies. When drafting the proposed rule, EPA considered this issue and concluded that since section 117(e) of CERCLA only authorizes grants ''to obtain technical assistance in interpreting information'' regarding the site, and since health and safety training for the members of the group is not necessary in order for the group to procure technical assistance, such training is not an eligible TAG expenditure. Furthermore, even if the statute could be interpreted broadly enough to permit training of TAG members, EPA does not believe it would be a wise use of limited TAG funds. Allowing community members to receive training so that they could, in essence, act as their own advisors would be costly. Furthermore, it is improbable that such training by itself would provide members with the level of expertise that a technical advisor must have under § 35.4190. EPA also believes allowing community training would be fraught with administrative problems such as: Which community members could take training? What kind of training would be allowable? Given the statutory limitation and the administrative difficulties, EPA is maintaining the prohibition that communities cannot use TAG funds for training.

However, EPA supports providing community members with educational opportunities through other avenues. One avenue that EPA has been pursuing is the development of a series of short educational workshops on topics such as an overview of CERCLA and risk assessments. EPA hopes efforts such as these workshops will enable community members to maximize their participation in decisionmaking at their site without using TAG funds.

Another commenter suggested that EPA allow group members to be reimbursed for fuel and other travel expenses (*e.g.,* meals and incidentals) per diem when traveling great distances to attend meetings (for example, when a trip is more than 60 miles round trip). EPA has explicitly prohibited the use of TAG funds for recipient group members' travel since publication of the first rule governing TAGs (§ 35.4055(a)(5) of the Interim Final Rule, 53 FR 9736, 9750 (March 24, 1988) and the Final Rule, 57 FR 45311, 45318–19 (October 1, 1992). EPA continues in this final rule to prohibit fuel and per diem expenses as allowable expenses. Our rationale for this prohibition is that such expenses are inconsistent with the cost principles stated in the Office of Management and Budget (OMB) Circular A–122, and, as EPA stated in the 1988 interim final rule,

> ''EPA believes that the primary purpose of the technical assistance grant is to assist citizens' groups in obtaining technical assistance and not to fund ancillary activities of the grant recipient such as travel and training, which, by reducing available funds, would detract from or limit the recipient's ability to obtain technical advice regarding remedial actions.''

Finally, one commenter on this section stated that the flat prohibition on primary data gathering is wasteful and serves no useful purpose. EPA disagrees and points readers to the explanation as to why generation of new primary data is not allowable found in the preamble to the Interim Final Rule, 53 FR 9736, 9750 (March 24, 1988):

> ''Costs associated with the generation of new primary data are not allowable because this would be inconsistent with Congressional intent of ''interpreting information.'' In addition, developing new primary data, such as sampling data, would be so costly as to diminish the recipient's ability to obtain technical assistance throughout the entire cleanup process.''

L. Can My Group Get an ''Advance Payment'' To Help Us Get Started? (§ 35.4085)

Comments offered on the provision for limited advance payments were all positive about the inclusion of the payment provision. However, one commenter opined that $2000, rather than $5000, was sufficient for covering start-up costs. Despite the concerns of this one commenter, the final rule maintains the $5000 amount. EPA has changed, however, the requirement that only new groups lacking sufficient resources will be eligible for advance funding: the final rule allows any new recipient to request advance payment up to $5000. This change does not alter the requirement that recipients need to request such funding in writing and identify what activities, goods or

services they need. It also does not alter the limitations on what items can be purchased: in particular the final rule continues to prohibit the use of advance funding to pay for any kind of contractual services and for the costs of incorporation.

M. How Much Time Do My Group or Other Interested Groups Have To Submit a TAG Application to EPA? (§ 35.4120)

One commenter asked that the deadline for submitting an application (within 60 days from the time the first LOI is submitted) be extended for groups lacking human resources. Another commenter expressed confusion about the deadlines for different parts of the application process. Both of these comments suggest to EPA that the proposed rule's explanation of the time frame for the application process was confusing.

Based on the comments we received, we made substantive and editorial changes to this section. We changed the final rule by explaining that the first important time period for community groups is 30 days from the date EPA publishes a public notice informing the broader community that it has received an LOI. During this first 30 days, other groups interested in obtaining a TAG will either have to form a coalition with other interested groups or submit their own individual LOIs. The next important time period is the 30-day period in which all groups must submit their applications to EPA; it begins on the first day after the first 30-day period ends. Therefore, EPA must receive all applications within the 60 days after the public notice appears in paper. Only those groups that submitted LOIs in the first 30-day period will be eligible to submit applications. The time period for preparing applications can be extended if any group that submitted an LOI writes EPA requesting an extension. If an extension is granted, all groups that submitted an LOI will be able to take advantage of the extension.

We have also further clarified the application process in the final rule by providing a time frame in which the entire application process must end. We have added this additional information because we have found over the years that many groups will submit an application within the necessary time frame but the applications will be deficient in some way. EPA typically works with such applicants by providing extensive written comments about what changes need to be made to the application to make it complete. However, many groups will take months to finalize their applications by incorporating EPA's comments. While EPA does not want to penalize those groups who have made a good faith effort at completing the application on their first try, we also believe allowing the time in which groups finalize their applications to drag on indefinitely is unfair to the broader community. Therefore, we have added to the final rule a provision allowing groups 90 days to correct any deficiencies in their application that EPA has identified to them in writing. This 90-day period begins from the date of the letter in which EPA explains what changes an application requires. Thus, EPA will be able to begin its award decision process no later than the end of the 90-day period, or, if EPA does not receive a complete application in that 90-day period, then EPA will readvertise TAG availability and the award process will begin again.

N. How Does My Group Identify a Qualified Technical Advisor? (§ 35.4190)

EPA received mixed opinions about the level of specificity in the provision regarding the technical advisor qualifications. One commenter suggested the criteria for technical advisors should be very specific while others suggested the criteria needed to be very broad and flexible. EPA believes the qualifications laid out in the proposed rule are satisfactory in that they establish a minimum of necessary qualifications without being so restrictive that recipients have no flexibility in identifying what they perceive to be their community's unique technical advisor needs. Therefore, the final rule maintains the technical advisor qualifications found in the proposed rule except for a change to the public health technical advisor requirements, a description of which follows.

The change to the public health technical advisor qualifications concerns the requirement that such advisors must be associated with accredited schools of medicine, public health or accredited academic institutions of other allied disciplines. A commenter expressed concern that this requirement might exclude well-qualified public health experts. EPA agrees, and we removed the requirement. We do continue to require, however, that public health technical advisors must have received their training at such institutions. Despite the removal of the current association with accredited institutions requirement, we would like to suggest to TAG recipients seeking assistance in public health issues to consider accredited schools of medicine, public health or accredited academic institutions of other allied disciplines to be potentially good resources for public health technical advisors.

O. Are There Certain People My Group Cannot Select To Be Our Technical Advisor, Grant Administrator or Other Contractor Under the Grant? (§ 35.4195)

A commenter recommended that if the word ''person'' in § 35.4195 refers only to individuals (i.e., not entities that might be considered juridical persons, such as corporations), then it should be explicitly stated in the rule. Section 35.4195(a) specifies the ''people'' who cannot be hired as a TAG group's technical advisor, grant administrator, or other contractor under the grant. It excludes ''persons'' who wrote the specifications for the contract; in the case of a technical advisor, it excludes ''anyone'' doing work for the Federal or state government or any other entity at the site; and ''anyone'' who is on the List of Parties Excluded from federal Procurement or NonProcurement Programs. EPA believes that the purposes of this provision would not be served if the organization employing the individuals excluded as contractors by this provision were not also excluded. Therefore, we have revised § 35.4195 to make it clearly applicable to persons, businesses, nonprofit organizations, and any other entity.

P. What Restrictions Apply to Contractors My Group Procures for Our TAG? (§ 35.4200)

The provision in this section that limits the use of relocation technical advisors to those situations where EPA is seriously considering relocation drew criticism from commenters to the proposed rule. Several organizations who commented on EPA's ''National Superfund Permanent Relocation Interim Policy'' (64 FR 37012 (July 8, 1999)), which references the TAG rule's ''seriously considering'' provision, also expressed concern about it. Both sets of commenters took issue with what they perceived to be the rule's lack of consideration about whether a community wants to be relocated.

We agree with commenters that the proposed rule's ''seriously considering'' provision limits the ability of a community to consider permanent relocation with TAG funds. In reconsidering the provision and the comments we received on it, we have determined that relocation should not be treated differently than any of the other matters for which TAG groups may obtain technical assistance. Accordingly, in the final rule we have

eliminated the requirement that EPA must be seriously considering relocation in order for TAG groups to look at permanent relocation. EPA's preference, however, continues to be to address the risks posed by contamination by using well-designed methods of cleanup which allow people to remain safely in their homes and businesses. This preference is consistent with the mandates of CERCLA and the implementing requirements of the NCP, which emphasize selecting remedies that protect human health and the environment, maintain protection over time, and minimize untreated waste. Therefore, although the final rule does not restrict the circumstances in which TAGs may be used to obtain technical assistance regarding relocation, EPA expects that TAG groups will choose not to spend their limited TAG funds obtaining technical assistance on relocation unless there is a reasonable possibility that relocation will be selected as a remedy.

Q. How Does My Group Procure a Technical Advisor or Any Other Contractor? (§ 35.4205)

EPA received a comment suggesting a time limit on the amount of time EPA could spend reviewing contracts. The commenter said that limit should be 15 days. Section 35.4205 requires TAG groups to provide EPA the opportunity to review a contract before the group awards or amends it. The purpose of this provision is to help recipients—many of whom do not have experience awarding a contract under a grant. While EPA is not a party to the contract, EPA wants to help recipients award contracts that are consistent with the TAG statute and regulations. This assistance is particularly important for TAG grantees, which are often small organizations. If the TAG group awards a contract for activities that are not eligible under the regulations, for example, the TAG group may not use TAG funds to pay the contractor for that activity and the TAG group may not have another available source of funding for the contract. On the other hand, EPA recognizes that contract review by EPA may sometimes delay the award of a contract.

EPA does not believe, however, that the regulation should specify a time limit on EPA's review. EPA does not want to suggest that the contract is ''approved'' by EPA as a result either of EPA review or a lapse of time during which EPA had the opportunity to review it. The regulation does not require EPA review or approval of the TAG group's contract; it only requires the recipient to give EPA an opportunity to review the contract. If the recipient provides EPA the opportunity to review the contract, then the recipient will have complied with the regulation (as long as the amount of time given to EPA is reasonable under the circumstances) even if EPA has not actually reviewed it or provided the recipient with any comments on it. EPA, however, strongly encourages TAG groups to work with their project officer to come up with an appropriate time frame for reviewing contracts in order for groups to avoid becoming liable for all or portions of a contract that EPA cannot reimburse under the grant. EPA expects to provide suggestions for how TAG groups and regional offices can coordinate and streamline this review process in forthcoming TAG program guidance.

R. How Does My Group Ensure a Prospective Contractor Does Not Have a Conflict of Interest? (§ 35.4220)

A commenter suggested that the phrase ''pending litigation, with such parties'' should be clarified to exclude participation in unrelated litigation on the opposite side of a PRP because there is no conflict of interest in such a situation. Section 35.4220(a) provides that in order to ensure that a contractor does not have a conflict of interest, your group must require any prospective contractor to provide, with its bid or proposal information on its financial and business relationships with all PRPs at the site, including ''services related to any proposed or pending litigation, with such parties.'' EPA agrees that it is unlikely that a contractor involved in unrelated litigation on the opposite side of a PRP would have a conflict of interest. Therefore, EPA is revising this section to apply (in part) to ''financial and business relationships with such parties, and services provided to or on behalf of such parties in connection with any proposed or pending litigation.''

S. Definitions (§ 35.4270)

In our efforts to clarify the meaning of ''affiliated,'' especially as it pertains to the relationship between TAG groups and large national organizations, we modified the definition of ''affiliated'' by inserting a parenthetical statement, ''(*i.e.*, centralized decisionmaking and control),'' after ''interlocking management or ownership.''

We have also added definitions for the terms ''Explanation of Significant Differences'' (ESD) and ''National Contingency Plan'' (NCP). We added ESD because it is now one of ten site factors that can be the basis for funding a TAG above $50,000. We included the term NCP in the ''Definitions'' because it is part of the definition for ESD.

T. Existing Grants

One commenter expressed an opinion that EPA should require all current TAGs to be administered under the new regulations in order to allow communities to benefit from the changes in the revised rule. Generally, for substantive requirements applicable to grants, EPA and the grantee must follow the regulations that were in effect at the time of the grant award. For ease of administration for current TAG recipients, EPA will continue to apply all provisions of the TAG regulations that were in effect at the time of award. Recipients of TAGs under previous regulations may request that their grants be administered under this regulation once it is final. Groups wishing to be administered under the new regulations must write EPA and request that their grant agreements be amended by the Award Official. However, any funds spent prior to the finalization of this rule are subject to the previous regulation. Amendments to current grants will apply only to future work.

U. State Administration

EPA proposed to move State administration of the TAG program to another regulation, 40 CFR part 35, subpart O, which is the regulation governing the award of cooperative agreements to States and Indian tribes under section 104(d) of CERCLA. However, EPA has decided to eliminate altogether the ability of States to administer the TAG Program. We base this decision on several factors. One factor is that several commenters strongly opposed giving States the ability to administer the program. Another factor is that, since 1988, States have had the option of administering the program yet none have. This lack of implementation suggests to EPA that States are not interested in administering the TAG program. Also, while we specifically solicited the input of several State organizations on our proposal, none of them responded. Furthermore, at sites where the State is a potentially responsible party, there is the potential for the community to perceive that the State is not administering the TAG grant in a disinterested manner. Therefore, this final rule does not contain provisions for the States to administer the TAG Program and EPA does not intend to include such provisions in other regulatory actions.

III. Regulatory Analysis

A. Regulatory Flexibility Act (RFA as Amended by the Small Business Regulatory Enforcement and Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.)

Today's final rule is not subject to the RFA, which generally requires an agency to prepare a regulatory flexibility analysis of any rule that will have a significant economic impact on a substantial number of small entities. The RFA only applies to rules subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act (APA) or any other statute. This rule pertains to grants which the APA expressly exempts from notice-and-comment rulemaking requirements. 5 U.S.C. 553(a)(2). Moreover, section 117 of CERCLA does not require EPA to issue a notice of proposed rulemaking.

Although not subject to the RFA, EPA, nonetheless, considered the potential of this final rule to adversely impact small entities subject to the rule. EPA concluded that this rule does not adversely impact small entities because it includes requirements that are imposed only on those entities that voluntarily apply for a grant and are the minimum necessary to ensure that grants are awarded and used only for authorized purposes. In addition, EPA solicited input and comment on the proposed rule from small entities by sending it to current grant recipients and their technical advisors, and by publishing a notice of proposed rulemaking even though grant related rules are not required to undergo notice-and-comment rulemaking.

B. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA 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. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA 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 EPA 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 EPA establishes 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 EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This regulation contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. The UMRA excludes from the definition of ''Federal intergovernmental mandate'' duties that arise from conditions of federal assistance.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments because this rule does not impose any requirements on any governments.

C. National Technology Transfer and Advancement Act

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

EPA believes that this final rule does not involve any technical standards subject to NTTAA. In the proposed rule, EPA requested anyone who disagreed with this conclusion to indicate why the rule is subject to the Act and to identify any potentially applicable and voluntary consensus standards. EPA received no comments on this matter.

D. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 applies to any rule that is determined to be: (1) ''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, EPA 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.

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 Executive Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

E. Paperwork Reduction Act

In keeping with the requirements of the Paperwork Reduction Act (PRA) as amended, 44 U.S.C. 3501 *et seq.*, the information collection requirements contained in this rule have been approved by the Office of Management and Budget under information request number 2030–0020. This rule does not contain any collection of information requirements beyond those already approved. Since this action imposes no new or additional information collection, reporting or record keeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, no information request will be submitted to the Office of Management and Budget for review.

F. Executive Order 12866

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Executive 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 rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

G. Executive Order 13132

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.''

This final rule does not have federalism implications. It 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. Thus, Executive Order 13132 does not apply to this rule. Further, because this rule regulates the use of federal financial assistance, it will not impose substantial direct compliance costs on the States.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and States, EPA sent the proposed regulation with a request for comments to several organizations that represent states, including the National Governors Association and the National Conference of State Legislatures.

H. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input'' in the development of regulatory policies on matters that significantly or uniquely affect their communities.

This final rule does not significantly or uniquely affect the communities of Indian Tribal governments. This rule does not apply to tribes; rather, it governs the award of technical assistance grants to non-profit corporations. Accordingly, the requirements of section 3 (b) of Executive Order 13084 do not apply.

I. Executive Order 12898

Under Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' as well as through EPA's April 1995, ''Environmental Justice Strategy, OSWER Environmental Justice Task Force Action Agenda Report,'' and National Environmental Justice Advisory Council, EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities, and all people live in clean and sustainable communities.

No action from the final rule will have a disproportionately high and adverse human health and environmental effects on any segment of the population. In addition, the final rule does not impose substantial direct compliance costs on those communities. Accordingly, the requirements of the Executive Order do not apply.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. 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 U.S.C. 804(2). This action will be effective October 2, 2000.

List of Subjects in 40 CFR Part 35

Environmental protection, Air pollution control, Coastal zone, Grant programs—environmental protection, Grant programs—Indians, Hazardous waste, Indians, Intergovernmental relations, Pesticides and pests, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: September 13, 2000.

Carol M. Browner,

Administrator.

Accordingly, as set forth in the preamble, the Environmental Protection Agency amends 40 CFR part 35 as follows:

PART 35—STATE AND LOCAL ASSISTANCE

1.The authority citation for part 35 is revised to read as follows:

Authority: 42 U.S.C. 4368b, unless otherwise noted.

2. Subpart M is revised to read as follows:

Subpart M—Grants for Technical Assistance

General

Sec.
35.4000 Authority.
35.4005 What is a Technical Assistance Grant?
35.4010 What does this subpart do?
35.4011 Do the general grant regulations for nonprofit organizations apply to TAGs?
35.4012 If there appears to be a difference between the requirements in 40 CFR part 30 and this subpart, which regulations should my group follow?

35.4015 Do certain words in this subpart have specific meaning?

Who Is Eligible?

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35.4025 Is there any way my group can get a TAG if it is currently ineligible?
35.4030 Can I be a part of a TAG group if I belong to an ineligible group?
35.4035 Does EPA use the same eligibility criteria for TAGs at ''Federal facility'' sites?
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How Much Money TAGs Provide

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35.4085 Can my group get an ''advance payment'' to help us get started?
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35.4155 How does EPA decide whether to award a TAG to our group?
35.4160 What does EPA do if more than one group applies for a TAG at the same site?
35.4161 Does the TAG application process affect the schedule for work at my site?
35.4165 When does EPA award a TAG?

Managing Your TAG

35.4170 What kinds of reporting does EPA require?
35.4175 What other reporting and record keeping requirements are there?
35.4180 Must my group keep financial records after we finish our TAG?
35.4185 What does my group do with reports our technical advisor prepares for us?

Procuring a Technical Advisor or Other Contractor With TAG Funds

35.4190 How does my group identify a qualified technical advisor?
35.4195 Are there certain people my group cannot select to be our technical advisor, grant administrator, or other contractor under the grant?
35.4200 What restrictions apply to contractors my group procures for our TAG?
35.4205 How does my group procure a technical advisor or any other contractor?
35.4210 Must my group solicit and document bids for our procurements?
35.4215 What if my group can't find an adequate number of potential sources for a technical advisor or other contractor?
35.4220 How does my group ensure a prospective contractor does not have a conflict of interest?
35.4225 What if my group decides a prospective contractor has a conflict of interest?
35.4230 What are my group's contractual responsibilities once we procure a contractor?
35.4235 Are there specific provisions my group's contract(s) must contain?

Requirements for TAG Contractors

35.4240 What provisions must my group's TAG contractor comply with if it subcontracts?

Grant Disputes, Termination, and Enforcement

35.4245 How does my group resolve a disagreement with EPA regarding our TAG?
35.4250 Under what circumstances would EPA terminate my group's TAG?
35.4255 Can my group terminate our TAG?
35.4260 What other steps might EPA take if my group fails to comply with the terms and conditions of our award?

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35.4265 How does my group close out our TAG?

Other Things You Need to Know

35.4270 Definitions.
35.4275 Where can my group get the documents this subpart references (for example, OMB circulars, other subparts, forms)?

Subpart M—Grants for Technical Assistance

Authority: 42 U.S.C. 9617(e); sec. 9(g), E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

General

§ 35.4000 Authority.

The Environmental Protection Agency (''EPA'') issues this subpart under section 117(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C. 9617(e).

§ 35.4005 What is a Technical Assistance Grant?

A Technical Assistance Grant (TAG) provides money for your group to obtain technical assistance in interpreting information with regard to a Superfund site. EPA awards TAGs to promote public participation in decision making at eligible sites. A TAG allows your group to procure independent technical advisors to help you interpret and comment on site-related information and decisions. Examples of how a technical advisor can help your group include, but are not limited to:

(a) Reviewing preliminary site assessment/site investigation data;

(b) Participating in public meetings to help interpret information about site conditions, proposed remedies, and the implementation of a remedy;

(c) Visiting the site vicinity periodically during cleanup, if possible, to observe progress and provide technical updates to your group; and

(d) Evaluate future land use options based on land use assumptions found in the ''remedial investigation/feasibility study.''

§ 35.4010 What does this subpart do?

This subpart establishes the program-specific regulations for TAGs awarded by EPA.

§ 35.4011 Do the general grant regulations for nonprofit organizations apply to TAGs?

Yes, the regulations at 40 CFR part 30 also apply to TAGs. 40 CFR part 30 establishes uniform administrative requirements for Federal grants and agreements to institutions of higher education, hospitals, and other nonprofit organizations. Because EPA awards TAGs to nonprofit organizations, 40 CFR part 30 applies to all TAGs.

§ 35.4012 If there appears to be a difference between the requirements in 40 CFR part 30 and this subpart, which regulations should my group follow?

You should follow the regulations in 40 CFR part 30, except for the following

provisions from which this subpart deviates:

(a) 40 CFR 30.11, Pre-Award Policies;

(b) 40 CFR 30.22 (b) and (c), Payment;

(c) 40 CFR 30.44 (e) (2), Procurement Procedures;

(d) 40 CFR 30.53 (b), Retention and Access Requirements for Records; and

(e) 40 CFR 31.70 (c) and 31.70 (i) as referenced by 40 CFR 30.63, Disputes.

§ 35.4015 Do certain words in this subpart have specific meaning?

Yes, some words in this subpart have specific meanings that are described in§ 35.4270, Definitions. The first time these words are used they are marked with quotation marks, for example, ''EPA.''

Who Is Eligible?

§ 35.4020 Is my community group eligible for a TAG?

(a) Yes, your community group is eligible for a TAG if:

(1) You are a group of people who may be ''affected'' by a release or a threatened release at any facility listed on the National Priorities List (''NPL'') or proposed for listing under the National Contingency Plan (NCP) where a ''response action'' under CERCLA has begun;

(2) Your group meets the minimum administrative and management capability requirements found in 40 CFR 30.21 by demonstrating you have or will have reliable procedures for record keeping and financial accountability related to managing your TAG (you must have these procedures in place before your group incurs any expenses); and

(3) Your group is not ineligible according to paragraph (b) of this section.

(b) No, your community group is not eligible for a TAG if your group is:

(1) A ''potentially responsible party'' (PRP), receives money or services from a PRP, or represents a PRP;

(2) Not incorporated as a nonprofit organization for the specific purpose of representing affected people except as provided in § 35.4045;

(3) ''Affiliated'' with a national organization;

(4) An academic institution;

(5) A political subdivision (for example, township or municipality); or

(6) Established or presently sustained by ineligible entities that paragraphs (b) (1) through (5) of this section describe, or if any of these ineligible entities are represented in your group.

§ 35.4025 Is there any way my group can get a TAG if it is currently ineligible?

You can make your group eligible by establishing an identity separate from that of the PRP or other ineligible entity by making a reasonable demonstration of independence from the ineligible entity. Such a demonstration requires, at a minimum, a showing that your group has a separate and distinct:

(a) Formal legal identity (for example, your group has different officers); and

(b) Substantive existence (meaning, is not affiliated with an ineligible entity), including its own finances.

(1) In determining whether your group has a different substantive existence from the ineligible entity, you must establish for us that your group:

(i) Is not controlled either directly or indirectly, by the ineligible entity; and

(ii) Does not control, either directly or indirectly, an ineligible entity.

(2) You must also establish for EPA that a third group does not have the power to control both your group and an ineligible entity.

§ 35.4030 Can I be part of a TAG group if I belong to an ineligible group?

You may participate in your capacity as an individual in a group receiving a TAG, but you may not represent the interests of an ineligible entity. However, we may prohibit you from participating in a TAG group if the ''award official'' determines you have a significant financial involvement in a PRP.

§ 35.4035 Does EPA use the same eligibility criteria for TAGs at ''Federal facility'' sites?

Yes, EPA uses the same criteria found in § 35.4020 in evaluating the eligibility of your group or any group of individuals who may be affected by a release or a threatened release at a Federal facility for a TAG under this subpart.

§ 30.4040 How many groups can receive a TAG at one Superfund site?

(a) Only one TAG may be awarded for a site at any one time. However, the recipient of the grant can be changed when:

(1) EPA and the recipient mutually agree to terminate the current TAG or the recipient or EPA unilaterally terminates the TAG; or

(2) The recipient elects not to renew its grant even though it is eligible for additional funding.

(b) In each of the situations described in paragraph (a) of this section the following information applies:

(1) If you are a subsequent recipient of a TAG, you are not responsible for actions taken by the first recipient, nor are you responsible for how the first recipient expended the funds received from EPA; and

(2) The process for changing recipients begins when an interested applicant submits a Letter of Intent (''LOI'') to the Agency expressing interest in a TAG as described in § 35.4105. We will then follow the application procedure set forth at §§ 35.4105 through 35.4165.

Your Responsibilities as a TAG Recipient

§ 35.4045 What requirements must my group meet as a TAG recipient?

Your group, including those groups which form out of a coalition agreement, must incorporate as a nonprofit corporation for the purpose of participating in decision making at the Superfund site for which we provide a TAG. However, a group that was previously incorporated as a nonprofit organization and includes all individuals and groups who joined in applying for the TAG is not required to reincorporate for the specific purpose of representing affected individuals at the site, if in EPA's discretionary judgment, the group has a history of involvement at the site. You must also:

(a) At the time of award, demonstrate that your group has incorporated as a nonprofit organization or filed the necessary documents for incorporation with the appropriate State agency; and

(b) At the time of your first request for reimbursement or advance payment, submit proof that the State has incorporated your group as a nonprofit organization.

§ 35.4050 Must my group contribute toward the cost of a TAG?

(a) Yes, your group must contribute 20 percent of the total cost of the TAG project unless EPA waives the match under § 35.4055.

(b) Under 40 CFR 30.23, your group may use ''cash'' and/or ''in-kind contributions'' (for example, your board members can count their time toward your matching share) to meet the matching funds requirement. Without specific statutory authority, you may not use Federal funds to meet the required match.

§ 35.4055 What if my group can't come up with the ''matching funds?'

(a) EPA may waive all or part of your matching funds requirement if we:

(1) Have not issued the ''Record of Decision'' (''ROD'') at the last ''operable unit'' for the site (in other words, if EPA has not already made decisions on the final cleanup actions at the site); and

(2) Determine, based on evidence in the form of documentation provided by your group, that:

(i) Your group needs a waiver because providing the match would be a financial hardship to your group (for example, your local economy is depressed and coming up with in-kind contributions would be difficult); and

(ii) The waiver is necessary to help your community participate in selecting a remedial action at the site.

(b) If your group receives a waiver of the matching funds after your initial award, your grant agreement must be amended.

How Much Money TAGs Provide

§ 35.4060 How much money can my group receive through a TAG?

The following table shows how much money your group can receive through a TAG:

If your group is . . .	Then your initial award will . . .
(a) the first recipient of a TAG at a site or a subsequent recipient at a site where the initial recipient spent the entire award amount.	not exceed $50,000 per site.
(b) a subsequent recipient at a site with remaining funds from an initial $50,000 award.	be the unspent amount remaining from an initial from the initial award (for example, if the Agency awarded the first recipient $50,000 but that recipient only spent $27,000, then your group's initial award would be $23,000).

§ 35.4065 How can my group get more than $50,000?

(a) The EPA regional office award official for your grant may waive your group's $50,000 limit if your group demonstrates that:

(1) If it received previous TAG funds, you managed those funds effectively; and

(2) Site(s) characteristics indicate additional funds are necessary due to the nature or volume of site-related information. In this case, three of the ten factors below must occur:

(i) A Remedial Investigation/Feasibility Study (''RI/FS'') costing more than $2 million is performed;

(ii) Treatability studies or evaluation of new and innovative technologies are required as specified in the Record of Decision;

(iii) EPA reopens the Record of Decision;

(iv) The site public health assessment (or related activities) indicates the need for further health investigations and/or health promotion activities;

(v) EPA designates one or more additional operable units after awarding the TAG;

(vi) The agency leading the cleanup issues an ''Explanation of Significant Differences'' (ESD);

(vii) A legislative or regulatory change results in new site information after EPA awards the TAG;

(viii) EPA expects a cleanup lasting more than eight years from the beginning of the RI/FS through construction completion;

(ix) Significant public concern exists, where large groups of people in the community require many meetings, copies, etc.; and

(x) Any other factor that, in EPA's judgment, indicates that the site is unusually complex.

(b) Your group can also receive more than $50,000 if you are geographically close to more than one eligible site (for example, two or more sites × $50,000 = grant of $100,000) and your group wishes to receive funding for technical assistance to address multiple eligible sites.

What TAGs Can Pay For

§ 35.4070 How can my group spend TAG money?

(a) Your group must use all or most of your funds to procure a technical advisor(s) to help you understand the nature of the environmental and public health hazards at the site, the various stages of health and environmental investigations and activities, cleanup, and ''operation and maintenance'' of a site, including exposure investigation, health study, surveillance program, health promotion activities (for example, medical monitoring and pediatric health units), remedial investigation, and feasibility study, record of decision, remedial design, selection and construction of remedial action, operation and maintenance, and removal action. This technical assistance should contribute to the public's ability to participate in the decision making process by improving the public's understanding of overall conditions and activities at the site.

(b) Your group may use a portion of your funds to:

(1) Undertake activities that communicate site information to the public through newsletters, public meetings or other similar activities;

(2) Procure a grant administrator to manage your group's grant; and/or

(3) Provide one-time health and safety training for your technical advisor to gain site access to your local Superfund site. To provide this training, you must:

(i) Obtain written approval from the EPA regional office; and

(ii) Not spend more than $1,000.00 for this training, including travel, lodging and other related costs.

§ 35.4075 Are there things my group can't spend TAG money for?

Your TAG funds cannot be used for the following activities:

(a) Lawsuits or other legal actions;

(b) Attorney fees for services:

(1) Connected to any kind of legal action; or

(2) That could, if such a relationship were allowable, be interpreted as resulting in an attorney/client relationship to which the attorney/client privilege would apply;

(c) The time of your technical advisor to assist an attorney in preparing a legal action or preparing and serving as an expert witness at any legal proceeding;

(d) Political activity and lobbying that is unallowable under Office of Management and Budget (OMB) Circular A–122, Cost Principles for Non-Profit Organizations (this restriction includes activities such as attempting to influence the outcomes of any Federal, State or local election, referendum, initiative, or similar procedure through in-kind or cash contributions, endorsements, or publicity, or attempting to influence the introduction or passage of Federal or state legislation; your EPA regional office can supply you with a copy of this circular);

(e) Other activities that are unallowable under the cost principles stated in OMB Circular A–122 (such as costs of amusement, diversion, social activities, fund raising and ceremonials);

(f) Tuition or other training expenses for your group's members or your technical advisor except as § 35.4070(b)(3) allows;

(g) Any activities or expenditures for your group's members' travel;

(h) Generation of new primary data such as well drilling and testing, including split sampling;

(i) Reopening or challenging final EPA decisions such as:

(1) Records of Decision; and/or

(2) Disputes with EPA under its dispute resolution procedures set forth in 40 CFR 30.63 (see § 35.4245); and

(j) Generation of new health data through biomedical testing (for example, blood or urine testing), clinical evaluations, health studies, surveillance, registries, and/or public health interventions.

How You Get the Money

§ 35.4080 Does my group get a lump sum up front, or does EPA reimburse us for costs we incur?

(a) EPA pays your group by reimbursing you for ''allowable'' costs, which are costs that are:

(1) Grant related;

(2) ''Allocable'';

(3) ''Reasonable''; and

(4) Necessary for the operation of the organization or the performance of the award.

(b) You will be reimbursed for the allowable costs up to the amount of the TAG if your group incurred the costs during the approved ''project period'' of the grant (except for allowable costs of incorporation which may be incurred prior to the project period), and your group is legally required to pay those costs.

§ 35.4085 Can my group get an ''advance payment'' to help us get started?

Yes, a maximum of $5,000.00 in the form of an advance payment is available to new recipients.

§ 35.4090 If my group is eligible for an advance payment, how do we get our funds?

(a) Your group must submit in writing a request for an advance payment and identify what activities, goods or services your group requires.

(b) Your EPA regional office project officer identified in your award document must approve the items for which your group seeks advance funding.

(c) Upon approval of your request, EPA will advance cash (in the form of a check or electronic funds transfer) to your group, up to $5,000, to cover its estimated need to spend funds for an initial period generally geared to your group's cycle of spending funds.

(d) After the initial advance, EPA reimburses your group for its actual cash disbursements.

§ 35.4095 What can my group pay for with an advance payment?

(a) Advance payments may be used only for the purchase of supplies, postage, the payment of the first deposit to open a bank account, the rental of equipment, the first month's rent of office space, advertisements for technical advisors and other items associated with the start up of your organization specifically requested in your advance payment request and approved by your EPA project officer.

(b) Advance payments must not be used for contracts for technical advisors or other contractors.

(c) Advance payments are not available for the costs of incorporation.

§ 35.4100 Can my group incur any costs prior to the award of our grant?

(a) The only costs you may incur prior to the award of a grant from EPA are costs associated with incorporation but you do so at your own risk.

(b) If you are awarded a TAG, EPA may reimburse you for preaward incorporation costs or allow you to count the costs toward your matching funds requirement if the costs are:

(1) Necessary and reasonable for incorporation; and

(2) Incurred for the sole purpose of complying with this subpart's requirement that your group be incorporated as a nonprofit corporation.

How to Apply for a TAG

§ 35.4105 What is the first step for getting a TAG?

To let EPA know of your group's interest in obtaining a TAG, your group should first submit to its EPA regional office a Letter of Intent. (The addresses of EPA's regional offices' TAG Coordinators are listed in § 35.4275.)

§ 35.4106 What information should an LOI include?

The LOI should clearly state that your group intends to apply for a TAG, and should identify:

(a) The name of your group;

(b) The Superfund site(s) for which your group intends to submit an application; and

(c) Provide the name of a contact person in the group and his or her mailing address and telephone number.

§ 35.4110 What does EPA do once it receives the first LOI from a group?

The following table shows what EPA does when it receives the first LOI from a group:

If your site . . .	Then EPA . . .
(a) is not proposed for listing on the NPL or is proposed but no response is underway or scheduled to begin.	will advise you in writing that we are not yet accepting TAG ''applications'' for your site. EPA may informally notify other interested groups that it has received an LOI.
(b) Is listed on the NPL or is proposed for listing on the NPL and a response action is underway.	will publish a notice in your local newspaper to formally notify other interested parties that they may contact the first group that sent the LOI to form a coalition or they may submit a separate LOI.

§ 35.4115 After the public notice that EPA has received an LOI, how much time does my group have to form a coalition or submit a separate LOI?

Your group has 30 days (from the date the public notice appears in your local newspaper) to submit documentation that you have formed a coalition with the first group and any other groups, or to submit a separate LOI. This 30-day period is the first 30 days with which your group must be concerned.

§ 35.4120 What does my group do next?

(a) After you submit an LOI, one of the first steps in applying for your TAG is determining whether your state requires review of your grant application. This review allows your governor to stay informed about the variety of grants awarded within your state. This process is called intergovernmental review. Your EPA regional office can provide you with the contact for your state's intergovernmental review process.

(b) You should call that state contact as early as possible in the application process so that you can allow time for

this review process which may take up to 60 days.

(c) EPA cannot process your application package without evidence that you have submitted it to the state for review, if your state requires it.

(d) EPA cannot award a TAG until the state has completed its intergovernmental review.

§ 35.4125 What else does my group need to do?

Once you've determined your state's intergovernmental review requirements, you must prepare a TAG application on EPA SF–424, Application for Federal Assistance, or those forms and instructions provided by EPA that include:

(a) A ''budget';

(b) A scope of work;

(c) Assurances, certifications and other preaward paperwork as 40 CFR part 30 requires. Your EPA regional office will provide you with the required forms.

§ 35.4130 What must be included in my group's budget?

Your budget must clearly show how:

(a) You will spend the money and how the spending meets the objectives of the TAG project;

(b) Your group will provide the required cash and/or in-kind contributions; and

(c) Your group derived the figures included in the budget.

§ 35.4135 What period of time should my group's budget cover?

The period of time your group's budget covers (the ''funding period'' of your grant) will be:

(a) One which best accommodates your needs;

(b) Negotiated between your group and EPA; and

(c) Stated in the ''award document.''

§ 35.4140 What must be included in my group's work plan?

(a) Your scope of work must clearly explain how your group:

(1) Will organize;

(2) Intends to use personnel you will procure for management/coordination and technical advice; and

(3) Will share and disseminate information to the rest of the affected community.

(b) Your scope of work must also clearly explain your project's milestones and the schedule for meeting those milestones.

(c) Finally, your scope of work must explain how your board of directors, technical advisor(s) and ''project manager'' will interact with each other.

§ 35.4145 How much time do my group or other interested groups have to submit a TAG application to EPA?

(a) Your group must file your application with your EPA regional office within the second 30 days after the date the public notice appears in your local newspaper announcing that EPA has received an LOI. This second 30-day period begins on the day after the first 30-day period § 35.4115 describes ends. EPA will only accept applications from groups that submitted an LOI within 30 days from the date of that public notice.

(b) If your group requires more time to file a TAG application, you may submit a written request asking for an extension. If EPA decides to extend the time period for applications in response to your request, it will notify, in writing, all groups that submitted an LOI of the new deadline for submitting TAG applications.

(c) EPA will not accept other applications or requests for extensions after the final application deadline has passed.

§ 35.4150 What happens after my group submits its application to EPA?

(a) EPA will review your application and send you a letter containing written comments telling you what changes need to be made to the application to make it complete.

(b) Your group has 90 days from the date on the EPA letter to make the changes to your application and resubmit it to EPA.

(c) Once the 90-day period ends, EPA will begin the process to select a TAG recipient, or, in the case of a single applicant, if, EPA does not receive a complete application (meaning, an application that does not have the changes provided in the letter described in paragraph (b) of this section), then EPA will readvertise the fact that a TAG is available and the award process will begin again.

§ 35.4155 How does EPA decide whether to award a TAG to our group?

Once EPA determines your group meets the eligibility requirements in § 35.4020 the Agency considers whether and how successfully your group meets these criteria, each of which are of equal weight:

(a) Representation of groups and individuals affected by the site;

(b) Your group's plans to use the services of a technical advisor throughout the Superfund response action; and

(c) Your group's ability and plan to inform others in the community of the information provided by the technical advisor.

§ 35.4160 What does EPA do if more than one group applies for a TAG at the same site?

When multiple groups apply, EPA will rank each applicant relative to other applicants using the criteria in § 35.4155.

§ 35.4161 Does the TAG application process affect the schedule for work at my site?

No, the schedule for response activities at your site is not affected by the TAG process.

§ 35.4165 When does EPA award a TAG?

(a) EPA may award TAGs throughout the Superfund process, including during operation and maintenance, but we will not award a TAG before the start of your site's response action if the site is proposed for listing on the NPL.

(b) Based on the availability of funds, EPA may delay awards of grants to qualified applicants.

Managing Your TAG

§ 35.4170 What kinds of reporting does EPA require?

There are several types of reports you need to complete at various points during the life of your group's grant; the number varies based on whether you receive an advance payment:

Type of report	Required information	Timing and frequency
(a) Federal Cash Transactions Report	The amount of funds advanced to you or electronically transferred to your bank account and how you spent those funds.	Semiannually within 15 working days following the end of the semiannual period which ends June 30 and December 31 of each year.

Type of report	Required information	Timing and frequency
(b) Minority-Owned Business Enterprise/Women-Owned Business Enterprise (MBE/WBE) Utilization.	Whether your group contracted with a MBE/WBE in the past Federal fiscal year, the value of the contract, if any, and the percentage of total project dollars on MBE/WBEs.	Annually, even if no contracts have been signed.
(c) Progress Report	Full description in chart or narrative format of the progress your group made in relation to your approved schedule, budget and the TAG project milestones, including an explanation of special problems your group encountered.	Quarterly, within 45 days after the end of each calendar quarter.
(d) Financial Status Report	Status of project's funds through identification of project transactions and within 90 days after the end of your TAG's funding period.	Annually, within 90 days after the anniversary date of the start of your TAG project.
(e) Final Report	Description of project goals and objectives, activities undertaken to achieve goals and objectives, difficulties encountered, technical advisors' work products and funds spent.	Within 90 days after the end of your project.

§ 35.4175 What other reporting and record keeping requirements are there?

In addition to the report requirements § 35.4170 describes, EPA requires your group to:

(a) Comply with any reporting requirements in the terms and conditions of the ''grant agreement'';

(b) Keep complete financial records accurately showing how you used the Federal funds and the match, whether it is in the form of cash or in-kind assistance; and

(c) Comply with any reporting and record keeping requirements in OMB Circular A–122 and 40 CFR part 30.

§ 35.4180 Must my group keep financial records after we finish our TAG?

(a) You must keep TAG financial records for ten years from the date of the final Financial Status Report, or until any audit, litigation, cost recovery, and/or disputes initiated before the end of the ten-year retention period are settled, whichever, is longer.

(b) At the ten-year mark, you may dispose of your TAG financial records if you first get written approval from EPA.

(c) If you prefer, you may submit the financial records to EPA for safekeeping when you give us the final Financial Status Report.

§ 35.4185 What does my group do with reports our technical advisor prepares for us?

You must send to EPA a copy of each final written product your advisor prepares for you as part of your TAG. We will send them to the local Superfund site information repository(ies) where all site-related documents are available to the public.

Procuring a Technical Advisor or Other Contractor With TAG Funds

§ 35.4190 How does my group identify a qualified technical advisor?

(a) Your group must select a technical advisor who possesses the following credentials:

(1) Demonstrated knowledge of hazardous or toxic waste issues, relocation issues, redevelopment issues or public health issues as those issues relate to hazardous substance/toxic waste issues, as appropriate;

(2) Academic training in a relevant discipline (for example, biochemistry, toxicology, public health, environmental sciences, engineering, environmental law and planning); and

(3) Ability to translate technical information into terms your community can understand.

(b) Your technical advisor for public health issues must have received his or her public health or related training at accredited schools of medicine, public health or accredited academic institutions of other allied disciplines (for example, toxicology).

(c) Your group should select a technical advisor who has experience working on hazardous or toxic waste problems, relocation, redevelopment or public health issues, and communicating those problems and issues to the public.

§ 35.4195 Are there certain people my group cannot select to be our technical advisor, grant administrator, or other contractor under the grant?

Your group may not hire the following:

(a) The person(s) who wrote the specifications for the ''contract'' and/or who helped screen or select the contractor;

(b) In the case of a technical advisor, a person or entity doing work for the Federal or State government or any other entity at the same NPL site for which your group is seeking a technical advisor; and

(c) Any person who is on the List of Parties Excluded from Federal Procurement or NonProcurement Programs.

§ 35.4200 What restrictions apply to contractors my group procures for our TAG?

When procuring contractors your group:

(a) Cannot award cost-plus-percentage-of-cost contracts; and

(b) Must award only to responsible contractors that possess the ability to perform successfully under the terms and conditions of a proposed contract.

§ 35.4205 How does my group procure a technical advisor or any other contractor?

When procuring contractors your group must also:

(a) Provide opportunity for all qualified contractors to compete for your work (see § 35.4210);

(b) Keep written records of the reasons for all your contracting decisions;

(c) Make sure that all costs are reasonable in a proposed contract;

(d) Inform EPA of any proposed contract over $1,000.00;

(e) Provide EPA the opportunity to review a contract before your group awards or amends it;

(f) Perform a ''cost analysis'' to evaluate each element of a contractor's cost to determine if it is reasonable, allocable and allowable for all contracts over $25,000; and

(g) Comply with the small business enterprises (SBE), minority-owned business enterprises, women-owned business enterprise requirements in 40 CFR 30.44(b) which outlines steps your group must take to make positive efforts to use small businesses, minority-owned firms and women's business enterprises. These steps generally say:

(1) Make sure to use small businesses, minority-owned firms, and women's businesses as often as possible.

(2) Make information on upcoming opportunities available and plan time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.

(3) When procuring firms for larger contracts, consider whether those firms intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

(4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of those to handle on its own.

(5) Use the services and help, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

(6) If your contractor awards a contract, require the contractor to take the steps in 40 CFR 30.44(b) as summarized in paragraphs (g)(1) through (5) of this section.

§ 35.4210 Must my group solicit and document bids for our procurements?

(a) The steps needed to be taken to procure goods and/or services depends on the amount of the proposed procurement:

If the aggregate amount of the	Then your group
(1) purchase is $1,000 or less	may make the purchase as long as you make sure the price is reasonable; no oral or written bids are necessary.
(2) proposed contract is over $1,000 but less than $25,000	must obtain and document oral or written bids from two or more qualified sources.
(3) proposed contract is $25,000 to $100,000	must:
	(i) Solicit written bids from three or more sources who are willing and able to do the work; (ii) Provide potential sources in the scope of work to be performed and the criteria your group will use to evaluate the bids; (iii) Objectively evaluate all bids; and (iv) Notify all unsuccessful bidders.
(4) proposed contract is greater than $100,000	must follow the procurement regulations in 40 CFR part 30 (these regulations outline the standards for your group to use when contracting for services with Federal funds; they also contain provisions on: codes of conduct for the award and administration of contracts; competition; procurement procedures; cost and price analysis; procurement records; contract administration; and contracts generally).

(b) Your group must not divide any procurements into smaller parts to get under any of the dollar limits in paragraph (a) of this section.

§ 35.4215 What if my group can't find an adequate number of potential sources for a technical advisor or other contractor?

In situations where only one adequate bidder can be found, your group may request written authority from the EPA award official to contract with the sole bidder.

§ 35.4220 How does my group ensure a prospective contractor does not have a conflict of interest?

Your group must require any prospective contractor on any contract to provide, with its bid or proposal:

(a) Information on its financial and business relationship with all PRPs at the site, with PRP parent companies, subsidiaries, affiliates, subcontractors, contractors, and current clients or attorneys and agents. This disclosure requirement includes past and anticipated financial and business relationships, and services provided to or on behalf of such parties in connection with any proposed or pending litigation;

(b) Certification that, to the best of its knowledge and belief, it has disclosed such information or no such information exists; and

(c) A statement that it will disclose to you immediately any such information discovered after submission of its bid or after award.

§ 35.4225 What if my group decides a prospective contractor has a conflict of interest?

If, after evaluating the information in § 35.4220, your group decides a prospective contractor has a significant

conflict of interest that cannot be avoided or otherwise resolved, you must exclude him or her from consideration.

§ 35.4230 What are my group's contractual responsibilities once we procure a contractor?

For contractual responsibilities, your group, not EPA:

(a) Is responsible for resolving all contractual and administrative issues arising out of contracts you enter into under a TAG; you must establish a procedure for resolving such issues with your contractor which complies with the provisions of 40 CFR 30.41. These provisions say your group, not EPA, is responsible for settling all issues related to decisions you make in procuring advisors or other contractors with TAG funds; and

(b) Must ensure your contractor(s) perform(s) in accordance with the terms and conditions of the contract.

§ 35.4235 Are there specific provisions my group's contract(s) must contain?

Your group must include the following provisions in each of its contracts:

(a) Statement of work;

(b) Schedule for performance;

(c) Due dates for deliverables;

(d) Total cost of the contract;

(e) Payment provisions;

(f) The following clauses from 40 CFR part 30, appendix A, which your EPA regional office can provide to you:

(1) Equal Employment Opportunity; and

(2) Suspension and Debarment;

(g) The following clauses from 40 CFR 30.48:

(1) Remedies for breaches of contract (40 CFR 30.48(a));

(2) Termination by the recipient (40 CFR 30.48(b)); and

(3) Access to records (40 CFR 30.48(d)); and

(h) Provisions that require your contractor(s) to keep the following detailed records as § 35.4180 requires for ten years after the end of the contract:

(1) Acquisitions;

(2) Work progress reports;

(3) Expenditures; and

(4) Commitments indicating their relationship to established costs and schedules.

Requirements for TAG Contractors

§ 35.4240 What provisions must my group's TAG contractor comply with if it subcontracts?

A TAG contractor must comply with the following provisions when awarding subcontracts:

(a) Section 35.4205 (b) pertaining to documentation;

(b) Section 35.4205 (c) and (f) pertaining to cost;

(c) Section 35.4195 (c) pertaining to suspension and debarment;

(d) Section 35.4200 (b) pertaining to responsible contractors;

(e) Section 35.4205 (g) pertaining to disadvantaged business enterprises;

(f) Section 35.4200 (a) pertaining to unallowable contracts;

(g) Section 35.4235 pertaining to contract provisions; and

(h) Cost principles in 48 CFR part 31, the Federal Acquisition Regulation, if the contractor and subcontractors are profit-making organizations.

Grant Disputes, Termination, and Enforcement

§ 35.4245 How does my group resolve a disagreement with EPA regarding our TAG?

The regulations at 40 CFR 30.63 and 31.70 will govern disputes except that, before you may obtain judicial review of the dispute, you must have requested the Regional Administrator to review the dispute decision official's determination under 40 CFR 31.70(c), and, if you still have a dispute, you must have requested the Assistant Administrator for the Office of Solid Waste and Emergency Response to review the Regional Administrator's decision under 40 CFR 31.70(h).

§ 35.4250 Under what circumstances would EPA terminate my group's TAG?

(a) EPA may terminate your grant if your group materially fails to comply with the terms and conditions of the TAG and the requirements of this subpart.

(b) EPA may also terminate your grant with your group's consent in which case you and EPA must agree upon the termination conditions, including the effective date as 40 CFR 30.61 describes.

§ 35.4255 Can my group terminate our TAG?

Yes, your group may terminate your TAG by sending EPA written notification explaining the reasons for the termination and the effective date.

§ 35.4260 What other steps might EPA take if my group fails to comply with the terms and conditions of our award?

EPA may take one or more of the following actions, under 40 CFR 30.62, depending on the circumstances:

(a) Temporarily withhold advance payments until you correct the deficiency;

(b) Not allow your group to receive reimbursement for all or part of the activity or action not in compliance;

(c) Wholly or partly ''suspend'' your group's award;

(d) Withhold further awards (meaning, funding) for the project or program;

(e) Take enforcement action;

(f) Place special conditions in your grant agreement; and

(g) Take other remedies that may be legally available.

Closing Out a TAG

§ 35.4265 How does my group close out our TAG?

(a) Within 90 calendar days after the end of the approved project period of the TAG, your group must submit all financial, performance and other reports as required by § 35.4180. Upon request from your group, EPA may approve an extension of this time period.

(b) Unless EPA authorizes an extension, your group must pay all your bills related to the TAG by no later than 90 calendar days after the end of the funding period.

(c) Your group must promptly return any unused cash that EPA advanced or paid; OMB Circular A–129, Policies for Federal Credit Programs and Non-Tax Receivables, governs unreturned amounts that become delinquent debts.

Other Things You Need To Know

§ 35.4270 Definitions.

The following definitions apply to this subpart:

Advance payment means a payment made to a recipient before ''outlays'' are made by the recipient.

Affected means subject to an actual or potential health, economic or environmental threat. Examples of affected parties include people:

(1) Who live in areas near NPL facilities, whose health may be endangered by releases of hazardous substances at the facility; or

(2) Whose economic interests are threatened or harmed.

Affiliated means a relationship between persons or groups where one group, directly or indirectly, controls or has the power to control the other, or, a third group controls or has the power to control both. Factors indicating control include, but are not limited to:

(1) Interlocking management or ownership (*e.g.,* centralized decisionmaking and control);

(2) Shared facilities and equipment; and

(3) Common use of employees.

Allocable cost means a cost which is attributable to a particular cost objective, such as a grant, project, service, or other activity, in accordance with the relative benefits received. A cost is allocable to a Government award if it is treated consistently with other

costs incurred for the same purpose in like circumstances and if it:

(1) Is incurred specifically for the award;

(2) Benefits both the award and other work and can be distributed in reasonable proportion to the benefits received; or

(3) Is necessary to the overall operation of the organization, although a direct relationship to any particular cost objective cannot be shown.

Allowable cost means those project costs that are: eligible, reasonable, allocable to the project, and necessary to the operation of the organization or the performance of the award as provided in the appropriate Federal cost principles, in most cases OMB Circular A–122 (see 40 CFR 30.27), and approved by EPA in the assistance agreement.

Applicant means any group of people that files an application for a TAG.

Application means a completed formal written request for a TAG that you submit to a State or the EPA on EPA form SF–424, Application for Federal Assistance (Non-construction Programs).

Award document or grant agreement is the legal document that transfers money or anything of value to your group to accomplish the purpose of the TAG project. It specifies funding and project periods, EPA's and your group's budget share of ''eligible costs,'' a description of the work to be accomplished, and any additional terms and conditions that may apply to the grant.

Award Official means the EPA official who has the authority to sign grant agreements.

Budget means the financial plan for spending all Federal funds and your group's matching share funds (including in-kind contributions) for a TAG project that your group proposes and EPA approves.

Cash contribution means actual non-Federal dollars, or Federal dollars if expressly authorized by Federal statute, that your group spends for goods, services, or personal property (such as office supplies or professional services) used to satisfy the matching funds requirement.

Contract means a written agreement between your group and another party (other than a public agency) for services or supplies necessary to complete the TAG project. Contracts include contracts and subcontracts for personal and professional services or supplies necessary to complete the TAG project.

Contractor means any party (for example, a technical advisor) to whom your group awards a contract.

Cost analysis is the evaluation of each element of cost to determine whether it is reasonable, allocable, and allowable.

Eligible cost is a cost permitted by statute, program guidance or regulations.

EPA means the Environmental Protection Agency.

Explanation of Significant Differences (ESD) means the document issued by the agency leading a cleanup that describes to the public significant changes made to a Record of Decision after the ROD has been signed. The ESD must also summarize the information that led to the changes and affirm that the revised remedy complies with the ''National Contingency Plan'' (NCP) and the statutory requirements of CERCLA.

Federal facility means a facility that is owned or operated by a department, agency, or instrumentality of the United States.

Funding period (previously called a ''budget period'') means the length of time specified in a grant agreement during which your group may spend Federal funds. A TAG project period may be comprised of several funding periods.

Grant agreement or award document is the legal document that transfers money or anything of value to your group to accomplish the purpose of the TAG project. It specifies funding and project periods, EPA's and your group's budget share of eligible costs, a description of the work to be accomplished, and any additional terms and conditions that may apply to the grant.

In-kind contribution means the value of a non-cash contribution used to meet your group's matching funds requirement in accordance with 40 CFR 30.23. An in-kind contribution may consist of charges for equipment or the value of goods and services necessary to the EPA-funded project.

Letter of intent (LOI) means a letter addressed to your EPA regional office which clearly states your group's intention to apply for a TAG. The letter tells EPA the name of your group, the Superfund site(s) for which your group intends to submit an application, and the name of a contact person in the group including a mailing address and telephone number.

Matching funds means the portion of allowable project cost contributed toward completing the TAG project using non-Federal funds or Federal funds if expressly authorized by Federal statutes. The match may include in-kind as well as cash contributions.

National Contingency Plan (NCP) means the federal government's blueprint for responding to both oil spills and hazardous substance releases. It lays out the country's national response capability and promotes overall coordination among the hierarchy of responders and contingency plans.

National Priorities List (NPL) means the Federal list of priority hazardous substance sites, nationwide. Sites on the NPL are eligible for long-term cleanup actions financed through the Superfund program.

Operable unit means a discrete action defined by EPA that comprises an incremental step toward completing site cleanup.

Operation and maintenance means the steps taken after site actions are complete to make certain that all actions are effective and working properly.

Outlay means a charge made to the project or program that is an allowable cost in terms of costs incurred or in-kind contributions used.

Potentially responsible party (PRP) means any individual(s) or company(ies) (such as owners, operators, transporters or generators) potentially responsible under sections 106 or 107 of CERCLA (42 U.S.C. 9606 or 42 U.S.C. 9607) for the contamination problems at a Superfund site.

Project manager means the person legally authorized to obligate your group to the terms and conditions of EPA's regulations and the grant agreement, and designated by your group to serve as its principal contact with EPA.

Project period means the period established in the TAG award document during which TAG money may be used. The project period may be comprised of more than one funding period.

Reasonable cost means a cost that, in its nature or amount, does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the costs.

Recipient means any group that has been awarded a TAG.

Record of decision (ROD) means a public document that explains the cleanup method that will be used at a Superfund site; it is based on technical data gathered and analyses performed during the remedial investigation and feasibility study, as well as public comments and community concerns.

Remedial investigation/feasibility study (RI/FS) means the phase during which EPA conducts risk assessments and numerous studies into the nature and extent of the contamination on site, and analyzes alternative methods for cleaning up a site.

Response action means all activities undertaken by EPA, other Federal agencies, States, or PRPs to address the

problems created by hazardous substances at an NPL site.

Start of response action means the point in time when funding is set-aside by either EPA, other Federal agencies, States, or PRPs to begin response activities at a site.

Suspend means an action by EPA that temporarily withdraws Federal sponsorship under an award, pending corrective action by the recipient or pending a decision to terminate the award by the Federal awarding agency. Suspension of an award is a separate action from suspension under Federal agency regulations implementing Executive Orders 12549 (3 CFR, 1986 Comp., p. 189) and 12689 (3 CFR, 1989 Comp., p. 235), Debarment and Suspension.

§ 35.4275 Where can my group get the documents this subpart references (for example, OMB circulars, other subparts, forms)?

EPA Headquarters and the regional offices that follow have the documents this subpart references available if you need them:

(a) TAG Coordinator or Grants Office, U.S. EPA Region I, John F. Kennedy Federal Building, Boston, MA 02203.

(b) TAG Coordinator or Grants Office, U.S. EPA Region II, 290 Broadway, New York, NY 10007–1866.

(c) TAG Coordinator or Grants Office, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19106.

(d) TAG Coordinator or Grants Office, U.S. EPA Region IV, Atlanta Federal Center, 61 Forsyth Street, Atlanta, GA 30303.

(e) TAG Coordinator or Grants Office, U.S. EPA Region V, Metcalfe Federal Building, 77 W. Jackson Blvd., Chicago, IL 60604.

(f) TAG Coordinator or Grants Office, U.S. EPA Region VI, Wells Fargo Bank, Tower at Fountain Place, 1445 Ross Avenue, Suite 1200, Dallas, TX 752020–2733.

(g) TAG Coordinator or Grants Office, U.S. EPA Region VII, 901 N. 5th Street, Kansas City, KS 66101.

(h) TAG Coordinator or Grants Office, U.S. EPA Region VIII, 999 18th Street, Suite #500, Denver, CO 80202–2466.

(i) TAG Coordinator or Grants Office, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

(j) TAG Coordinator or Grants Office, U.S. EPA Region X, 1200 6th Avenue, Seattle, WA 98101.

(k) National TAG Coordinator, U.S. EPA Mail Code: 5204–G, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

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Federal Register

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Part III

Department of Housing and Urban Development

24 CFR Parts 888, 982, and 895

Fair Market Rents: Increased Fair Market Rents and Higher Payment Standards for Certain Areas; Interim Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 888, 982, 985

[Docket No. FR 4606–I–01]

RIN 2501–AC75

Fair Market Rents: Increased Fair Market Rents and Higher Payment Standards for Certain Areas

AGENCY: Office of the Secretary, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule implements HUD's new fair market rent (FMR) policy. The new FMR policy targets relief to areas where higher FMRs are needed to help families, assisted under HUD's Housing Choice Voucher Program as well as other HUD programs, find and lease decent and affordable housing. With respect to the Housing Choice Voucher Program, the policy provides that where necessary to ensure the effective operation of this program, PHAs will be allowed to set their payment standards based on the 50th percentile rent rather than the published 40th percentile FMR. This aspect of the policy is designed to ensure that families with housing vouchers have access to at least half of all available units in those areas. In addition, the new FMR policy increases FMRs to the 50th percentile in those metropolitan areas where an FMR increase is most needed to promote residential choice, help families move closer to areas of job growth, and deconcentrate poverty. Where it is determined that an FMR increase is needed in a metropolitan area, the increased FMR applies to all the HUD programs that use FMRs in that metropolitan area.

DATES: *Effective Date:* December 1, 2000. *Comment Due Date:* November 16, 2000.

ADDRESSES: Interested persons are invited to submit written comments regarding this interim rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address. Facsimile (FAX) comments will not be accepted.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4210, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone number (202) 708–0477; or Lynn A. Rodgers, Economic and Market Analysis Division, Office of Economic Affairs, Office of Policy Development and Research, Department of Housing and Urban Development, Room 8224, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone number (202) 708–0590. Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339. (Other than the ''800'' TTY number, telephone numbers are not toll free.)

SUPPLEMENTARY INFORMATION:

I. HUD's New FMR Policy

HUD's new FMR policy, being implemented through this interim rule, is designed to achieve two fundamental program objectives: (1) Ensuring that low-income families are successful in finding and leasing decent and affordable housing; and (2) ensuring that low-income families have access to a broad range of housing opportunities throughout a metropolitan area. To achieve the first objective, the policy provides that for the Housing Choice Voucher program, PHAs will be allowed to set their payment standards based on the 50th percentile rent rather than the published 40th percentile FMR in areas where families are having difficulty using housing vouchers to find and lease decent and affordable housing. To achieve the second objective, FMRs will be increased to the 50th percentile in those metropolitan areas where a FMR increase is most needed to promote residential choice, help families move closer to areas of job growth, and deconcentrate poverty. Where it is determined that a FMR increase is needed in a metropolitan area, the increased FMR applies to all the HUD programs that use FMRs in that area.

Section II of this preamble which immediately follows further discusses how HUD intends to achieve these two objectives through its new FMR policy.

II. Increasing the Proportion of Voucher-Holders That Find Housing and Expanding Housing Opportunities Throughout the Metropolitan Area

Ensuring that voucher-holders are successful in finding decent affordable housing. In many areas, HUD's current FMRs based on the 40th percentile rent are adequate to allow low-income families with housing vouchers to find and lease decent and affordable housing. In some areas, however, these FMRs are inadequate to enable these families to lease decent and affordable units. HUD's new FMR policy authorizes PHAs to use voucher payment standards based on a 50th percentile rent (rather than the published 40th percentile FMR) where fewer than three-fourths of the families issued vouchers succeed in using them to find and lease housing.

Unlike HUD's former certificate program, in which maximum subsidy levels were governed by the FMR, maximum subsidies under the new Housing Choice Voucher program are governed by a ''payment standard.'' Rather than being required to set subsidy levels at the FMR that applies to the entire FMR area—which may be too low or too high for the particular communities they serve—PHAs have discretion, without requesting HUD approval, to set voucher payment standard amounts anywhere between 90 and 110 percent of the published FMR for each unit size. PHAs also may set different payment standard amounts within this range for designated parts of the FMR area. This gives PHAs substantial flexibility to adapt the voucher program to local market conditions.

Most PHAs can run a successful voucher program within this normal 90 to 110 percent range of the current published 40th percentile FMR. In some cases, however, even the maximum 110 percent of the FMR is too low to enable families to find suitable housing with a voucher. The new policy addresses this problem by providing that where a PHA has increased its voucher payment standard to 110 percent of the FMR, but still finds that fewer than 75 percent of all families issued rental vouchers over the course of six months have become participants in the voucher program, the PHA will be eligible to set its payment standard based on a 50th percentile rent (rather than the published 40th percentile FMR).

PHAs that qualify for the higher payment standard amounts will still retain the flexibility to vary their payment standard amounts. The range of payment standards available to them will simply be 90 to 110 percent of a 50th percentile rent (rather than 90 to 110 percent of a published 40th percentile FMR).

This policy which is directed to achieving higher success rates among voucher-holders in finding decent and affordable housing is implemented in § 982.503(e).

Ensuring that low-income families have access to a broad range of housing opportunities throughout the metropolitan area. Another objective of the new policy is to ensure that low-income families are free to move to

neighborhoods of their choice throughout the metropolitan area—to have access to a broad range of housing opportunities. Families should not be restricted by low subsidy levels to a narrow range of neighborhoods, and in particular should not be restricted to areas of high poverty concentration. Moreover, to promote welfare-to-work objectives, families with tenant-based rental assistance should have access to housing in areas of job growth or with good transportation access to job centers.

To advance this objective, the new policy provides that HUD will increase FMRs to the 50th percentile in metropolitan areas where there is both: concentration among voucher-holders and evidence suggesting that this problem may be due to the distribution of affordable rental units in the area. This two-part test ensures that scarce resources are properly targeted on the areas most in need of assistance. As a first step in identifying the areas in need of assistance, there obviously needs to be evidence of concentration among low-income families. Because this concentration may be due to low FMRs or to other factors that are unrelated to FMRs, such as family choice, HUD has added a second test to identify those areas where affordable rental housing is not well-distributed throughout the metropolitan area.

Specifically, HUD will increase FMRs to the 50th percentile for metropolitan areas that HUD determines meet the following criteria at the time of annual publication of the FMRs:

- The FMR area contains at least 100 census tracts;
- 70 percent or fewer of the census tracts with at least 10 two bedroom rental units are census tracts in which at least 30 percent of the two bedroom rental units have gross rents at or below the two bedroom FMR set at the 40th percentile rent; and
- 25 percent or more of the tenant-based rental program participants in the FMR area reside in the five percent of the census tracts within the FMR area that have the largest number of program participants.

For the purposes of this analysis, census tracts have been identified as ''accessible'' to voucher-holders where at least 30 percent of the two-bedroom rental units in the tract fell below the 40th percentile FMR in the last decennial census.

Because mobility is an issue primarily for large metropolitan areas, this aspect of the new FMR policy provides for FMR increases only in metropolitan areas with more than 100 census tracts.

A PHA with jurisdiction in an area with a published FMR at the 50th percentile rent to provide a broad range of housing opportunities may choose to establish its payment standards between 90 and 110 percent of the 50th percentile FMR in accordance with § 982.503(b)(1)(i). However, in the event a PHA determines that its jurisdiction does not require higher payment standards based on the 50th percentile the PHA may request HUD approval to keep or establish payment standards below 90 percent of the 50th percentile FMR in accordance with § 982.503(b)(2).

This aspect of the new FMR policy which is directed at ensuring a broad range of housing opportunities for section 8 voucher holders is being implemented in § 888.113(c).

As provided in this rule, there may be circumstances in which PHAs that had been authorized to use FMRs set at the 50th percentile rent may be required to use FMRs set at the 40th percentile rent. This would occur if the FMR were set at the 50th percentile rent to provide a broad range of housing opportunities throughout a metropolitan area for three years, but the concentration of voucher holders in the metropolitan area did not lessen and the PHA issuing the voucher did not meet minimum deconcentration objectives. HUD's existing regulations in 24 CFR part 982 provide that a family is not subject to a subsidy reduction because of a reduction in the payment standard until the second regular reexamination of family income and composition following such a payment standard reduction. After this protection period of 13 to 24 months, depending on the timing of recertifications for a family, the family would no longer be protected from the reduction in federal subsidy and thus would have to pay a greater share of rent or move. This rule would provide the same level of protection for families who live in an area where PHAs are no longer authorized to use the 50th percentile FMR.

III. PHA Performance Measurement

HUD is committed to ensuring that its funding to PHAs is spent in an efficient manner that achieves the desired programmatic outcomes. HUD believes that PHAs that adopt payment standard amounts based on the 50th percentile rent to increase success rates of families leasing housing must be held accountable for results through the use of new performance measurements. Accordingly, the interim rule amends HUD's Section 8 Management Assessment Program (SEMAP) regulations in 24 CFR 985.3(p) to provide how the PHA's actions to increase success rates may be measured.

To similar effect, PHAs that choose to utilize the higher FMRs awarded to promote mobility and deconcentration (as indicated by the adoption of payment standards in excess of the new 50th percentile FMR) will be measured under SEMAP to determine their progress in achieving deconcentration.

To allow time for the full effects of the higher FMRs or payment standards to be felt, the new SEMAP measures will not apply during the first year in which the 50th percentile rent is utilized.

IV. This Interim Rule and Related Initiatives

HUD believes that implementation of the new FMR policy through this interim rule (as described above and reflected in the regulatory text that follows) will increase the effectiveness of HUD's programs in assisting families find and lease decent and affordable housing, and increase the pool of housing units available for rent by voucher holders. HUD recognizes, however, that increasing FMRs and allowing PHAs to adopt a higher payment standard may not be sufficient to achieve the results HUD is seeking through this new policy. HUD recognizes that PHAs must also promote and assist the families they serve by providing better housing search assistance. HUD will promote PHA efforts and initiatives to enhance the level and scope of housing search assistance provided and increase the availability of information that explains how the voucher program works.

V. Specific Issues for Comment

HUD seeks comments on its new FMR policy and the implementation of this policy as provided in this interim rule. HUD specifically seeks comment on the following issues:

1. HUD solicits comment on whether the higher FMRs adopted to ensure that low-income families have access to a broad range of housing opportunities throughout the metropolitan area should apply to all HUD programs that use FMRs or just to the Housing Choice Voucher program. Currently, HUD publishes a single FMR for each bedroom size in each FMR area. If the higher FMRs were applied only to the Housing Choice Voucher program, and the current FMRs were applied to other HUD programs, HUD would be required to publish two different sets of FMRs for the same FMR area which could cause confusion. On the other hand, utilizing the higher FMRs in connection with other HUD programs would have cost and policy implications.

Among other purposes, the FMRs published by HUD are used (1) to establish payment standards for the Housing Choice Voucher program; (2) to determine initial contract rents in new commitments for Section 8 project-based assistance (e.g., the project-based voucher program); (3) to determine whether comparability applies to adjustment of contract rents during the term of an existing Housing Assistance Payments contract in the Section 8 new construction, substantial rehabilitation and moderate rehabilitation programs; (4) as a limit on renewal rents for certain Section 8 projects; and (5) to determine eligibility for mark-up-to-market and the maximum rent that may be granted for that program. FMRs are also used to determine subsidy levels in the HOME tenant-based rental assistance program and maximum rent levels in multifamily rental housing developed with HOME funds. HUD welcomes comments that assess the costs and benefits of utilizing the higher FMRs in connection with HUD programs other than the Section 8 Housing Choice Voucher Program.

2. HUD invites proposals on how best to allow State, regional, and multi-jurisdictional PHAs to justify and implement the success-rate payment standard, including whether multi-jurisdictional PHAs should be able to request success rate payment standards for only one or more jurisdictions, and if so, what data should be required to justify such a request and measure performance.

3. HUD also solicits comments on the SEMAP requirements that will apply to PHAs that take advantage of the 50th percentile rent under the terms of this rule. Although the SEMAP rule changes will take effect on the published effective date, the new SEMAP standards will not be implemented for rating purposes until the second PHA fiscal year following implementation of higher payment standards based on the 50th percentile FMR. The final rule, responding to any comments received on the rule, will be published for effect before any ratings are assigned for the new SEMAP standards.

VI. Publication of FMRs

Section 8(c) of the U.S. Housing Act of 1937 (1937 Act) requires the Secretary of HUD to publish FMRs periodically, but not less frequently than annually. HUD's regulations reflect this statutorily required process. Section 888.115 provides that HUD will publish FMRs at least annually. Both section 8(c) of the 1937 Act and § 888.115 also provide that HUD first publish proposed FMRs and provide a comment period for the proposed FMRs of at least 30 days. For the areas that meet the three criteria described earlier in this preamble, HUD will be publishing at a later date the proposed FMRs at the 50th percentile for comment.

VII. Justification for Interim Rulemaking

In general, HUD publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. Part 10, however, provides for exceptions from that general rule where HUD finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when the prior public procedure is ''impracticable, unnecessary, or contrary to the public interest'' (24 CFR 10.1). HUD finds that good cause exists to publish this rule for effect without a delay in effectiveness that would result from first soliciting public comment, in that such a delay in the implementation of this rule would be contrary to the public interest.

With the recent merger of HUD's tenant-based certificate and voucher programs into a new Housing Choice Voucher program, HUD has made significant strides in increasing housing choice for voucher holder families. However, even with HUD's own investment in expanding the supply of affordable housing and a booming economy, there are a record number of families with worst case housing needs. The nation's strong economy is actually pushing up rents, and as the economy has grown stronger, it has become more difficult in some markets for voucher holders to find affordable housing. In many communities, Housing Choice vouchers holders are literally being priced out of the market, and some recipients are being forced to return their vouchers because they cannot find suitable housing that qualifies under HUD's existing FMR policy. Families have a minimum of 60 days in which to locate suitable housing; PHAs have the discretion to extend this search time.

Over the last several months, PHAs, low-income families, and State and local officials have contacted HUD about the increasing shortage of available affordable housing in certain metropolitan areas and their increasing concern about the growing number of voucher holders who are unsuccessful in finding and leasing affordable housing. Those involved in and affected by this housing issue acknowledge that HUD has done much to increase housing choice, but have requested that HUD take action to increase the pool of rental housing options affordable to families with vouchers, and thereby make housing choice a real opportunity for all voucher holders. These constituents advise that HUD's Fair Market Rents are unrealistically low in certain rental markets, and that HUD's FMRs must be raised to reflect the changing market conditions and assist voucher holder.

Issuance and implementation of this rule, which puts in place the new FMR policy described in this preamble, responds to these concerns. The new FMR policy will significantly increase the pool of housing affordable to voucher holders in difficult rental markets. While HUD's new FMR policy does not adopt all measures requested by HUD constituents to address housing availability problems and concentration of poverty, the rule is a significant step forward in resolving these concerns. The new FMR policy, when implemented, will offer relief to those areas where market conditions are contributing to difficulties that voucher holders experience in successfully using Housing Choice vouchers.

Delaying the effectiveness of this rule to first solicit prior public comment would only contribute to the significant housing problems already documented and experienced in these areas. As noted, HUD has heard from the public on this issue and their comments have been that FMRs need to be raised as soon as possible to a level that will provide relief in tight markets.

For the reasons stated above, HUD believes that good cause exists to publish this rule for effect without prior public comment. HUD also recognizes, however, the value of public comment in the development of its regulations. HUD has, therefore, issued this rule on an interim basis and has provided the public with a 45-day comment period. HUD welcomes comment on the regulatory amendments made by this interim rule. The public comments will be addressed in the final rule.

VIII. Findings and Certifications

Environmental Impact

A Finding of No Significant Impact with respect to the environment as required by the National Environmental Policy Act (42 U.S.C. 4321–4374) is unnecessary, since the Housing Choice Voucher Program is categorically excluded from the Department's National Environmental Policy Act procedures under 24 CFR 50.19(c)(d).

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review.* OMB determined

that this rule is an ''economically significant regulatory action'' under section 3(f) of the Order because this rule when fully implemented will have an annual effect on the economy of $100 million or more. In accordance with the Executive Order and OMB's determination, HUD has prepared an economic analysis for this rule.

HUD's economic analysis estimates the increased level of transfers that would result from implementation of the interim rule. The economic analysis measures transfers because in economic terms, HUD's tenant-based program provide transfers from the general population to program participants, transfers that enable the program participants to enjoy better housing and have more income left over after rent for other needs. Changes in the regulations governing these transfers do not generate costs or benefits in economic terms and, therefore, the economic analysis does not involve a comparison of costs and benefits. The actual increase in transfers in the year with highest increase (year 5 of the five years studied) is $174 million. This is 1.8 percent of total program transfers that year. The economic analysis assumes the new FMR policy provided by this rule would be implemented in Fiscal Year 2001. The economic analysis for this rule, which presents HUD's detailed analysis, is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, DC 20410–0500.

Additionally, any changes made to this rule as a result of review under Executive Order 12866 are identified in the docket file for this rule, which is also available for public inspection in the Office of the Rules Docket Clerk.

Congressional Review of Major Final Rules

This rule is a ''major rule'' as defined in Chapter 8 of 5 U.S.C. The rule will be submitted for Congressional review in accordance with this chapter at the final rule stage.

Regulatory Flexibility Act

The Secretary has reviewed this rule before publication and by approving it certifies, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this rule would not have a significant economic impact on a substantial number of small entities because FMRs do not change the rent from that which would be charged if the unit were not in the program. While HUD has determined that this rule would not have a significant economic impact on a substantial number of small entities, HUD welcomes any comments regarding alternatives to this rule that would meet HUD's objectives, as described in this preamble, and would be less burdensome to small entities.

Federalism Impact

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule would not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), establishes requirements for Federal agencies to assess the effects of regulatory actions on State, local, and tribal governments, and the private sector. This rule does not impose any Federal mandates on any State, local, or tribal governments or the private sector within the meaning of Unfunded Mandates Reform Act of 1995.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number if 14.156, Lower-Income Housing Assistance Program (Section 8).

List of Subjects

24 CFR Part 888

Grant programs—housing and community development, Rent subsidies.

24 CFR Part 982

Grant program—housing and community development, Rent subsidies.

24 CFR Part 985

Grant programs—housing and community development, Rent subsidies.

Accordingly, title 24 of the Code of Federal Regulations is amended as follows:

PART 888—SECTION 8 HOUSING ASSISTANCE PAYMENT PROGRAM—FAIR MARKET RENTS AND CONTRACT RENT ANNUAL ADJUSTMENT FACTORS

1. The authority citation for part 888 continues to read as follows:

Authority: 42 U.S.C. 1437c, 1437f, and 3535(d).

2. In § 888.113, paragraph (a) is revised, paragraphs (b) through (e) are redesignated as paragraphs (d) through (g), the heading of newly redesignated paragraph (f) is revised, newly redesignated paragraph (g) is revised, and new paragraphs (b) and (c) are added to read follows:

§ 888.113 Fair market rents for existing housing: Methodology.

(a) *Basis for setting fair market rents.* Fair Market Rents (FMRs) are estimates of rent plus the cost of utilities, except telephone. FMRs are housing market-wide estimates of rents that provide opportunities to rent standard quality housing throughout the geographic area in which rental housing units are in competition. The level at which FMRs are set is expressed as a percentile point within the rent distribution of standard quality rental housing units in the FMR area. FMRs are set at either the 40th or 50th percentile rent—the dollar amount below which the rent for 40 or 50 percent of standard quality rental housing units falls. The 40th or 50th percentile rent is drawn from the distribution of rents of all units that are occupied by recent movers. Adjustments are made to exclude public housing units, newly built units and substandard units.

(b) *Setting FMRs at the 40th or 50th percentile rent.* Generally HUD will set the FMRs at the 40th percentile rent. HUD will set FMRs at the 50th percentile only in accordance with paragraph (c) of this section.

(c) *Setting FMRs at the 50th percentile rent to provide a broad range of housing opportunities throughout a metropolitan area.* (1) HUD will set the FMRs at the 50th percentile rent for all unit sizes in each metropolitan FMR area that meets all of the following criteria at the time of annual publication of the FMRs:

(i) The FMR area contains at least 100 census tracts;

(ii) 70 percent or fewer of the census tracts with at least 10 two bedroom rental units are census tracts in which at least 30 percent of the two bedroom rental units have gross rents at or below the two bedroom FMR set at the 40th percentile rent; and

(iii) 25 percent or more of the tenant-based rental program participants in the

FMR area reside in the 5 percent of the census tracts within the FMR area that have the largest number of program participants.

(2) If the FMRs are set at the 50th percentile rent in accordance with paragraph (c)(1) of this section, HUD will set the FMRs at the 50th percentile rent for a total of three years.

(i) At the end of the three-year period, HUD will continue to set the FMRs at the 50th percentile rent only so long as the concentration measure for the current year is less than the concentration measure at the time the FMR area first received an FMR set at the 50th percentile rent. HUD will publish FMRs based on the 40th percentile rent for FMR areas that do not qualify for continued use of the 50th percentile rent.

(ii) For purposes of this section, the term ''concentration measure'' means the percentage of tenant-based rental program participants in the FMR area who reside in the 5 percent of the census tracts within the FMR area that have the largest number of program participants.

(iii) FMR areas that do not meet the test for continued use of FMRs set at the 50th percentile will be ineligible to use FMRs set at the 50th percentile for a period of three years.

(iv) A PHA whose jurisdiction includes one or more FMR areas that are no longer eligible to use FMRs set at the 50th percentile may be eligible for a higher payment standard under § 982.503(f).

* * * * *

(f) *Unit size adjustments.* * * *

(g) *Manufactured home space rental.* The FMR for a manufactured home space rental (for the voucher program under part 982 of this title) is:

(1) 40 percent of the FMR for a two bedroom unit; or

(2) When approved by HUD on the basis of survey data submitted in public comments, either the 40th or 50th percentile as applicable of the rental distribution of manufactured home spaces for the FMR area. HUD accepts public comments requesting revision of the proposed manufactured home spaces FMRs for areas where space rentals are thought to differ from 40 percent of the FMR for a two-bedroom unit. To be considered for approval, the comments must contain statistically valid survey data that show either the 40th or 50th percentile manufactured home space rent (including the cost of utilities for the manufactured home) for the FMR area. Once approved, the revised manufactured home space FMRs establish new base-year estimates that will be updated annually using the same data used to update the FMRs.

PART 982—SECTION 8 TENANT BASED ASSISTANCE: HOUSING CHOICE VOUCHER PROGRAM

3. The authority citation for part 982 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

4. In § 982.503, paragraphs (b)(2), (c)(2) and the introductory paragraph of (c)(3)(i) are revised, paragraph (e) is redesignated as paragraph (g), and new paragraphs (e) and (f) are added to read as follows:

§ 982.503 Voucher tenancy: Payment standard amount and schedule.

* * * * *

(b) * * *

(2) The PHA must request HUD approval to establish a payment standard amount that is higher or lower than the basic range. HUD has sole discretion to grant or deny approval of a higher or lower payment standard amount. Paragraphs (c) and (e) of this section describe the requirements for approval of a higher payment standard amount (''exception payment standard amount'').

(c) *HUD approval of exception payment standard amount.* * * *

(2) *Above 110 percent of FMR to 120 percent of published FMR.* (i) The HUD Field Office may approve an exception payment standard amount from above 110 percent of the published FMR to 120 percent of the published FMR (upper range) if the HUD Field Office determines that approval is justified by either the median rent method or the 40th or 50th percentile rent method as described in paragraph (c)(2)(i)(B) of this section (and that such approval is also supported by an appropriate program justification in accordance with paragraph (c)(4) of this section).

(A) *Median rent method.* In the median rent method, HUD determines the exception payment standard amount by multiplying the FMR times a fraction of which the numerator is the median gross rent of the exception area and the denominator is the median gross rent of the entire FMR area. In this method, HUD uses median gross rent data from the most recent decennial United States census, and the exception area may be any geographic entity within the FMR area (or any combination of such entities) for which median gross rent data is provided in decennial census products.

(B) *40th or 50th percentile rent method.* In this method, HUD determines that the area exception payment standard amount equals either the 40th or 50th percentile of rents for standard quality rental housing in the exception area. HUD determines whether the 40th or 50th percentile rent applies in accordance with the methodology described in § 888.113 of this title for determining FMRs. A PHA must present statistically representative rental housing survey data to justify HUD approval.

(ii) The HUD Field Office may approve an exception payment standard amount within the upper range if required as a reasonable accommodation for a family that includes a person with disabilities.

(3) *Above 120 percent of published FMR.* (i) At the request of a PHA, the Assistant Secretary for Public and Indian Housing may approve an exception payment standard amount for the total area of a county, PHA jurisdiction, or place if the Assistant Secretary determines that:

* * * * *

(e) *HUD approval of success rate payment standard amounts.* In order to increase the number of voucher holders who become participants, HUD may approve requests from PHAs whose FMRs are computed at the 40th percentile rent to establish higher, success rate payment standard amounts. A success rate payment standard amount is defined as any amount between 90 percent and 110 percent of the 50th percentile rent, calculated in accordance with the methodology described in § 888.113 of this title.

(1) A PHA may obtain HUD Field Office approval of success rate payment standard amounts provided the PHA demonstrates to HUD that it meets the following criteria:

(i) Fewer than 75 percent of the families to whom the PHA issued rental vouchers during the most recent 6 month period for which there is success rate data available have become participants in the voucher program;

(ii) The PHA has established payment standard amounts for all unit sizes in the entire PHA jurisdiction within the FMR area at 110 percent of the published FMR for at least the 6 month period referenced in paragraph (e)(1)(i) of this section and up to the time the request is made to HUD; and

(iii) The PHA has a policy of granting automatic extensions of voucher terms to at least 90 days to provide a family who has made sustained efforts to locate suitable housing with additional search time.

(2) In determining whether to approve the PHA request to establish success rate payment standard amounts, HUD will consider whether the PHA has a

SEMAP overall performance rating of ''troubled''. If a PHA does not yet have a SEMAP rating, HUD will consider the PHA's SEMAP certification.

(3) HUD approval of success rate payment standard amounts shall be for all unit sizes in the FMR area. A PHA may opt to establish a success rate payment standard amount for one or more unit sizes in all or a designated part of the PHA jurisdiction within the FMR area.

(f) *Payment standard protection for PHAs that meet deconcentration objectives.* Paragraph (f) of this section applies only to a PHA with jurisdiction in an FMR area where the FMR had previously been set at the 50th percentile rent to provide a broad range of housing opportunities throughout a metropolitan area, pursuant to § 888.113(c), but is now set at the 40th percentile rent.

(1) Such a PHA may obtain HUD Field Office approval of a payment standard amount based on the 50th percentile rent if the PHA scored the maximum number of points on the deconcentration bonus indicator in § 985.3(h) in the prior year, or in two of the last three years.

(2) HUD approval of payment standard amounts based on the 50th percentile rent shall be for all unit sizes in the FMR area that had previously been set at the 50th percentile rent pursuant to § 888.113(c). A PHA may opt to establish a payment standard amount based on the 50th percentile rent for one or more unit sizes in all or a designated part of the PHA jurisdiction within the FMR area.

* * * * *

PART 985—SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)

5. The authority citation for part 985 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f and 3535(d).

6. Section 985.3 is amended by amending paragraph (h)(1) introductory text to add two new sentences to the beginning of the paragraph and adding a new paragraph (p) to read as follows:

§ 985.3 Indicators, HUD verification methods and ratings.

* * * * *

(h) *Deconcentration bonus.* (1) Submission of deconcentration data in the HUD-prescribed format for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50th percentile rent to provide access to a broad range of housing opportunities throughout a metropolitan area in accordance with § 888.113(c) of this title, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMR set at the 50th percentile rent. Submission of deconcentration data for this indicator is optional for all other PHAs. * * *

* * * * *

(p) *Success rate of voucher holders.* (1) This indicator shows whether voucher holders were successful in leasing units with voucher assistance. This indicator applies only to PHAs that have received approval to establish success rate payment standard amounts in accordance with § 982.503(e). This indicator becomes initially effective for the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.

(2) HUD verification method: MTCS Report.

(3) *Rating (5 points):* (i) The proportion of families issued rental vouchers during the last PHA fiscal year that have become participants in the voucher program is more than the higher of:

(A) 75 percent; or

(B) The proportion of families issued rental vouchers that became participants in the program during the six month period utilized to determine eligibility for success rate payment standards under § 982.503(e)(1) plus 5 percentage points; and

(ii) The percent of units leased during the last PHA fiscal year was 95 percent or more, or the percent of allocated budget authority expended during the last PHA fiscal year was 95 percent or more following the methodology of § 985.3(n).

Dated: September 12, 2000.

Andrew Cuomo,

Secretary.

[FR Doc. 00–24922 Filed 9–29–00; 8:45 am]

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Federal Register

Monday,
October 2, 2000

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Parts 43 and 45

Safe Disposition of Life-Limited Aircraft Parts; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 43 and 45

[Docket No. FAA–2000–8017; Notice No. 00–11]

RIN 2120–AH11

Safe Disposition of Life-Limited Aircraft Parts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action responds to the Wendall H. Ford Investment and Reform Act for the 21st Century by proposing that all persons who remove any life-limited aircraft part be required to have a method to prevent the installation of that part after it has reached its life limit. This action would reduce the risk of life-limited parts being used beyond their life limits. This proposal would also require that manufacturers of life-limited parts provide instructions on how to mark a part showing its life limit, when someone removing such a part requests it.

DATES: Comments must be received on or before January 30, 2001. Comments on the information collection requirements must be submitted on or before December 1, 2000.

ADDRESSES: Address your comments to the Docket Management System (DMS), U.S. Department of Transportation, Room Plaza Level 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number ''FAA–2000–8017'' at the beginning of your comments, and you should submit two copies of your comments.

You may also submit comments through the Internet to http://dms.dot.gov. You may review the public docket containing comments to these proposed regulations in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Al Michaels, Flight Standards Service, AFS–300, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–7501, facsimile (202) 267–5115, or e-mail: albert.michaels@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed action by submitting such written data, views, or arguments, as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this document also are invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket or notice number and be submitted in duplicate to the Docket Management System address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking, will be filed in the docket.

The Administrator will consider all comments received on or before the closing date before taking action on this proposed rulemaking. Comments filed late will be considered as far as possible without incurring expense or delay. The proposals in this document may be changed in light of the comments received.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) web page (http://dms.dot.gov/search).

(2) On the search page type in the last four digits of the Docket number shown at the beginning of this notice. Click on ''search.''

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the document number for the item you wish to view.

You can also get an electronic copy using the Internet through FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the **Federal Register**'s web page at http://www.access.gpo.gov/su_docs/aces/aces140.html.

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number and notice number of this rulemaking.

Background

The FAA has found life-limited parts that exceeded their life-limits installed on type-certificated products during accident investigations and routine surveillance. Although such installation of life-limited parts violates existing FAA regulations, concerns have arisen regarding the disposition of these life-limited parts when they have reached their life limits.

Concerns over the use of life-limited aircraft parts led Congress to pass a law requiring the safe disposition of these parts when they have reached their life limits. The Wendall H. Ford Investment and Reform Act for the 21st Century (Public Law 106–181), added section 44725 to Title 49, United States Code, as follows:

Sec. 44725. Life-Limited Aircraft Parts

(a) IN GENERAL—The Administrator of the Federal Aviation Administration shall conduct a rulemaking proceeding to require the safe disposition of life-limited parts removed from an aircraft. The rulemaking proceeding shall ensure that the disposition deter installation on an aircraft of a life-limited part that has reached or exceeded its life limits.

(b) SAFE DISPOSITION—For the purposes of this section, safe disposition includes any of the following methods:

(1) The part may be segregated under circumstances that preclude its installation on an aircraft.

(2) The part may be permanently marked to indicate its used life status.

(3) The part may be destroyed in any manner calculated to prevent reinstallation in an aircraft.

(4) The part may be marked, if practicable, to include the recordation of hours, cycles, or other airworthiness information. If the parts are marked with cycles or hours of usage, that information must be updated every time the part is removed from service or when the part is retired from service.

(5) Any other method approved by the Administrator.

(c) * * *

(d) PRIOR-REMOVED LIFE-LIMITED PARTS—No rule issued under subsection (a) shall require the marking of parts removed from aircraft before the effective date of the rules issued under subsection (a), nor shall any such rule forbid the installation of an otherwise airworthy life-limited part.

Existing regulations are not as specific as the legislation governing the safe disposition of life-limited parts. There are no requirements for persons to safely disposition life-limited parts that have reached their life limits. This proposal would require all life-limited parts to be controlled in a manner to prevent installation on a type-certificated product (See sec 21.1(b)) after they have reached their life limit. However, the regulations require that each registered owner or operator under

§ 91.417(a)(2)(ii) and each certificate holder under § 121.380(a)(2)(iii) or § 135.439(a)(2)(ii), maintain records showing ''the current status of life-limited parts of each airframe, engine, propeller, rotor, and appliance.'' This proposal would provide additional controls for life-limited parts that would reduce the risk of parts being installed in type-certificated products after reaching their life limits.

This statute requires the FAA to issue a rule ensuring the safe disposition of life-limited aircraft parts. Congress also provided civil penalties for violations of this statute.

Current Requirements

Existing regulations require specific markings be placed on all life-limited parts at the time of manufacture. This includes permanently marking the part with a part number (or equivalent) and a serial number (or equivalent). See 14 CFR 45.14.

The type design of an aircraft, aircraft engine, or propeller includes the Airworthiness Limitations section that describes life limits for parts installed on the product. See 14 CFR 21.31(c) and 14 CFR 25 appendix H 25.4.

In order for an aviation product to comply with its type design, the life-limited parts installed on it must fall within the acceptable ranges described in the Airworthiness Limitations section. For this reason, installation of a life-limited part after the mandatory replacement time has been reached would be a violation of the maintenance regulations. Section 43.13(b) requires that maintenance work be completed so that the product worked on ''will be at least equal to its original or properly altered condition.* * *''

Persons who install parts do not always have adequate information to determine a part's current life status. In particular, documentation problems may mislead an installer concerning the actual useful life remaining for a life-limited part.

The purpose of this proposed rule is to provide for the data needs of a subsequent installer to prevent the installation of a previously removed life-limited part that has reached its life limit. This proposal would reduce the risk of life-limited parts being used beyond their life-limits.

Section-by-Section Discussion of the Proposals

Section 43.1 Applicability

The removal, storage, and disposal of parts is closely related to the maintenance of aircraft. We propose to amend the applicability of part 43.

Section 43.10 Disposition of Life-Limited Aircraft Parts

Part 43 would be amended by adding a new section to incorporate the new legislation. Paragraph (a) proposes definitions for ''life-limited part'' and ''life status.''

''Life-limited part'' would be defined to mean any part for which a mandatory replacement time is specified in the Airworthiness Limitations section of a type certificate holder's maintenance manual or Instructions for Continued Airworthiness.

''Life status'' would be defined to mean the accumulated cycles, hours, or any other mandatory replacement time of a life-limited part.

Paragraph (b) proposes requirements for the safe disposition of any life-limited part that is removed from a type-certificated product (see § 21.1(b)) and has reached its life limit. Generally, a type-certificated product incorporates life-limited parts. The method used must prevent the part from being installed after it has reached its life limit. Generally, this is accomplished by ensuring that the life status of the part is readily available.

In accordance with the statute, this proposal would apply only to life-limited aircraft parts removed after the effective date of the final rule. Existing recordkeeping and storage regulations will continue to apply to the control of life-limited parts removed before the effective date of this rule.

This paragraph provides that each person removing a life-limited part from a type-certificated product must ensure that the part is controlled using one of the methods in paragraphs (b)(1) through (6) of this section. The person who removes the part need not be the same person who implements the requirements of paragraphs (b)(1) through (6). For example, an air carrier mechanic removing a part might not personally control the part in accordance with one of the methods described in paragraph (b) (1) through (6) of this section, but may give the part to the air carrier's material control department to disposition in accordance with its procedures manual. The air carrier's procedures must ensure the part can not be installed in a type-certificated product after it has reached its life limit.

The first method for controlling a life-limited part, in paragraph (b)(1), is to segregate it under circumstances that preclude its installation on a type-certificated product. These circumstances must include, at least, keeping a record of the serial number and current life status of the part, and ensuring the part is segregated from serviceable parts. In this way the parts retrieved from inventory would be new, or records would be available to indicate the life status of the part.

Paragraph (b)(2) provides that the part may be permanently and legibly marked, when practical, to indicate its life status. The life status must be updated each time the part is removed from service. We expect that permanent marking will be used mostly for parts that are permanently removed from service. If they are not permanently removed from service, this marking must be accomplished in accordance with the manufacturer's marking instructions, as required under proposed § 45.14. This will ensure the integrity of the part is maintained.

Paragraph (b)(3) provides that the part may be destroyed in any manner that prevents installation in a type-certificated product. Advisory Circular (AC) No. 21–38, Disposition of Unsalvageable Aircraft Parts and Materials, provides guidance for destruction of parts.

Paragraph (b)(4) proposes that the part may be marked, if practical, to include the life status. This marking must be accomplished in accordance with the manufacturer's marking instructions, as required under proposed § 45.14, to maintain the integrity of the part. When a part is marked with its life status and installed in a type-certificated product, the life status must be updated each time the part is removed from service. When the part is retired from service, it may be marked to indicate current life status, or it may be destroyed, permanently marked, segregated from serviceable parts, or treated in any other manner approved by the Administrator.

The statute does not provide for tagging any life-limited parts, but does provide that FAA may approve methods other then those prescribed in proposed paragraph (b)(1) through (4). The FAA recognizes that there are cases when marking is impractical. Size, material, or geometry might make it impractical to mark the part. Proposed paragraph (b)(5) provides that if it is impractical to mark the life-limited part, a tag may be attached to the part to record the life status. The tag with current life status must be updated each time the part is removed from service. Marking is preferred over tagging because marking is integral with the part and more likely to remain on the part, therefore, tagging would only be permitted when marking is impractical. The manufacturer may provide assistance in determining whether a part may be marked or tagged. Life status information must be updated

each time the part is removed from service.

Paragraph (b)(6) provides that any other method approved by the Administrator may be used. For instance, if an air carrier or repair station currently has an approved method for handling life-limited parts that provides at least the same level of safety as (b)(1) through (b)(5), that method could be acceptable under this proposed rule.

Paragraph (c) stipulates that each person removing a life-limited part from segregation, other than for immediate installation, must ensure that the part is controlled using one of the methods in paragraphs (b)(2) through (6).

Section 45.14 Identification and disposition of critical components

Section 45.14 would be amended by adding language requiring each person producing life-limited parts to provide detailed marking instructions, when requested. For example, the producer would state what materials or methods may be used to mark the parts, and where the mark should be located on the part, to avoid adversely affecting the part. The producer would also state whether the part cannot practically be marked without compromising its integrity.

Paperwork Reduction Act

This proposal contains the following new information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Transportation has submitted the information requirements associated with this proposal to the Office of Management and Budget for its review.

Title: Safe Disposition of Life-Limited Aircraft Parts.

Summary: This proposal requires the disposition of life-limited parts. This may include marking or tagging the parts with their life status. This information must be updated each time the part is removed from service or when the part has reached its life-limit and is retired from service. Each person removing a life-limited part from a type-certificated product must ensure that the disposition of the part is controlled as required. The person removing the part need not be the same person implementing the requirements of the proposal.

Use of: This rule would support the information needs of a subsequent installer in preventing the installation into a type-certificated product of a part that has reached its life limit.

Respondents (including number of): The likely respondents to this proposed information requirement are persons responsible for removing and disposing of life-limited parts. Of about 5,000 FAA certificated repair stations, the FAA believes about 1,500 would perform most of these procedures. Although some of these procedures may be carried out on behalf of air carriers and owner/operators in general aviation, the FAA believes that most of the procedures will be performed by a certificated repair station.

Frequency: The FAA estimates each of the 1,500 certified repair stations would perform 300 such procedures as an annual average. Each of the remaining 3,500 would average 50 procedures annually. Thus, the annual frequency of information requirements is 625,000 procedures.

Annual Burden Estimate: This proposal would result in an annual recordkeeping and reporting burden as follows:

(1) there would be 625,000 removal and disposal procedures annually;

(2) the recordkeeping and recording part of each procedure would take 5 minutes; and

(3) the average fully burdened labor cost of the individuals performing the procedures is about $50 per hour.

Thus, the total annual estimated burden of Public Law 106–181, which directs this rulemaking, would be about $2,600,000, borne by a total of 5,000 respondents.

The agency is soliciting comments to—

(1) evaluate whether the proposed information requirement 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;

(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, electronic, mechanical, or other technological collection techniques or other forms of information technology.

According to the regulations implementing the Paperwork Reduction Act of 1995, (5 CFR 1320.8(b)(2)(vi)), an agency may not conduct or sponsor, a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control number for this information collection will be published in the **Federal Register**, after the Office of Management and Budget approves it.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

Economic Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. And fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million or more, in any one year (adjusted for inflation).

However, for regulations with an expected minimal impact the above-specified analyses are not required. If it is determined that the expected impact is so minimal that the proposal does not warrant a full evaluation, a statement to that effect and the basis for it is included in the evaluation.

Consistent with Department of Transportation policies and procedures for simplification, analysis, and review of regulations, this proposal is deemed to have a minimal impact, and does not warrant a full evaluation. The FAA requests comments with supporting justification regarding the FAA determination of minimal impact.

Expected Benefits

This proposed rule would decrease the possibility of installation into a type-certificated product of life-limited parts that have reached their life-limits.

In general current industry good practices already deter such installation. These practices generally reflect the direction and advice of current FAA regulatory and advisory material. See 14 CFR parts 43, 45, 91, 121 and 135, and FAA Advisory Circulars Nos. 43–9C and 20–62D. Thus, the additional benefits expected to result from the broadening and strengthening of good business practices directed by this legislation are small.

Expected Costs

It is the FAA's intent that this rulemaking would specify only the requirements necessary to bring industry into compliance with Public Law 106–181. Thus, the FAA expects that additional compliance costs would be attributable to the legislation and not to the rule.

While no existing FAA rule is as specific as this proposed rule, its requirements generally reflect industry good practices. The implementation of the legislation directing this proposed rule would add to existing requirements, and consequently to costs, by requiring that each person removing a life-limited part from a type-certificated product must control the disposition of that part by marking, tagging, segregating, destroying, or any other approved method that ensures that no life-limited part that has reached its life limit will be installed into a type-certificated product.

The FAA believes that the 5,000 FAA certificated repair stations will conduct almost all these procedures. Additional costs are estimated to average about $1,250 annually for each of the 1,500 FAA certificated repair stations most involved with the disposition of life-limited parts. The FAA assumes these repair stations annually perform an average of 300 procedures involving the safe disposition of life-limited parts. The FAA assumes the remaining 3,500 repair stations average 50 such procedures annually. Additional annual costs for these repair stations is expected to be about $200.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, § 605(b) of the 1980 act provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

Because this proposed rule imposes no economic effects, the FAA certifies that it would not have a significant impact on a substantial number of small entities.

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

In accordance with the above statute and policy, the FAA has assessed the potential effect of this proposed document and has determined that it would impose the same costs on domestic and international entities and thus has a neutral trade impact.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, enacted as Public Law 104–4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.''

This proposal does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Regulations Affecting Interstate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in title 14 of the CFR in a manner affecting interstate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions as he or she considers appropriate. Because this proposed rule, if adopted, would only apply to the subsequent use of these life-limited aircraft parts, it would not affect interstate aviation in Alaska. The FAA, therefore, specifically requests comments on whether there is justification for applying the proposed rule differently in interstate operations in Alaska.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action 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, we determined that this notice of proposed rulemaking would not have federalism implications.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this proposed rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the notice has been assessed in accordance with the Energy Policy and Conservation Act

(EPCA) Public Law 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that the notice is not a major regulatory action under the provisions of the EPCA.

List of Subjects

14 CFR Part 43

Aircraft, Aviation safety, Life-limited parts, Reporting and recordkeeping requirements.

14 CFR Part 45

Aircraft, Exports, Signs and symbols.

The Proposed Amendments

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Chapter I of Title 14, Code of Federal Regulations, as follows:

PART 43—MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION

1. Amend the authority citation for part 43 to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44703, 44705, 44707, 44711, 44713, 44717, 44725.

2. Add § 43.1(c) to read as follows:

§ 43.1 Applicability.

* * * * *

(c) This part applies to each person who removes, segregates, or dispositions a life-limited part from a type-certificated product as provided in § 43.10.

3. Add § 43.10 to read as follows:

§ 43.10 Disposition of life-limited aircraft parts.

(a) For the purposes of this section the following definitions apply.

Life-limited part means any part for which a mandatory replacement time is specified in the Airworthiness Limitations section of a type certificate holder's maintenance manual or Instructions for Continued Airworthiness.

Life status means the accumulated cycles, hours, or any other mandatory replacement time of a life-limited part.

(b) After [the effective date of the final rule], each person who removes a life-limited part from a type-certificated product must ensure that the part is controlled using one of the methods in paragraphs (b)(1) through (6) of this section. The method must prevent the part from being installed after it has reached its life limit. Approved methods include:

(1) The part may be segregated under circumstances that preclude its installation on a type-certificated product. These circumstances must include, at least—

(i) Keeping a record of the serial number and current life status of the part, and

(ii) Ensuring the part is stored separately from serviceable parts.

(2) The part may be permanently and legibly marked, if practical, to indicate its life status. The life status must be updated each time the part is removed from service. Unless the part is permanently removed from service, this marking must be accomplished in accordance with the manufacturer's marking instructions, in order to maintain the integrity of the part, as required under § 45.14 of this chapter.

(3) The part may be destroyed in any manner that prevents installation in a type-certificated product.

(4) The part may be marked, if practical, to include the life status. The life status must be updated each time the part is removed from service. This marking must be accomplished in accordance with the pertinent manufacturer's marking instructions, in order to maintain the integrity of the part, as required under § 45.14 of this chapter.

(5) If it is impractical to mark the part, a tag may be attached to the part to include the life status. The tag must be updated to reflect life status each time the part is removed from service.

(6) Any other method approved by the Administrator.

(c) Each person who removes a life-limited part from segregation as identified in paragraph (b)(1) of this section, other than for immediate installation on a type-certificated product, must ensure that the part is controlled using one of the methods in paragraphs (b)(2) through (6).

PART 45—IDENTIFICATION AND REGISTRATION MARKING

4. The authority citation for part 45 is amended to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 44109, 40113–40114, 44101–44105, 44107–44108, 44110–44111, 44504, 44701, 44708–44709, 44711–44713, 44725, 45302–45303, 46104, 46304, 46306, 47122.

5. Revise § 45.14 to read as follows:

§ 45.14 Identification and disposition of critical components

Each person who produces a part for which a replacement time, inspection interval, or related procedure is specified in the Airworthiness Limitations section of a manufacturer's maintenance manual or Instructions for Continued Airworthiness must permanently and legibly mark that component with a part number (or equivalent) and a serial number (or equivalent). When requested by a person required to comply with § 43.10 of this chapter, each person who produces a life-limited part must provide detailed marking instructions, or must state that the part cannot practicably be marked without compromising its integrity.

Issued in Washington, DC, on September 26, 2000.

L. Nicholas Lacey,

Director, Flight Standards Service.

[FR Doc. 00–25045 Filed 9–29–00; 8:45 am]

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Federal Register

Monday,
October 2, 2000

Part V

Department of Justice

Office of Juvenile and Delinquency Prevention

Program Announcement for the Girls Study Group; Notice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP (OJJDP)–1299]

Program Announcement for the Girls Study Group

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of solicitation.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is issuing a solicitation for applications from public or private agencies or organizations to assemble and convene a Girls Study Group to develop a sound theoretical and empirical foundation to guide future development, testing, and dissemination of strategies to effectively prevent and reduce girls' involvement in delinquency and violence and consequences of such involvement. It is anticipated that the Girls Study Group, in collaboration with OJJDP's new National Girls Institute, will provide State and local policymakers and practitioners with theoretically sound, culturally and developmentally appropriate, and empirically grounded strategies (program elements, principles, and policies) to prevent and reduce female delinquency and its consequences.

DATES: Applications must be received no later than 5:00 p.m. ET on December 1, 2000.

ADDRESSES: All application packages should be mailed or delivered to the Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20850; 301–519–5535. Faxed or e-mailed applications will not be accepted. Interested applicants can obtain the *OJJDP Application Kit* from the Juvenile Justice Clearinghouse at 800–638–8736. The *Application Kit* is also available at OJJDP's Web site at www.ojjdp.ncjrs.org/grants/about.html#kit. (See ''Format'' later in this announcement for instructions on application standards.)

FOR FURTHER INFORMATION CONTACT: Barbara Allen-Hagen, Social Science Analyst, Research and Program Development Division, Office of Juvenile Justice and Delinquency Prevention, at 202–307–1308 or Anne Bergan, Program Manager, Research and Program Development Division, Office of Juvenile Justice and Delinquency Prevention, at 202–514–5533.

SUPPLEMENTARY INFORMATION:

Purpose

One purpose of this project is to assist the Office of Juvenile Justice and Delinquency Prevention (OJJDP) in furthering its understanding of the risk and protective factors associated with female juvenile offending and of the consequences of such offending. Another is to identify effective strategies for communities to use in their efforts to prevent and reduce female involvement in delinquency and violence.

The successful applicant will convene a study panel, called the Girls Study Group, to review the research literature on the epidemiology and etiology of female juvenile offending and its consequences; develop a female-focused conceptual framework for the project; conduct secondary data analyses; identify effective prevention and intervention programs, policies, and strategies that promise, either through initial empirical evidence or sound theory, to be effective in preventing female delinquency and violence; identify gaps in existing research and programs; and recommend new research and program development. The Girls Study Group will collaborate with OJJDP's new National Girls Institute [1] on program development, evaluation issues, and dissemination of the Girls Study Group findings to policymakers, practitioners, and the research community.

Overview

The ultimate goal of this project is to develop the research foundation that communities need to make sound decisions on how best to prevent and reduce delinquency and violence by girls. The Girls Study Group will establish the theoretical and empirical basis for disseminating or testing prevention and intervention strategies (*i.e.,* policies, practices, and programs) for girls—effective and promising strategies that are developmentally and culturally appropriate.

This Study Group will consist of 12 to 15 individuals, such as criminologists, sociologists, statisticians, developmental psychologists, mental health professionals, juvenile justice researchers and practitioners, adolescent health specialists, domestic violence experts, and youth workers, reflecting the necessary collective expertise (both practical and theoretical) in female development and juvenile justice system involvement to undertake a comprehensive study of this kind.

The Study Group's major tasks will be to:

- Systematically review the research literature on juvenile female antisocial, delinquent, and violent behavior; child abuse and neglect; and criminal victimization.
- Develop a comprehensive theoretical framework for the project based on an examination of both the applicability of gender-neutral risk and protective factors related to girls' involvement in delinquency and the evidence for female-specific risk and protective factors.
- Explore what is known about the developmental pathways that lead to female delinquent and criminal behavior.
- Conduct secondary analyses of data sets that may shed new light on risk and protective factors, female pathways to delinquency, or effective prevention and intervention strategies for girls.
- Examine the research literature on program evaluation to identify programs, program elements, and implementation principles that are particularly effective or promising in preventing or reducing female delinquency. Also, examine child welfare, mental health, and juvenile justice public policies and practices that achieve the same. Special attention should be paid to identifying key juvenile justice system processing decisions that may have disproportionately negative consequences on female offenders and to exploring remedial policies.

In addition, the successful applicant must possess the necessary leadership, organizational, and analytical capabilities essential for the Group's success. The tasks require the ability to organize and convene a group of researchers and practitioners with recognized expertise in diverse area(s) of female juvenile delinquency, prevention research, child development, child victimization, domestic violence, treatment, and program evaluation. The successful applicant must also demonstrate the ability to lead and interact with group members in order to coordinate a comprehensive literature review, synthesize information from diverse sources, recommend future research topics, and produce interim and final reports and related publications that effectively communicate the results to a broad audience of policymakers, practitioners, and researchers.

[1] For information on the National Girls Institute, consult the OJJDP Web site at www.ojjdp.ncjrs.org/grants/current.html for a description of the program.

Background

According to the Federal Bureau of Investigation Uniform Crime Reporting (UCR) Program (1999), between 1994 and 1998, the number of arrests of juvenile females increased more (or decreased less) than male arrests in most offense categories (Snyder, 1999). In 1980, females represented 11 percent of all juvenile arrests for violent offenses. By 1998, that proportion increased to 17 percent. Although the majority of juvenile crime arrests in 1998 were of males, females represented more than one-quarter of juvenile arrests. There has been growing concern that while most juvenile arrests have been decreasing, the number of female juvenile arrests in some key offense categories such as drug and alcohol violations continues to rise.

Between 1994 and 1998, arrests of juvenile females for robbery, weapons violations, and vandalism decreased less than arrests of juvenile males in the same offense categories. In contrast, arrests of juvenile females for aggravated assault and simple assault increased (up 7 percent and 29 percent, respectively), while assault arrests for juvenile males either dropped or rose more slowly during the same period (down 18 percent and up only 4 percent, respectively). Other offenses, such as drug abuse, liquor law, curfew, and loitering violations, continued to increase for girls at a rate considerably higher than for boys. These arrest patterns are also reflected in status offenses, such as running away. Females represented more than half (58 percent) of all juveniles arrested for running away in 1998.

Additional data demonstrate the increased involvement of females in the juvenile justice system. For example, an examination of trends in juvenile court statistics shows an increase in the number of delinquency cases involving females. Between 1988 and 1997, the number of delinquency cases involving males increased 39 percent, while the number of cases involving females increased 83 percent. Over this period, the relative change in delinquency case rates was greater for females than for males in all major offense categories (Stahl, March 2000). Among females, the largest increases were in the number of person offense and drug offense cases (155 percent and 132 percent increases, respectively).

Characteristics of female juvenile offenders in the juvenile court have also changed over time (Snyder *et al.,* 1999). The majority (62 percent) of females charged with delinquent acts in 1997 were under age 16. Between 1988 and 1997, the number of delinquency cases involving females under age 16 increased 89 percent, while the number of cases involving females age 16 or over increased 74 percent. In 1997, white females accounted for 67 percent of all female juvenile delinquency cases, while black females accounted for 30 percent and females of other races accounted for 4 percent. Between 1988 and 1997, the number of cases involving females increased in all racial groups: whites, 74 percent; blacks, 106 percent; and other races, 102 percent.

Property offense cases (42 percent) accounted for the largest share of formally processed female cases in 1997. Just over one-fourth (27 percent) were person offenses, slightly less than one-fourth (24 percent) were public order offenses, and 7 percent were drug offenses. Female juvenile offenders were securely detained in 15 percent of the delinquency cases processed in 1997. This is an increase of 65 percent in the number of detention cases involving female juveniles since 1988. The number of detained cases grew more for black females (123 percent) than for white females (41 percent) during this period. Detention was used in 21 percent of public order offenses, 18 percent of person offenses, 16 percent of drug law violations, and 10 percent of property offense cases.

More than half (53 percent) of the cases involving females that were formally processed in 1997 resulted in a delinquency adjudication. Once adjudicated delinquent, female offenders received probation in the majority (60 percent) of cases. In 22 percent of the cases, female offenders were placed out of the home in a residential facility. Between 1988 and 1997, the number of cases in which the court ordered delinquent females to be placed in a residential facility increased 105 percent, while the number of formal probation cases increased 129 percent. In 1997, females represented 14 percent of juvenile offenders in residential custody facilities (Sickmund and Wan, 1999).

These increases in arrests, juvenile court cases, and formal handling of female juvenile offenders have clearly affected the composition of offenders who are involved in the juvenile justice system. Although female juvenile arrest rates are growing faster than the rates for males, the proportion of females in the juvenile justice population remains a relatively small minority. Little research has been conducted to explain why females are increasingly coming into the juvenile justice system or to examine strategic responses. Although States and local jurisdictions have traditionally designed programs and interventions primarily for males, they are now faced with a growing number of female juvenile offenders. Little is known about how juvenile females respond to these interventions, and many communities are unprepared to address the specific needs of girls who are involved or at risk of becoming involved in the juvenile justice system.

Not only are there a limited number of studies that focus specifically on female offending, many important studies either do not include females in their samples or do not analyze the female data separately (Kruttschnitt, 1994; Loeber and Farrington, 1998; West, Houser, and Scanlan, 1998). While the literature is incomplete and warrants further development, even for what currently exists, there could be more theoretical integration and practical application to guide prevention and intervention efforts at critical life/developmental stages (Guerra, 1998).

Explanations of female delinquency and criminal careers flow from vastly different disciplinary perspectives, creating a patchwork of understanding. Studies of female delinquency and crime have examined biological, psychological, and developmental factors (Pollack, 1950; Caspi *et al.,* **Federal Register** 1993; Wasserman, 1995; Broidy and Agnew, 1997; Gilligan, 1982; Hoyt and Scherer, 1998; Girls Inc., 1996); the residual effects of victimization, maltreatment, and neglect (Widom, 1989; Broidy and Agnew, 1997; Accoca and Austin, 1996; Girls Inc., 1996; Giordano *et al.,* 1999); involvement in high-risk behaviors and gangs (Weiher *et al.,* 1991; Accoca, 1999; Thornberry, 1998; Fagan, 1990; Moore and Hagedorn, 1996); gender dynamics of socialization (Steffensmeier and Broidy, forthcoming; Chesney-Lind, 1997; Fagan and Wexler, 1987); macro-level changes in the social, cultural, economic, and political status of women and their roles in society (Adler, 1975; Hartnagel, 1982); and differential processing in the juvenile justice and criminal justice systems (Ensminger, 1987; Kempf-Leonard and Sample, 2000). Some of these studies explain female delinquency and crime through contrasts with male delinquency/crime levels, patterns, and trends—with varying attention to developmental aspects of girls lives and only limited use of nonquantitative methods (Kruttschnitt, 1994). Almost none deal with the life consequence of offending, other than the criminal justice consequences, and few address the combined role of gender and race (Visher and Roth, 1986). In addition,

while there are many promising programs for girls, there is little literature on the effectiveness of various approaches (Greene, Peters, & Associates and Northwest Regional Educational Laboratory, 1998; Muller and Mihalic, 1999; Morash, Bynum, and Koons, 1998; Owen and Bloom, 2000).

Clearly, more information is needed regarding female development, the nature of female-specific risk and protective factors, and the effectiveness of intervention and prevention programs, so that those with responsibility for intervening with delinquent girls can make the most appropriate decisions and provide the best services and treatment to juvenile females.

OJJDP has had considerable involvement in issues related to girls in the juvenile justice system. The lack of gender-specific programming for females was noted in the 1992 amendments to the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended. Specifically, States are required to provide an analysis of gender bias in the juvenile justice system and of gender-specific service needs and set forth a plan for providing services to this population. This analysis must be completed in order for a State to be eligible to receive funds under OJJDP's Part B Formula Grants program. The 1992 amendments also established the State Challenge Activities Program under Title II, Part E of the JJDP Act, under which States participating in OJJDP's Formula Grants program are offered additional grant funds to support a wide range of gender-specific policies and programs (Hsia and Beyer, 2000). ''Though States have made progress in serving the female juvenile population, much more needs to be done to fill continuing gaps in services'' (Office of Juvenile Justice and Delinquency Prevention, 1998, p. 6).

In 1996, the Office of Juvenile Justice and Delinquency Prevention funded Girls Inc. for the purpose of convening a national conference on girls' issues. The report from the conference, *Prevention and Parity: Girls in the Juvenile Justice System,* identified key issues that need to be examined if the juvenile justice system is to meet the needs of girls and young women. The report relied on available research on female juvenile delinquency and at-risk behavior and highlighted promising prevention and intervention programs identified by practitioners in the field. In 1996, OJJDP funded the development of a statistical summary by the National Center for Juvenile Justice, *Girls in the Juvenile Justice System,* which examined trends in female involvement in different stages of the juvenile justice system (Poe-Yamagata and Butts, 1996). Information from these two publications, along with an Accoca article (1999) and other reports, leads to the conclusion that there is still much that is not known regarding the pathways to female delinquency and effective prevention and intervention strategies with this population and that there is a critical need in the field for sound, defensible solutions for dealing with this emerging problem.

To systematically address these concerns in FY 2000, OJJDP is funding two related programs: the National Girls Institute, designed to provide training and technical assistance to the field on girls' delinquency issues, and the Girls Study Group, the subject of this solicitation for applications. It is anticipated that there will be close collaboration between the two projects in providing critical information to the field. In addition, the Study Group will coordinate its activities with other Office of Justice Programs bureaus and other Federal agencies with an interest in this project.

Goals

The immediate goal of the Girls Study Group is to develop a sound theoretical and empirical foundation to guide future development, testing, and dissemination of strategies to effectively prevent and reduce girls' involvement in delinquency and violence and reduce the consequences of such involvement. Ultimately, it is intended that the Girls Study Group, in collaboration with the National Girls Institute, will provide State and local policymakers and practitioners with theoretically sound, culturally and developmentally appropriate, and empirically grounded strategies (program elements, principles, and policies) to prevent and reduce female delinquency and its consequences.

Although traditional, gender-neutral theories of crime causation provide reasonable explanations for less serious forms of female criminality and for gender differences in specific crime categories (*e.g.,* prostitution, status offenses, and shoplifting), existing theories do not adequately explain gender differences in the commission of serious offenses, contextual differences in criminal behavior (Steffensmeier and Broidy, forthcoming), or the recent divergence of juvenile female arrest trends from male trends. Other theoretical constructs that describe the specific role that being female plays in girls' vulnerability or invulnerability to delinquency and violence should also be explored. It will be important for the Study Group to distinguish between markers and malleable conditions, attitudes, behaviors, and relationships that are amenable to intervention strategies.

The Study Group should examine not only the epidemiology and etiology of female delinquency, but also the life consequences of adolescent girls' involvement in crime and the juvenile justice system. The results of this new research synthesis will be used to inform the dissemination and development of effective gender-appropriate prevention and intervention strategies that address gender-neutral and gender-specific risk and protective factors and causes and correlates of female delinquency. The use of a developmental context for recommending new research, program development, and programming should be considered.

Objectives

The objectives of the Girls Study Group are:

- To develop a better understanding of the trends, developmental patterns, causes, and correlates of female delinquency and violence and the social and justice system consequences of their involvement in delinquency by:
  - —Increasing empirical knowledge about the risk and protective factors related to female delinquency.
  - —Charting the developmental pathways to female offending for which girls face serious legal and/or social consequences.
  - —Determining the patterns and consequences of juvenile justice decisionmaking on female offenders and their lives, both short and long term.
- To develop a comprehensive, integrated theory of female delinquency (initiation, persistence, and desistance) that is derived from:
  - —Examination of the applicability of gender-neutral theories of delinquency and of theories derived from primarily male samples to pathways to and patterns of serious female offending.
  - —Exploration of gender-specific theories and processes for their utility in developing and testing new prevention and intervention strategies.
- To evaluate the literature on the efficacy of existing prevention and intervention programs and policies through the lens of a female-focused theory or theories of delinquency (described in the preceding objective) in order to determine which programs, program components, or program principles have

demonstrated effectiveness in preventing and reducing juvenile delinquency in females. The results of this review may support the need for further investigation and testing of programs or strategies having theoretical or demonstrated promise.

- To identify the characteristics (racial, ethnic, and cultural) and needs (developmental, psychosocial, behavioral, educational, spiritual, physical and mental health) of female juvenile offenders in the juvenile justice system for the purpose of incorporating that information into developmentally sensitive program development.
- To identify where critical information is lacking about the nature and development of female delinquency and effective prevention and intervention strategies and to recommend future research, programming, and testing to address these gaps in knowledge.

Program Strategy

A 2-year cooperative agreement will be competitively awarded to carry out the program strategy described below.

It will be the responsibility of the grantee to assemble, convene, and chair a multidisciplinary study group representing a cross section of disciplines. The group will conduct an indepth review of existing literature that accomplishes the following: (1) Reviews and synthesizes empirical and theoretical literature related to the development and characteristics of female juvenile delinquency; (2) explores the nature and role of risk and protective factors specifically related to female juvenile delinquency across the domains of individual characteristics and development, family, peer relationships, school, and community; (3) conducts secondary analyses of existing data; (4) identifies promising and effective programs for prevention and intervention; and (5) recommends future research, program development, and evaluation to address gaps in current knowledge about this population. The applicant will produce an indepth final report on the findings and recommendations of the Girls Study Group and various interim and subsequent practitioner-oriented products.

An applicant seeking funding under this initiative must address and be willing to undertake, at a minimum, the tasks described below. Specific tasks may be contracted by the applicant to other groups or individuals. An applicant that plans to use consultants in this manner should (1) clearly spell out the terms of the contract in the application and (2) address the qualifications of the contractor/consultant(s) selected to perform each task.

In developing the Program Narrative section of the application, applicants must provide a comprehensive proposal describing how they plan to achieve the goals, objectives, and tasks of the Girls Study Group as outlined in this program announcement. Greater specificity is required for the first year of the project in terms of detailed objectives, timelines, products, and budget narratives.

Task I: Assemble and Convene the Girls Study Group

The successful applicant should assemble the Girls Study Group and convene at least two meetings within the first year of the grant. The successful applicant will have the organizational capacity to organize and facilitate these meetings. The applicant must demonstrate its ability to bring together individuals with proven expertise and excellence in fields including, but not limited to, criminology, sociology, statistics, developmental psychology, mental health, adolescent health, juvenile justice research and practice, domestic violence, and youth work. Together the membership of the Girls Study Group and assigned project personnel must possess knowledge of and experience with issues of female development and familiarity with at-risk and delinquent girls. The Study Group will provide substantive and technical advice over the course of the study and perform selected tasks as determined by the applicant. For purposes of the application submission, the applicant must identify and obtain letters of agreement and resumes from at least six individuals (of a proposed 12- to 15-member group) to serve on the Study Group, describing how their background and skills meet the requirements of this project. Such commitments by prospective Study Group members are not required to be exclusive agreements with that applicant; that is, consultants may agree to participate with other applicants for the project. The applicant must briefly discuss the qualifications of each Study Group member and articulate how each member's knowledge and expertise will contribute to the overall mission of the Study Group. For the remaining positions needed to complete the Study Group, the applicant must identify only the types of disciplines, skills, and experience that are needed, not the names.

In addition to the 12 to 15 project-funded members of the Study Group, it is anticipated that representatives from the National Girls Institute will serve as ex officio members of the Girls Study Group. Designated staff from OJJDP, the Violence Against Women Office, the National Institute of Justice, and the Bureau of Justice Statistics will be invited to serve as Federal agency coordinating representatives to the Girls Study Group along with others, as OJJDP deems appropriate.

Task II: Review the Literature Review

The Study Group should review both the theoretical and empirical literature from relevant fields, including, but not limited to, criminology, sociology, developmental psychology, mental health, adolescent health, substance abuse, juvenile justice, and domestic violence, as they pertain to female delinquency. In particular, the literature review should address the objectives of the Girls Study Group, as stated above. Applicants must succinctly describe their approach to the literature in relation to the objectives listed above.

Task III: Conduct Secondary Analyses

In the course of the Study Group's work, is expected that the successful applicant will be responsible for conducting secondary analyses of data sets that are likely to contribute to the goals and objectives of the Study Group. Applicants must describe their plans for identifying potential data sets that may be proposed for analysis, determining both the scope and priority of the analysis, and conducting such analyses.

Task IV: Provide Deliverables

The applicant should describe several distinct reports and other products that it envisions being derived from the work of the Study Group. It is expected that the publications and products developed by the successful applicant will provide information relevant to the Study Group's goals and objectives. While the reports must be of a quality that would merit publication in a refereed journal, the authors must also address the needs of various practitioner audiences in the field. The authors will be expected to work closely with the National Girls Institute in facilitating the dissemination of various Study Group reports and products to relevant practitioner and policymaker audiences in the juvenile justice, child welfare, education, pediatric and adolescent health, mental health, and youth work fields.

At a minimum, the Girls Study Group should produce a number of interim, final, and summary reports on the results of its work. Three reports will be published as OJJDP Bulletins: (1) A

summary based on national studies and statistical series on the trends in female juvenile delinquency; antisocial, high-risk behavior; and victimization; and the systems' response; (2) a summary of the results of the literature review with respect to new perspectives on risk and protective factors for delinquent behavior having serious consequences for female offenders; and (3) a report on effective and promising prevention and intervention programs related to female-specific risk and protective factors. It is expected that the third report, a final report, and an executive summary will be produced during the second phase of the project. The final report will present the results of the Study Group's work and provide well-substantiated support and recommendations for further research and programming in this area.

Applicants should discuss their plans for developing reports and products in the Project Design section of the Program Narrative.

Eligibility Requirements

OJJDP invites applications from public or private agencies, organizations, institutions, or individuals. Private, for-profit organizations must agree to waive any profit or fee. Applicants must demonstrate that they have experience in coordinating and convening meetings of subject matter experts, conducting extensive literature reviews, carrying out secondary analyses, and writing reports.

In the case of joint applications, one applicant must be clearly indicated as the primary applicant (for correspondence and award purposes) and the other(s) listed as coapplicants. If contractors will be used for specific project tasks, evidence of their qualifications and willingness to undertake the specified task(s) should be provided.

To be eligible for consideration, applicants must strictly adhere to the guidelines for preparing and submitting applications regarding page length, layout, and submission deadlines.

Selection Criteria

Applicants will be evaluated and rated by a peer review panel according to the selection criteria outlined below. In addition, the extent to which the project narrative makes clear and logical connections among the components listed below will be considered in assessing a project's merits. It is further recommended that applications be organized and presented in a way that enables application reviewers to evaluate the proposal in terms of the selection criteria outlined below.

Issues To Be Addressed (25 points)

The applicant must include a clear and concise discussion of the issues related to understanding, preventing, and responding to female juvenile delinquency and its consequences for girls. The applicant must identify the most important research questions for the Girls Study Group to address. This discussion should reflect the applicant's understanding of the need for undertaking this initiative now; the anticipated challenges that face the Girls Study Group in successfully accomplishing the stated goals and objectives and ways to address those issues; and the potential utility of this project and its products for those who are dealing with or studying troubled girls, dangerous girls, and girls in the juvenile justice system.

Goals and Objectives (10 points)

The applicant must describe how it will address the stated goals and each of the objectives outlined in the solicitation. The goals and objectives must relate to the identified research questions and issues to be addressed. Any significant modification of the stated goals and objectives should be clearly justified and the implications of any variation carried through in the rest of the proposal. Objectives should specify clearly defined, measurable tasks that will enable the applicant to achieve the goals of the project.

Project Design (35 points)

Applicants should present a well developed project design that clearly delineates the specific activities, the people and other resources involved, and the time lines for accomplishing the tasks outlined in the Program Strategy, and for developing the Deliverables described above. The narrative must discuss how and when major activities for each task will be accomplished and how these tasks will build on each other to reach the project's goal and objectives. A time task chart should be included in appendix A of the application.

Management and Organizational Capability (20 points)

The applicant should include a discussion of how it will assemble, coordinate, and manage the Girls Study Group in a way that promises to achieve the stated goals and objectives. The applicant must clearly define the roles and responsibilities of key project staff, members of the Girls Study Group, and its chair(s). An organizational chart must be included in appendix B. Applicants should also discuss how they will ensure the quality and utility of the products generated from the Girls Study Group and propose how they will coordinate their activities with the National Girls Institute. The applicant must describe knowledge and experience of key staff relevant to this initiative and any organizational experience demonstrating its ability to accomplish the project objectives and to work with experts from diverse disciplines and perspectives to accomplish a common goal. The applicant must describe the process of facilitating Study Group meetings and tasks and describe in detail the panel of experts the applicant would convene for the project. Together the key project staff and the membership of the Girls Study Group must collectively possess knowledge of and experience with issues of female development and familiarity with difficult and troubled girls and girls already in the juvenile justice system, as described in the discussion of Task 1. *Each proposed Study Group member must submit a letter of agreement stating his/her commitment to participate in and contribute to the goals and objectives of the Girls Study Group.* Such commitments by prospective Study Group members are not required to be exclusive agreements. Group members' statement-of-participation letters and resumes must be attached in appendix B, along with all staff resumes. The Study Group panel should number 12 to 15 participants.

Budget (10 points)

Applicants must provide a proposed budget that is complete, detailed, reasonable, allowable, and cost effective in relation to the activities to be undertaken during the first 12-month budget period. A detailed budget narrative should be included in appendix C and conform to the guidelines in the *OJJDP Application Kit.* For the second 12-month budget period, the applicant should present a preliminary budget in appendix C without a detailed budget narrative. Applications must also conform to Federal requirements with respect to travel, equipment, and procurement policies.

Format

A program narrative, not to exceed 40 pages (excluding forms, table of contents, project abstract, certificates of confidentiality, coordination of Federal efforts, assurances, and appendix) must be submitted on 8½- by 11-inch paper, double spaced on one side of the paper in a standard 12-point font. The narrative should be preceded by a one-page project abstract, which must also

be submitted on 8½- by 11-inch paper, double-spaced on one side of the paper in a standard 12-point font. The abstract should not exceed a maximum length of 400 words. A table of contents is also required. Appendix A should contain the project's timeline with dates for initiation and completion of critical project tasks and products. Appendix B should contain an organizational chart, resumes, and letters of support from each of the proposed Study Group members and resumes for any key project staff who are not considered members of the Study Group. Appendix C should contain the detailed budge narrative. These standards are necessary to maintain fair and uniform standards among all applicants. If the application does not conform to these standards, OJJDP will deem the application ineligible for consideration.

Award Period

This project will be funded for 2 years in two 1-year budget periods. Applicants should submit a 2-year project plan. Funding after the first budget period depends on performance of the grantee, availability of funds, and other criteria established at the time of the award.

Award Amount

Up to $300,000 is available for the initial 12-month budget period. It is anticipated that year two will be funded at a similar level of support.

Privacy Certificate

U.S. Department of Justice (DOJ) regulations require that a Privacy Certificate be submitted as part of any application for a project in which information identifiable to a private person will be collected for research or statistical purposes. The purpose of the Privacy Certificate is to ensure that the applicant will comply with the confidentiality requirements of 42 U.S.C. 3789g and 28 CFR part 22, which essentially require that private information collected in the course of research activities be used only for research purposes.

Catalog of Federal Domestic Assistance (CFDA) Number

For this program, the CFDA number, which is required on the Application for Federal Assistance, Standard Form 424, is 16.542. Form 424 can be found in the *OJJDP Application Kit*, which can be obtained by contacting the Juvenile Justice Clearinghouse at 800–638–8736 or sending an e-mail request to puborder@ncjrs.org The *Application Kit* is also available online at www.ojjdp.ncjrs.org/grants/about.html#kit.

Coordination of Federal Efforts

To encourage better coordination among Federal agencies in addressing State and local needs, DOJ is requesting applicants to provide information on the following: (1) Active Federal grant award(s) supporting this or related efforts, including awards from DOJ; (2) any pending application(s) for Federal funds for this or related efforts; and (3) plans for coordinating any funds described in items (1) or (2) with the funding sought by this application. For each Federal award, applicants must include the program or project title, the Federal grantor agency, the amount of the award, and a brief description of its purpose. This statement of coordination of Federal efforts should be placed in appendix E. Include in appendix E a list of authors (by section) of this proposal and indicate whether this proposal, or portions of it, have been submitted to other Federal agencies for funding.

The term ''related efforts'' is defined for these purposes as one of the following:

- Efforts for the same purpose (*i.e.,* the proposed award would supplement, expand, complement, or continue activities funded with other Federal grants).
- Another phase or component of the same program or project (*e.g.,* to implement a planning effort funded by other Federal funds or to provide a substance abuse treatment or education component within a criminal justice project).
- Services of some kind (*e.g.,* technical assistance, research, or evaluation) to the program or project described in the application.

Delivery Instructions

All application packages should be mailed or delivered to the Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, Maryland 20850; 301–519–5535. Faxed or e-mailed applications will not be accepted. **Note:** *In the lower left-hand corner of the envelope, the applicant must clearly write ''Girls Study Group.''*

Due Date

Applicants are responsible for ensuring that the original and five copies of the application package are received by 5:00 p.m. ET on December 1, 2000.

Contact

For further information, contact Barbara Allen-Hagen, Social Science Analyst, Research and Program Development Division, OJJDP, at 202–307–1308, or send an e-mail inquiry to barbara@ojp.usdoj.gov; or contact Anne Bergan, Program Manager, Research and Program Development Division, OJJDP, at 202–514–5533, or send an e-mail inquiry to bergana@ojp.usdoj.gov.

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Dated: September 27, 2000.

John J. Wilson,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

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Federal Register

Monday,
October 2, 2000

Part VI

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Program Announcement for the National Girls Institute; Notice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP (OJJDP)–1298]

Program Announcement for the National Girls Institute

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of solicitation.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is requesting applications to establish a national-scope institute to raise public awareness of the underlying factors that place girls at risk of involvement in the juvenile justice system and to advance promising prevention, intervention, treatment, education, detention, and aftercare programs and services within the context of an integrated continuum of care for delinquent and at-risk girls and their families. Multilevel and multidisciplinary training based on OJJDP's girl-focused curriculums is expected to improve the skills, knowledge, and performance of decisionmakers, administrators, and direct care professionals who work with or are concerned about girls' issues. Technical assistance support is expected to facilitate improved cross-agency programming and systemic responses to girls at risk and young female offenders in the juvenile justice system. It is also expected that a working group of advisors and collaborators will be formed to plan and convene a symposium on girls in 2001.

DATES: Applications must be received by 5:00 p.m. ET on December 1, 2000.

ADDRESSES: All application packages should be mailed or delivered to the Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20850; 301–519–5535. Faxed or e-mailed applications will not be accepted. Interested applicants can obtain the *OJJDP Application Kit* from the Juvenile Justice Clearinghouse at 800–638–8736. The *Application Kit* is also available at OJJDP's Web site at www.ojjdp.ncjrs.org/grants/about.html#kit. (See ''Format'' later in this program announcement for instructions on application standards.)

FOR FURTHER INFORMATION CONTACT: Gwendolyn Dilworth, Program Manager, Office of Juvenile Justice and Delinquency Prevention, 202–514–4822. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

Purpose

The purpose of this project is to establish a National Girls Institute (NGI) to advance the understanding and application of promising prevention, intervention, treatment, education, detention, and aftercare programs and services for delinquent and at-risk girls. NGI will promote integrated and innovative programs that employ a comprehensive service delivery system appropriate to the unique developmental and culturally specific needs of girls and their families. The Institute will accomplish its mission through a broad range of activities, including program development and enhancement, research activities, training and technical assistance, information dissemination, collaboration with Federal and private agencies, and policy development.

Background

For nearly a decade, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) has had considerable involvement in issues related to girls in the juvenile justice system. The Office recognizes the importance of increasing understanding of the factors that contribute to female juvenile offending and those that protect at-risk girls from becoming offenders.

In the 1992 reauthorization of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended (42 U.S.C. 5601 *et seq.*), Congress added language in Section 223 (8)(B) (i–ii) that specifically requires all States applying for Part B Formula Grants program funds to include in their plans: ''(i) An analysis of gender-specific services for the prevention and treatment of juvenile delinquency, including the types of such services available and the need for such services for females; and (ii) a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency.''

Congress also enacted the State Challenge Activities program under Title II, Part E, in the 1992 amendments. The Challenge Activities program provides incentives for States participating in the Title II, Part B, Formula Grants program to improve their juvenile justice systems by developing, adopting, or improving policies and programs in 1 or more of 10 specified Challenge areas. Congress has provided $10 million annually to States since fiscal year (FY) 1995 to address one or more of 10 statutorily identified Challenge areas.

Several States have sought to meet the treatment needs of young females through the following State Challenge Activities:

(A) developing and adopting policies and programs to provide basic health, mental health, and appropriate education services, including special education, for youth in the juvenile justice system; (B) developing and adopting policies and programs to provide access to counsel for all juveniles; (C) increasing community-based alternatives to incarceration by establishing programs (such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, and electronic monitoring) and developing and adopting a set of objective criteria for the appropriate placement of juveniles in detention and secure confinement; * * * (E) developing and adopting policies to prohibit gender bias in placement and treatment and establishing programs to ensure female youth access to the full range of health and mental health services, including treatment for physical or sexual assault or abuse, self-defense instruction, parenting education, general education, and training and vocational services; * * * (G) developing and adopting policies and programs designed to remove status offenders from the jurisdiction of the juvenile court, when appropriate; (H) developing and adopting policies and programs designed to serve as alternatives to suspension and expulsion; and (I) increasing aftercare services for juveniles in the justice system by establishing programs and developing and adopting policies to provide comprehensive health, mental health, education, family, and vocational services to youth upon release from the juvenile justice system.

Twenty-four States and the District of Columbia have used Challenge Grant funds to develop specific approaches that address the needs of female offenders in their juvenile justice systems; create public awareness and professional competence through staff training conferences, publications, and technical assistance; develop curriculums on gender specific topics; and produce program regulations, policies, and/or procedures.

OJJDP has initiated a unique collaborative effort between Connecticut and Illinois. OJJDP is using the lessons learned from the Girls Link Juvenile Female Offender Project in Cook County, IL, to develop specialized delinquency prevention and detention programs for Connecticut girls. Needs and risk assessment instruments developed as part of the Girls Link Project have been incorporated into the

Connecticut project. A focus of the project involves systemic reforms at the State level to improve the way female juvenile offenders are treated. Creating a hierarchy of sanctions, with specific provisions for pregnant girls and teen mothers, and making effective use of Medicaid/Medicare reimbursements are two strategies being employed.

Also, OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders (Wilson and Howell, 1993) assists communities in developing a working blueprint for measurably reducing juvenile offending (Howell, 1995). The Comprehensive Strategy pilot sites (Fort Myers and Jacksonville, FL, and San Diego, CA) and local jurisdictions in eight Comprehensive Strategy States (Florida, Iowa, Maryland, Ohio, Oregon, Rhode Island, Texas, and Wisconsin) have completed an extensive strategic planning process that included identifying the service needs of girls at risk or involved with the juvenile justice system. In a unique partnership, PACE (Practical, Academic, Cultural Education Center for Girls, Inc.) and the National Council on Crime and Delinquency are assisting the pilot sites in the design and development of a comprehensive continuum of services for girls, their families, and—where applicable—their children.

In addition to State-level support, OJJDP has provided guidance directly to the field to support promising or effective gender-specific strategies. For example, in October 1999, OJJDP's *Juvenile Justice* journal published ''Investing in Girls: A 21st Century Strategy,'' which examined the troubling effects of the factors and life circumstances that are often precursors for girls in or on the edge of the juvenile justice system (Acoca, 1999). Also included in that issue of *Juvenile Justice* were two articles about exemplary efforts: ''The Female Intervention Team,'' which discussed a gender-specific program for girls adjudicated delinquent by the Maryland State court system (Daniel, 1999), and ''National Girls' Caucus,'' which spotlighted an advocacy group that focuses national attention on the specific needs of girls involved with the juvenile justice system (Ravoira, 1999).

Similarly, OJJDP, in collaboration with Greene, Peters, & Associates (GPA), published *Guiding Principles for Promising Female Programming: An Inventory of Best Practices* (1998). This inventory highlights exemplary and effective gender-specific program practices for use by State and local jurisdictions. GPA has contracted with the Northwest Regional Educational Laboratory in Oregon to produce three gender-focused curriculums designed to build professional understanding and capacity in addressing girls needs.

OJJDP also supports the Juvenile Mentoring Program (JUMP), which focuses on providing mentors for youth at risk of delinquency, gang involvement, educational failure, or dropping out of school. JUMP sites in California, Colorado, Georgia, Michigan, Pennsylvania, and South Carolina provide gender-specific programming for girls. Despite these efforts by OJJDP and the States, statistics demonstrate that more needs to be done to meet the critical needs of girls.

Juvenile Female Arrests and Involvement in At-risk and Delinquent Behavior Continue To Rise at an Alarming Rate

A review of recent statistical trends provides data on the rising number of girls entering the juvenile justice system. In 1998, females accounted for 27 percent or 697,000 of the 2,603,300 juvenile arrests (Snyder, 1999). The Juvenile Violent Crime Index arrest rate for females more than doubled between 1987 and 1994, then fell in each of the next 3 years. Nonetheless, the growth in juvenile violent crime arrest rates between 1994 and 1998 was far greater for females than for males in most offense categories. According to the Federal Bureau of Investigation (FBI) Uniform Crime Reporting Program, the most serious increase in offenses for young females included aggravated assault (up 7 percent), simple assault (up 29 percent), and drug abuse violations (up 43 percent) (Snyder, 1999). Even with the recent decline, the female violent crime arrest rate for 1997 was 103 percent above the 1981 rate, while the male arrest rate was 27 percent above its 1981 level. In 1998, females accounted for 22 percent of juvenile arrests for aggravated assault and running away from home. According to an analysis of juvenile arrest patterns and trends, female arrests for weapons law violations nearly tripled between 1981 and 1997, while male rates nearly doubled (Snyder, 1999). Further, delinquency cases involving females rose 76 percent between 1987 and 1996, compared with 42 percent for males. The disparate growth in cases involving females outpaced the growth for males for all but drug offense cases. These statistics seem to indicate broad increases in the proportion and seriousness of delinquent acts committed by girls. However, the reasons for the leap in the number of cases involving girls are vigorously disputed by researchers, policymakers, and direct service personnel (Chesney-Lind and Shelden, 1997). For example, there is concern about ''bootstrapping,'' which refers to relabeling a status offense (*e.g.,* running away, curfew violation, truancy) as a delinquent offense. The debate over bootstrapping centers on the belief that it fosters the incarceration of a disproportionate number of girls in detention facilities far out of proportion to the seriousness of their offenses (Girls Inc., 1996; Chesney-Lind, 1999).

Even more disturbing, leading academics who have examined the various elements of life circumstances prevalent among adult and juvenile female offenders have unveiled a distinct route into the justice system. Over 70 percent of the girls who enter the justice system report a history of physical, sexual, or emotional victimization and drug abuse. These childhood victimizations are now being correlated with lifelong health, learning, and behavioral disorders, including adolescent delinquency (Acoca, 1998). Moreover, leading researchers and academicians postulate that the abusive histories/backgrounds typically shared by adult and juvenile female offenders are a significant factor in the victim-to-offender pathway of female juvenile delinquency (Belknap and Holsinger, 1998). There is no single factor that puts girls at risk of delinquency. However, indicators of the underlying causes of female juvenile delinquency point to early victimization as a first step along a pathway into the juvenile justice system.

The increasing numbers of girls involved in the juvenile justice system and the scarcity of information about gender and culturally specific programs and services that meet their changing and unique needs have prompted juvenile justice, public health, mental health, education, labor, corrections, and youth service professionals to reexamine the developmental and societal factors that place girls at risk for delinquent behavior.

Although female and male juvenile offenders may experience similar educational, familial, and economic problems, several gender-specific factors can exacerbate the problems girls face. These include higher rates of sexual abuse, physical abuse, substance abuse, mental health needs, teen pregnancy, adolescent motherhood, alternative lifestyles, and problems associated with the early onset of puberty (Chesney-Lind and Freitas, 1999; Greene, Peters, & Associates, 1998). Although any one of these factors may contribute to girls' increased risk of delinquency, they seldom occur in isolation.

Ethnic minorities are disproportionately represented in the female offender population (Bergsmann, 1989; Campbell, 1995; Community Research Associates, 1998). African American girls make up nearly half of all those in secure detention and Latinas constitute 13 percent (Bergsmann, 1994). Although Caucasians constitute 65 percent of the population at risk, they account for only 34 percent of girls in secure detention (Greene, Peters, & Associates, 1998). A census of private facilities in the early 1990's showed that well over half (53 percent) were Caucasian (Moone, 1997). Finally, 7 of every 10 cases involving Caucasian girls are dismissed, compared with 3 of every 10 cases for African American girls (Greene, Peters, & Associates, 1998).

The emerging profile of women offenders parallels that of female delinquents, with similar risk factors impacting women's and girls' lives. More than 4 in 10 female adult inmates report a history of physical or sexual abuse. Nearly 6 in 10 grew up in a household with at least 1 parent absent. Women of color are similarly disproportionately represented among the adult female offender population. Women prisoners are likely to be poor, undereducated, and single parents. About 20 percent of convicted adult female offenders were also adjudicated delinquent as juveniles (Snell, 1994; Belknap, 1996).

Efforts Are Under Way To Review the Circumstances Behind the Increases in Female Juvenile Delinquency Activities

OJJDP and the National Institute of Mental Health are cosponsoring the research of Dr. Rolf Loeber at the University of Pittsburgh on the Development of Conduct Disorder in Girls project. The project, a 5-year longitudinal study, is designed to examine the development of conduct disorder in a sample of 2,500 inner-city girls between the ages of 6 and 8 and will provide information on the etiology, comorbidity, and prognosis of conduct disorder in girls.

In addition, OJJDP currently supports two field-initiated research projects that will specifically address the needs and issues of young women at risk of involvement or involved in the juvenile justice system. The first is an evaluation that is being conducted by researchers at the University of Michigan. The project, A Comparative Evaluation of Three Programs for Adolescent Female Offenders, is evaluating three Wayne County, MI, programs for adolescent female offenders. The second field-initiated research project, GIRLS (Gaining Insight Into Relationships for Lifelong Success), is being conducted by researchers at the University of Georgia Research Foundation to study ways to address female delinquency through a relational approach.

Awareness of the Essential Components of Promising or Effective Integrated and Innovative Programs for Girls Needs To Be Heightened

Supported by training, technical assistance, and direct funding from OJJDP, States and local jurisdictions have planned and implemented various initiatives involving data analysis, needs assessment, intervention, treatment and education programs, and reform efforts that have brought modest awareness to the importance of integrated service delivery in the provision of gender-specific services and programming for at-risk and delinquent girls.

Understanding the Distinctions Between Gender-Specific Programming and Gender-Specific Services Is Key to Ensuring Effective Cross-Agency Programs for Girls

Gender-specific programs for girls employ comprehensive and integrated methods that address and support the psychological development process of female adolescents while fostering connections within relationships in the context of a safe and nurturing environment (Lindgren, 1996). Conversely, the term ''gender-specific services'' refers to the provision of assistance (*e.g.,* pregnancy testing, prenatal care, counseling, day care) that is not provided within the framework of a comprehensive service delivery system. Therefore, for the purpose of this initiative, gender-specific programs for girls are those designed to meet the unique needs of females, that value the female perspective, celebrate and honor the female experience, respect and take into account female development, and empower young women to reach their full potential (Girls Inc., 1996).

In spite of accomplishments in girls' programming, eliminating gender bias and ensuring that young females have access to a full range of services remain a challenge. OJJDP will address this challenge by expanding knowledge of effective prevention and treatment approaches and assisting States and local communities to develop the necessary policies, practices, and services that ensure a comprehensive, responsive, and seamless continuum of care for girls involved in the juvenile justice system.

To accomplish this mission, OJJDP is funding two related programs: the National Girls Institute and the Girls Study Group project. The latter will be a 2-year effort that will review the research literature on the epidemiology and etiology of female juvenile offending and its consequences, using a female-focused conceptual framework; synthesize information from diverse sources; and produce reports and publications that communicate the results. It is anticipated that there will be close collaboration between the two projects in providing critical information to the field and with other Federal agencies and private corporations with an interest in this project.

Goals

The goals of the National Girls Institute initiative are to raise national awareness of the underlying factors that place girls at risk of involvement in the juvenile justice system, advance effective gender-specific programming for girls, promote policies and practices that protect girls from delinquent and abusive behavior, improve staff job performance through training and technical assistance, and promote an integrated continuum of care for at-risk and delinquent girls and their families.

Objectives

- Systematically examine and report on effective assessment and reassessment tools used in detention and residential facilities to assess girls' programming needs and standards of practice that ensure continuity in programming between institutions and communities.
- Provide multilevel training and technical assistance based on OJJDP's girl-focused training curriculums and the findings of appropriate diagnostic assessment instruments to improve the job performance of staff who work with girls, service delivery systems of detention or residential facilities, and other organizations that serve girls.
- Identify information, resources, current practices, or regulations that do not adequately support the needs of delinquent or at-risk girls and prepare recommendations to address these gaps.
- Collaborate with OJJDP's Girls Study Group on related research activities.
- Facilitate communication and collaboration with other Federal, State, national, and community-based organizations that serve or are concerned about girls.
- Plan and convene a national symposium on girls in 2001.

Program Strategy

OJJDP will competitively award a single cooperative agreement of up to

$1,200,000 for a 12-month budget period within a 5-year project period to administer centralized, national-scope educational activities and to develop products that will improve services and support the formulation of practical and just policies pertaining to at-risk and delinquent girls. Tasks will be achieved through a combination of needs assessments, training and technical assistance, research activities, and policy formulation.

NGI is expected to become fully staffed in its first year. The applicant should describe how this will be accomplished and attach key staff resumes and/or job descriptions. In general, the implementation plan should foster innovation and clearly identify the work to be accomplished in both phases of the project. Requisites for the NGI grantee are a demonstrated ability to develop and direct a national-scope training and technical assistance, research, and advocacy effort with multiple dimensions within a short timeframe.

The successful applicant will have substantial experience in producing, modifying, and/or updating a wide range of practical resource materials and curriculums. Experience in assessing personnel or organizational training needs and providing onsite assistance to address issues described in this solicitation will also be a requisite.

The expertise and skills of consultants who will provide training and technical assistance and the plan for recruiting, selecting, orienting, and managing them must be discussed in the application. The applicant must demonstrate its ability to bring together individuals who can display proven expertise and excellence in areas including, but not limited to, developmental psychology, juvenile corrections and detention, education, medicine, mental health, culture and ethnicity, vocational and life skills, mediation and negotiation, and policy and organizational development. Consultant abilities must illustrate a range of skills and expertise with issues of female development and staff challenges in working effectively with difficult and troubled girls and girls already in the juvenile justice system.

It is also expected that the grantee will establish a 9-member advisory group to support the development and implementation of NGI activities and collaborate with a broad base of Federal and private organizations to ensure long-term financial support for NGI. Representatives from NGI will serve as ex-officio members of OJJDP's Girls Study Group to ensure coordination of research activities and related products.

Scope of Work

The following delineates the two phases of work to be conducted under the cooperative agreement for purposes of planning and managing the NGI. The grantee is responsible for developing a plan, based on the elements below, that specifies how the NGI will become operational.

Phase I—Establish NGI and Build Organizational Capacity (Months 1 Through 4)

Tasks

• Develop a managerial structure for NGI with the staff competencies and organizational capabilities required for successful implementation of the initiative. At a minimum include the following key elements in the operation of NGI:

1. Clearly stated operational goals and objectives that are based on the overall mission of NGI.

2. A program strategy for performing the major activities of the initiative, *i.e.*, the overall approach for managing this multifaceted initiative.

3. A plan detailing when activities will be started and completed, *e.g.*, tasks, timelines, and milestones; hiring schedule; resumes of key staff; staff duties; and a budget itemizing the expenditures required to achieve or exceed objectives. (Modifications to the budget may be proposed regarding the deliverables as assessments reveal a new or different area of skill deficiencies or if any deliverables are determined not to meet the objectives, previously outlined, as effectively and efficiently as an alternative approach would. Sufficient explanation must be provided to determine the merits of the proposed change. The project budget must realistically reflect costs associated with operating NGI.

4. A general guide for setting policy or decisionmaking within the organization.

• Maintain and expand online access to reference and referral resources. Install and maintain toll-free telephone access to NGI.

• Form, support, and meet biannually with a nine-member advisory group composed of representatives of State and local juvenile justice, detention, health and mental health, education, advocacy, research, community agencies, institutions, and organizations that serve at-risk and delinquent girls. Facilitate the work of subcommittees to advise NGI's plans and activities.

Deliverables

• A comprehensive strategic plan that details the following:

1. Implementation plan for addressing the NGI goals.

2. Operational management manual that at a minimum addresses the key elements described in the ''Tasks'' section.

• Interactive information and technical assistance Web site to facilitate communication, information dissemination, and announcement of scheduled events and updates.

• Review of advisory recommendations in areas including the changing needs of girls, updated research findings, program strategies, and policy development.

Phase II—Survey Existing Practices, Document Trends and Resource Gaps, and Implement Program Elements (Months 5 Through 12)

Tasks

• Conduct a periodic survey and review of specific program efforts, with emphasis on operational costs and service delivery components, to track the participation and performance levels of girls in detention as shown in large-scale assessments.

• Collaborate with OJJDP's Federal Working Group on Gender Issues and other related efforts to update research and evaluation information on changes in girls' social, medical, and psychological needs; delinquency trends; educational models; risk and resiliency factors; and community-based prevention, intervention, and treatment strategies to identify and promote promising, comprehensive, multimodal approaches that focus on the multifaceted concerns of girls.

• Collect and review State and local policies and practices to assess the factors affecting how girls are treated by the juvenile justice system and to determine the best approaches for promoting a comprehensive continuum of care for girls.

• Prepare and disseminate detailed reports/bulletins on survey findings to inform OJJDP and formulate policy and resource allocation recommendations in services and programming for girls.

• Develop and implement a plan to conduct and manage multifaceted training and technical assistance support for agencies and organizations seeking to initiate services for girls at risk of delinquency or to improve the provision of services to incarcerated girls.

• Prepare and submit a strategic marketing plan that positions NGI to reach and provide services to those who would best benefit from them. Specify proposed marketing methods and timelines for implementing the marketing plan.

• Conduct training needs assessments to determine the specific skills, knowledge, information, and experiential levels of potential training and technical assistance recipients. Analysis of assessment data will inform the training content and the elements of skill that are essential to satisfactory performance improvement.

• Develop a process for collecting and cataloging literature and research-based information such as assessment and reassessment tools, curriculums, reference materials and manuals, planning and problem-solving instruments, and technology-based resources.

• Outline the approach for recruiting and maintaining a pool of experienced trainers and subject matter experts (See ''Program Strategy'' section above).

• Provide trainings, using *Beyond Gender Barriers: Programming Specifically for Girls* (Greene, Peters, & Associates and Northwest Regional Educational Laboratory, forthcoming), a set of two curriculums (currently being revised under an OJJDP cooperative agreement) for decisionmakers and newly assigned direct care professionals, and adapt the curriculums, as appropriate, to ensure the accuracy and timeliness of the instructional material. (A third curriculum, a training of trainers, is being developed under the same grant to provide instruction for those with training responsibilities in this area.) Additionally, design and pilot topical workshops that meet the specific needs of experienced professionals who work with girls. Work in this area will use uniform protocols for needs assessment, delivery of training and technical assistance, evaluation tracking, and followup. Curriculum development must be based on adult learning theory and provided in the context of an interactive learning environment. The successful applicant will be responsible for providing 6 training workshops for up to 80 participants in each session. This will include responsibility for arranging workshop locations, facilities, training aids, marketing, and evaluations to assess the relevancy and learning transferability of the lessons provided.

• Provide up to 10 onsite technical assistance interventions, preferably as a followup to training conducted by NGI. Develop technical assistance assessment and evaluation protocols and submit reports describing the purpose and outcomes of onsite technical assistance. Provide program administrators with tools to identify future professional development needs of direct care professionals.

• Produce participant manuals, guides, and other written and visual products to facilitate information exchange on gender programming and systems-improvement strategies.

• Collaborate with researchers and evaluators in the girls gender field. Serve as ex-officio member of OJJDP's Girls Study Group, which plans to review and synthesize empirical research on female juvenile delinquency and report on risk and protective factors through varying stages of female adolescent development as it relates to peer, family, school, community, and individual domains.

• Form and maintain regular communication through ongoing committee assignments and biannual meetings with an advisory group to review and advise on NGI's activities and plans. The advisory group should be composed of representatives of State and local agencies, juvenile justice, education, advocacy groups, research organizations, and health, labor, faith-based, and other organizations that serve girls. The advisory group membership should reflect ethnic and cultural diversity in addition to the subject matter expertise described in the ''Program Strategy'' section.

• Participate in appropriate meetings and national conferences convened by OJJDP, other Federal and State agencies, educational institutions, and national organizations to promote a wide exchange of information and other collaborative efforts to ensure that girls have equal access to a full range of services.

• Work closely with advisors, collaborators, and OJJDP to form a working group to plan and convene a national symposium on girls. In 1996, OJJDP funded Girls Inc. to assemble a national conference on girls. As an outcome of the conference, Girls Inc. produced a report, *Prevention and Parity: Girls in Juvenile Justice* (1996). The report identified several key points for further investigation. Since that time, many States have changed the way they view girls at risk and female offenders. Consequently, OJJDP believes that a need exists for professionals to come together to scrutinize and deliberate on various responses to those changes and other challenges facing those who work with girls. Therefore, the NGI grantee will convene a national symposium as the forum for conducting this exchange and for learning about effective programming for girls.

Deliverables

• Reports, Bulletins, and Fact Sheets on survey findings and promising, multimodal approaches that include the social, educational, vocational, developmental, cultural, and treatment issues of girls in programming and service delivery.

• Policy recommendations to support resource allocation in services and programming for girls, improve the treatment of girls adjudicated delinquent, and foster their successful reintegration to the community.

• Monograph on program and policy advances in public correctional institutions.

• A report suitable for national distribution that details the findings and recommendations from the National Symposium on Girls.

• Modifications, as appropriate, to OJJDP's gender-specific curriculums specifically designed for three distinct audiences: (1) decisionmakers and administrators, (2) newly hired direct care personnel assigned to work with girls, and (3) experienced trainers selected to deliver gender-specific training for girls. Curriculums will be reviewed prior to delivery by the OJJDP program manager to ensure that the instructional materials are accurate, relevant, and up to date.

• A written plan detailing the marketing approach for NGI.

• Protocol(s) for assessing the information, resource, and professional development needs of decisionmakers who determine policy and staff who work directly with girls or are interested in working with girls.

• Database of consultants and subject matter experts such as those described in the ''Program Strategy'' section.

• Training and technical assistance delivery schedule that includes the location, description of the audience or attendees, the training/technical assistance need being addressed, dates, and the number of days required onsite.

• Procedures and forms for arranging consultant travel, payment of services, and timely reimbursement of expenses.

Task Guidelines

The NGI grantee is expected to facilitate the efficient and professional operation of NGI and to perform tasks as specified in the ''Program Strategy'' section. Additionally, the grantee is expected to use uniform protocols for needs assessment, delivery of training and technical assistance, evaluation tracking, and followup. Curriculum development and/or modifications will be based on adult learning theory and will be delivered within an interactive learning context. Close interaction is required among NGI, OJJDP, the NGI advisory group, the Girls Study Group, and other Federal agency representatives, as OJJDP deems

appropriate. The NGI grantee must understand and apply the following principles to ensure effective implementation of the project and advance programming that meets the diverse needs of at-risk and delinquent girls:

• Effective programming for girls requires skilled and knowledgeable administrators, direct care personnel, and others who are concerned about girls. OJJDP's strategic training and technical assistance will advance the understanding and application of promising and innovative practices to prevent and reduce delinquency and violence by girls.

• Jurisdictions are requesting training and technical assistance to improve the effectiveness of staff who work with girls. To measure the progress in meeting the learning needs of participants, workshops and forums will proceed with a preassessment survey and end with feedback. Feedback will include a measurement of the posttraining behavior change of participating agencies, organizations, and jurisdictions.

• NGI staff and consultants must reflect the diversity of cultures and ethnic groups represented among the population of at-risk and delinquent girls. OJJDP intends to encourage representation along the full ethnic, cultural, and racial spectrum of the United States and an awareness of the socioeconomic conditions often associated with at-risk or delinquent girls.

Eligibility Requirements

OJJDP invites applications from public and private agencies, organizations, or institutions. Private, for-profit organizations must agree to waive any profit or fee. Applicants must have strong, demonstrated experience in planning, managing, and administering a national-scope organization with multiple components. In particular, applicants must have strong experience in designing and overseeing training and technical assistance support in gender-specific programming and services that are grounded in fostering the positive developmental needs of girls.

Selection Criteria

The applications will be rated by a peer review panel according to the criteria outlined below. A site visit may be conducted to confirm information provided in the application.

Conceptualization of Need (10 points)

The application must convey a clear understanding of the purpose, work requirements, specific gender issues relevant to girls, and related concerns addressed in this program announcement. The applicant should discuss the issues and problems related to at-risk and delinquent girls in juvenile justice practice in recent years. Moreover, the applicant should demonstrate knowledge of the developmental, social, cultural, and noncriminal risk factors that impeded girl-centered responses to the needs of girls at risk and those involved with the juvenile justice system. Further, the applicant must demonstrate knowledge of gender programming for girls, best practices, and promising strategies. Finally, the applicant must convey an understanding of the expected results of this effort, possible obstacles to be overcome in order to meet or exceed program objectives, and ways in which collaboration will enhance the achievement of the performance objectives. Concerns and obstacles associated with delivery of training and technical assistance to decisionmakers, administrators, and direct care personnel should also be addressed in the application.

Goals and Objectives (10 points)

Applicants must outline a vision for designing and operating NGI in relation to the stated goals and objectives of the initiative. Applicants should also provide justification for the development and delivery of training and onsite technical assistance support and explain the proposed effort. Key issues and potential obstacles related to achieving the goals and objectives of this initiative should be outlined and prioritized.

Project Design (30 points)

Applicants must provide an implementation plan that is specific and constitutes an effective approach to meet the goals and objectives of the project. The plan must include specific tasks, procedures, timelines, milestones, and products. The plan should also include a chart that specifies each milestone, related tasks, lead staff responsible, incremental benchmarks, and dates for task completion. At a minimum, the plan must provide protocols for assessment of technical assistance and training needs and protocols that will be used in the actual delivery of technical assistance. The plan must also describe the process and structure that will be used for curriculum development and modification and discuss how adult learning theory will be employed in its design and delivery. Other tasks, such as designing evaluative and feedback tools and methods for monitoring and refining the plan as the initiative progresses, should be described. The program design should correspond with the project's goals and objectives, the conceptualization of need, and product development identified in this program announcement. Project design elements should directly link to the achievement of specific objectives. Obstacles for achieving expected results should be identified, and alternative plans for overcoming obstacles and rationales for their use should be included.

OJJDP will consider recommendations for modification and enhancement of the products to be delivered to accommodate cost considerations. Where such recommendations are made, justification and alternatives should be proposed. The competitiveness of applications will be enhanced when such modifications and/or enhancements reflect the concept in a compelling and innovative form.

Management (25 points)

Applicants must describe an organizational framework, managerial structure, and staffing approach with the capacity to effectively execute the NGI initiative. Applicants should discuss their history of involvement in gender-specific efforts to support girls, including related policy development, research and evaluation activities, and organizational and/or systems reform. Additionally, applicants must describe their experience in planning and managing national-scope trainings and technical assistance support for decisionmakers, administrators, staff supervisors, and direct care personnel. Further, applicants should discuss their conference planning capabilities and ability to work with a diverse group of agencies and community stakeholders as they relate to achieving the goals and objectives of this initiative. The processes for conducting training and technical assistance needs assessments, monitoring multiple project tasks, and managing a consultant pool of experienced trainers and subject matter experts should also be described. Peer reviewers will carefully examine the applicant's description of organizational, management, and training capabilities to support the cooperative agreement.

In addition to expertise in the subject area of girls' development, treatment needs, and resiliency factors, key project staff must also demonstrate substantive experience in program administration, training and technical assistance delivery and management, curriculum development, and knowledge of the cultural, ethnic, and social conditions

that characterize those State, local, and tribal communities where disproportionately high levels of girls of color are adjudicated delinquent.

Resumes of known staff and consultants must be included in the appendix. For proposed staff, applicants must include resumes and letters of commitment in the appendix. For positions that are not designated for identified staff, job descriptions and staff qualifications must be included.

Organizational Capability (15 points)

The ability to administer the initiative effectively should be clearly demonstrated in the application. The documentation should include organizational experience in managing programs in the subject areas listed under ''Program Strategy'' and with projects of the type and scope described. Additionally, applicants must have experience in managing Federal funds and present a financial management structure that supports the deployment and payment of consultants in a timely manner.

Applicants must also describe and demonstrate an organizational infrastructure that would support the technological and resource requirements of this initiative. Applicants may find it more cost effective to establish contractual relationships for technical or specialized functions required under the cooperative agreement.

Budget (10 points)

Applicants must provide a proposed budget and budget narrative that are complete, detailed, reasonable, allowable, and cost effective in relation to the activities to be undertaken. For budget purposes, applicants should allocate up to $250,000 for the national symposium on girls, travel and per diem for the advisory group meetings, up to 10 training workshops and 12 onsite technical assistance interventions, and presentations at national and State events over a 12-month period.

Format

The narrative must not exceed 50 pages in length (excluding forms, assurances, and appendixes) and must be submitted on 8½-by 11-inch paper, double spaced on one side of the paper in a standard 12-point font. This is necessary to maintain fair and uniform standards among all applicants. If the narrative does not conform to these standards, OJJDP will deem the application ineligible for consideration.

Award Period

This project will be funded for 5 years in five 12-month budget periods. Funding after the first budget period depends on grantee performance, availability of funds, and other criteria established at the time of award.

Award Amount

Up to $1,200,000 is available for the initial 12-month budget period.

Catalog of Federal Domestic Assistance (CFDA) Number

For this program, the CFDA number, which is required on Standard Form 424, Application for Federal Assistance, is 16.542. This form is included in the *OJJDP Application Kit,* which can be obtained by calling the Juvenile Justice Clearinghouse at 800–638–8736 or sending an e-mail inquiry to puborder@ncjrs.org. The *Application Kit* is also available online at www.ojjdp.ncjrs.org/grants/about.html#kit.

Coordination of Federal Efforts

To encourage better coordination among Federal agencies in addressing State and local needs, the U.S. Department of Justice (DOJ) is requesting applicants to provide information on the following: (1) Active Federal grant award(s) supporting this or related efforts, including awards from DOJ; (2) any pending application(s) for Federal funds for this or related efforts; and (3) plans for coordinating any funds described in items (1) or (2) with the funding sought by this application. For each Federal award, applicants must include the program or project title, the Federal grantor agency, the amount of the award, and a brief description of its purpose.

The term ''related efforts'' is defined for these purposes as one of the following:

1. Efforts for the same purpose (*i.e.,* the proposed award would supplement, expand, complement, or continue activities funded with other Federal grants).

2. Another phase or component of the same program or project (*e.g.,* to implement a planning effort funded by other Federal funds or to provide a substance treatment or education component within a criminal justice project).

3. Services of some kind (*e.g.,* technical assistance, research, or evaluation) to the program or project described in the application.

Delivery Instructions

All application packages must be mailed or delivered to the Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20950; 301–519–5535. Faxed or e-mailed applications will not be accepted. **Note:** *In the lower left-hand corner of the envelope, you must clearly write ''National Girls Institute.''*

Due Date

Applicants are responsible for ensuring that the original and five copies of the application package are received by 5 p.m. ET on December 1, 2000.

Contact

For further information, contact Gwendolyn Dilworth, Program Manager, Training and Technical Assistance Division, at 202–514–4822, or send an e-mail inquiry to dilwortg@ojp.usdoj.gov.

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Dated: September 27, 2000.

John J. Wilson,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

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Federal Register

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CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT OCTOBER 2, 2000

AGRICULTURE DEPARTMENT

Supplemental standards of ethical conduct for Agriculture Department employees; published 10-2-00

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Caribbean, Gulf, and South Atlantic fisheries—

Gulf of Mexico and South Atlantic coastal migratory pelagic resources; published 8-31-00

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Electric utilities (Federal Power Act):

Depreciation accounting; public utilities and licensees; published 8-3-00

Outer Continental Shelf Lands Act; implementation:

Natural gas transportation through pipeline facilities on Outer Continental Shelf

Rehearing; published 8-2-00

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

California; published 9-1-00

Indiana; published 8-2-00

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Seaway regulations and rules:

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Reformulated and conventional gasoline; anti-dumping program; alternative compliance periods establishment; comments due by 10-10-00; published 9-8-00

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Public water systems; unregulated contaminant

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McDonnell Douglas; comments due by 10-10-00; published 8-8-00
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TREASURY DEPARTMENT

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 1729/P.L. 106–266

To designate the Federal facility located at 1301 Emmet Street in Charlottesville, Virginia, as the ''Pamela B. Gwin Hall''. (Sept. 22, 2000; 114 Stat. 787)

H.R. 1901/P.L. 106–267

To designate the United States border station located in Pharr, Texas, as the ''Kika de la Garza United States Border Station''. (Sept. 22, 2000; 114 Stat. 788)

H.R. 1959/P.L. 106–268

To designate the Federal building located at 643 East Durango Boulevard in San Antonio, Texas, as the ''Adrian A. Spears Judicial Training Center''. (Sept. 22, 2000; 114 Stat. 789)

H.R. 4608/P.L. 106–269

To designate the United States courthouse located at 220 West Depot Street in Greeneville, Tennessee, as the ''James H. Quillen United States Courthouse''. (Sept. 22, 2000; 114 Stat. 790)

S. 1027/P.L. 106–270

Deschutes Resources Conservancy Reauthorization Act of 2000 (Sept. 22, 2000; 114 Stat. 791)

S. 1117/P.L. 106–271

Corinth Battlefield Preservation Act of 2000 (Sept. 22, 2000; 114 Stat. 792)

S. 1374/P.L. 106–272

Jackson Multi-Agency Campus Act of 2000 (Sept. 22, 2000; 114 Stat. 797)

S. 1937/P.L. 106–273

To amend the Pacific Northwest Electric Power Planning and Conservation Act to provide for sales of electricity by the Bonneville Power Administration to joint operating entities. (Sept. 22, 2000; 114 Stat. 802)

S. 2869/P.L. 106–274

Religious Land Use and Institutionalized Persons Act of 2000 (Sept. 22, 2000; 114 Stat. 803)

Last List September 21, 2000

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–038–00001–3)	6.50	Apr. 1, 2000
3 (1997 Compilation and Parts 100 and 101)	(869–042–00002–1)	22.00	[1] Jan. 1, 2000
4	(869–042–00003–0)	8.50	Jan. 1, 2000
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63 (63.1–63.1119)	(869–038–00141–1)	58.00	July 1, 1999
63 (63.1200–End)	(869–038–00142–0)	36.00	July 1, 1999
64–71	(869–042–00143–5)	12.00	July 1, 2000
72–80	(869–038–00144–6)	41.00	July 1, 1999
81–85	(869–038–00145–4)	33.00	July 1, 1999
86	(869–038–00146–2)	59.00	July 1, 1999
87-135	(869–038–00146–1)	53.00	July 1, 1999
136–149	(869–038–00148–9)	40.00	July 1, 1999
150–189	(869–038–00149–7)	35.00	July 1, 1999
190–259	(869–042–00150–8)	25.00	July 1, 2000
260–265	(869–038–00151–9)	32.00	July 1, 1999
266–299	(869–038–00152–7)	33.00	July 1, 1999
300–399	(869–038–00153–5)	26.00	July 1, 1999
400–424	(869–042–00154–1)	37.00	July 1, 2000
425–699	(869–038–00155–1)	44.00	July 1, 1999
700–789	(869–038–00156–0)	42.00	July 1, 1999
790–End	(869–042–00157–5)	23.00	[6] July 1, 2000
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–038–00158–6)	14.00	July 1, 1999
101	(869–038–00159–4)	39.00	July 1, 1999
*102–200	(869–042–00160–5)	21.00	July 1, 2000
201–End	(869–038–00161–6)	15.00	July 1, 1999
42 Parts:			
1–399	(869–038–00162–4)	36.00	Oct. 1, 1999
400–429	(869–038–00163–2)	44.00	Oct. 1, 1999
430–End	(869–038–00164–1)	54.00	Oct. 1, 1999
43 Parts:			
1–999	(869–038–00165–9)	32.00	Oct. 1, 1999
1000–end	(869–038–00166–7)	47.00	Oct. 1, 1999
44	(869–038–00167–5)	28.00	Oct. 1, 1999
45 Parts:			
1–199	(869–038–00168–3)	33.00	Oct. 1, 1999
200–499	(869–038–00169–1)	16.00	Oct. 1, 1999
500–1199	(869–038–00170–5)	30.00	Oct. 1, 1999
1200–End	(869–038–00171–3)	40.00	Oct. 1, 1999
46 Parts:			
1–40	(869–038–00172–1)	27.00	Oct. 1, 1999
41–69	(869–038–00173–0)	23.00	Oct. 1, 1999
70–89	(869–038–00174–8)	8.00	Oct. 1, 1999
90–139	(869–038–00175–6)	26.00	Oct. 1, 1999
140–155	(869–038–00176–4)	15.00	Oct. 1, 1999
156–165	(869–038–00177–2)	21.00	Oct. 1, 1999
166–199	(869–038–00178–1)	27.00	Oct. 1, 1999
200–499	(869–038–00179–9)	23.00	Oct. 1, 1999
500–End	(869–038–00180–2)	15.00	Oct. 1, 1999
47 Parts:			
0–19	(869–038–00181–1)	39.00	Oct. 1, 1999
20–39	(869–038–00182–9)	26.00	Oct. 1, 1999
40–69	(869–038–00183–7)	26.00	Oct. 1, 1999
70–79	(869–038–00184–5)	39.00	Oct. 1, 1999
80–End	(869–038–00185–3)	40.00	Oct. 1, 1999
48 Chapters:			
1 (Parts 1–51)	(869–038–00186–1)	55.00	Oct. 1, 1999
1 (Parts 52–99)	(869–038–00187–0)	30.00	Oct. 1, 1999
2 (Parts 201–299)	(869–038–00188–8)	36.00	Oct. 1, 1999
3–6	(869–038–00189–6)	27.00	Oct. 1, 1999
7–14	(869–038–00190–0)	35.00	Oct. 1, 1999
15–28	(869–038–00191–8)	36.00	Oct. 1, 1999
29–End	(869–038–00192–6)	25.00	Oct. 1, 1999
49 Parts:			
1–99	(869–038–00193–4)	34.00	Oct. 1, 1999
100–185	(869–038–00194–2)	53.00	Oct. 1, 1999
186–199	(869–038–00195–1)	13.00	Oct. 1, 1999
200–399	(869–038–00196–9)	53.00	Oct. 1, 1999
400–999	(869–038–00197–7)	57.00	Oct. 1, 1999
1000–1199	(869–038–00198–5)	17.00	Oct. 1, 1999
1200–End	(869–038–00199–3)	14.00	Oct. 1, 1999
50 Parts:			
1–199	(869–038–00200–1)	43.00	Oct. 1, 1999
200–599	(869–038–00201–9)	22.00	Oct. 1, 1999

Title	Stock Number	Price	Revision Date
600–End	(869–038–00202–7)	37.00	Oct. 1, 1999
CFR Index and Findings Aids	(869–042–00047–1)	53.00	Jan. 1, 2000
Complete 1999 CFR set		951.00	1999
Microfiche CFR Edition:			
Subscription (mailed as issued)		290.00	1999
Individual copies		1.00	1999
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 1999, through January 1, 2000. The CFR volume issued as of January 1, 1999 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 1999, through April 1, 2000. The CFR volume issued as of April 1, 1999 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1999, through July 1, 2000. The CFR volume issued as of July 1, 1999 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 1998, through July 1, 1999. The CFR volume issued as of July 1, 1998, should be retained.

TABLE OF EFFECTIVE DATES AND TIME PERIODS —OCTOBER 2000

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
Oct 2	Oct 17	Nov 1	Nov 16	Dec 1	Jan 2
Oct 3	Oct 18	Nov 2	Nov 17	Dec 4	Jan 2
Oct 4	Oct 19	Nov 3	Nov 20	Dec 4	Jan 3
Oct 5	Oct 20	Nov 6	Nov 20	Dec 4	Jan 4
Oct 6	Oct 23	Nov 6	Nov 20	Dec 5	Jan 5
Oct 11	Oct 26	Nov 13	Nov 27	Dec 11	Jan 10
Oct 12	Oct 27	Nov 13	Nov 27	Dec 11	Jan 11
Oct 13	Oct 30	Nov 13	Nov 27	Dec 12	Jan 12
Oct 16	Oct 31	Nov 15	Nov 30	Dec 15	Jan 16
Oct 17	Nov 1	Nov 16	Dec 1	Dec 18	Jan 16
Oct 18	Nov 2	Nov 17	Dec 4	Dec 18	Jan 17
Oct 19	Nov 3	Nov 20	Dec 4	Dec 18	Jan 18
Oct 20	Nov 6	Nov 20	Dec 4	Dec 19	Jan 19
Oct 23	Nov 7	Nov 22	Dec 7	Dec 22	Jan 22
Oct 24	Nov 8	Nov 24	Dec 8	Dec 26	Jan 23
Oct 25	Nov 9	Nov 24	Dec 11	Dec 26	Jan 24
Oct 26	Nov 13	Nov 27	Dec 11	Dec 26	Jan 25
Oct 27	Nov 13	Nov 27	Dec 11	Dec 26	Jan 26
Oct 30	Nov 14	Nov 29	Dec 14	Dec 29	Jan 29
Oct 31	Nov 15	Nov 30	Dec 15	Jan 2	Jan 30