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WASHINGTON, DC

WHEN: Tuesday, April 17, 2001 at 9:00 a.m.

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–05–AD; Amendment 39–12145; AD 2001–05–08]

RIN 2120–AA64

Airworthiness Directives; VALENTIN GmbH Model 17E Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all VALENTIN GmbH (Valentin) Model 17E sailplanes. This AD requires you to inspect for, and correct, cracked or improperly installed central wing bolts; install a stronger central bolt if not already installed; and inspect for, and replace, problem telescopic rods. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to correct improperly installed or cracked central bolts and damaged, deformed, or loose telescopic rods. This condition, if not corrected, could cause the wing to separate from the sailplane, which could cause result in control of the sailplane.

DATES: This AD becomes effective on April 13, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of April 13, 2001.

The Federal Aviation Administration (FAA) must receive any comments on this rule by April 13, 2001.

ADDRESSES: Send three copies of comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–05–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get service information referenced in this AD from Korff + Co. KG, Luftfahrttechnischer Betrieb, LBA II–A 189, Dieselstrasse 5, D–63128, Dietzenbach, Germany; telephone: (49) 6074/4006; facsimile: (49) 6074/4033. You may read this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–05–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified FAA that an unsafe condition might exist on certain Valentin Model 17E sailplanes. The LBA reports:

—Occurrences of the manufacturer installing central bolts in the wrong direction;
—Cracks found in nine central bolts during inspections; and
—A fatal accident that could possibly be attributed to a weak central bolt breaking.

What are the consequences if the condition is not corrected? This condition, if not corrected, could result in the wing separating from the sailplane, which could cause loss of control of the sailplane.

Is there service information that applies to this subject? Valentin has issued Service Bulletin KOCO 05/818, issue 2, and Korff Work Instructions AW–KOCO–05/818, issue 2, both dated 16 January 2001. The service bulletin and work instructions include procedures for:

—Inspecting the central bolt for correct installation;
—Inspecting the central bolt for cracks;
—Installing a stronger central bolt; and
—Inspecting the telescopic rods and locking mechanisms for damage, removing any damaged parts, and repairing or replacing any damaged parts.

What action did LBA take? The LBA classified this service bulletin as mandatory and issued German AD 2000–392, dated December 15, 2000, to ensure the continued airworthiness of these sailplanes in Germany.

Was this in accordance with the bilateral airworthiness agreement? These sailplane models are manufactured in Germany 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.

In carrying out this bilateral airworthiness agreement, the LBA has kept FAA informed of the situation described above.

The FAA's Determination and an Explanation of the Provisions of the AD

What has FAA decided? The FAA has examined the findings of the LBA; 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 Valentin Model 17E sailplanes of the same type design;
—The actions specified in the previously-referenced service information (as specified in this AD) should be accomplished on the affected sailplanes; and
—AD action should be taken in order to correct this unsafe condition.

What does this AD require? This AD requires you to do the actions previously specified in accordance with Korff + Co. KG Service Bulletin KOCO 05/818, issue 2, and Korff Work Instructions AW–KOCO–05/818, issue 2, both dated 16 January 2001.

Will I have the opportunity to comment prior to the issuance of the rule? Because the unsafe condition described in this document could result in structural failure with possible loss of control of the sailplane, FAA finds that notice and opportunity for public comment before issuance are impractical. Therefore, good cause exists for making this amendment effective in less than 30 days.

Comments Invited

How do I comment on this AD? Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, we invite your comments on the rule. You may send whatever written data, views, or arguments you choose. You need to include the rule's docket number and send three copies of your comments to the address specified under the caption **ADDRESSES.** We will consider all comments received by the closing date specified above. We may change this rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether we need to take additional rulemaking action.

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 rule that might require a change to the rule. You may look at 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 rule.

We are 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 whether the style of this document is clear, 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. 2001–CE–05–AD.'' We will date stamp and mail the postcard back to you.

Regulatory Impact

Does this AD impact various entities? These regulations 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, FAA has determined that this final rule does not have federalism implications under Executive Order 13132.

Does this AD involve a significant rule or regulatory action? 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 (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under 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. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

2001–05–08 Valentin GMBH: Amendment 39–12145; Docket No. 2001–CE–05–AD.

(a) *What sailplanes are affected by this AD?* This AD affects Model 17E, all serial numbers, that are certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above sailplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to correct improperly installed or cracked central bolts, and damaged, deformed, or loose telescopic rods. This condition, if not corrected, could result in the wing separating from the sailplane, which could cause loss of control of the sailplane.

(d) *What must I do to address this problem?* To address this problem, unless already done, you must do the following actions:

Action	Compliance time	Procedures
(1) Inspect the central bolt for cracks	Within the next 5 hours time-in-service (TIS) after April 13, 2001.	Do this action following the ACTION paragraph in Korff + Co. KG Service Bulletin SB–KOCO 05/818, issue 2, an Korff Work Instructions AW–KOCO–05/818, issue 2, both dated January 16, 2001, and the sailplane flight manual.
(2) If the central bolt has any cracks, replace the central bolt with new bolt with new bolt F1–1373, Modification ''a'' or ''b'' (or FAA-approved equivalent part number) with the wide side of the cone on top.	Before further flight after the inspection required in paragraph (d)(1).	Do this action following the ACTION paragraph in Korff + Co. KG Service Bulletin SB–KOCO 05/818, issue 2, and Korff Work Instructions AW–KOCO–05/818, issue 2, both dated January 16, 2001, and the sailplane flight manual.
(3) If the central bolt (F1–1373) does not have any cracks, install a new bolt F1–1373, Modification ''a'' or ''b'' (or FAA–approved equivalent part number) with the wide side of the cone on top.	Within 25 hours TIS after April 13, 2001 ..	Do this action following the ACTION paragraph in Korff + Co. KG Service Bulletin SB–KOCO 05/818, issue 2, an Korff Work Instructions AW–KOCO–05/818, issue 2, both dated January 16, 2001, and the sailplane flight manual.
(4) Do not install any bolt that is not an F1–1373, Modification ''a'' or ''b'' (or FAA-approved equivalent part number).	As of the effective date of this AD	Not applicable.

Action	Compliance time	Procedures
(5) Inspect telescopic rods and locking mechanisms for any damage, smooth operation over full travel range, and mechanical tightness.	Within the next 5 hours TIS after April 13, 2001.	Do this action following the ACTION paragraph in Korff + Co. KG Service Bulletin SB–KOCO 05/818, issue 2, and Korff Work Instructions AW–KOCO–05/818, issue 2, both dated January 16, 2001, and the sailplane flight manual.
(6) Remove any problem telescopic rods and locking mechanisms from the sailplane.	Before further flight after the inspection required in paragraph (d)(5) above.	Do this action following the ACTION paragraph in Korff + Co. KG service Bulletin SB–KOCO 05/818, issue 2 and Korff Work Instructions AW–KOCO05/818, issue 2, both dated January 16, 2001, and the sailplane flight manual. Ship any problem telescopic rods and locking mechanisms to Korff + Co. KG, or any appropriately rated certified repair station, for repair.
(7) Install the airworthy or new telescopic rods and locking mechanisms in the sailplane.	Before further flight after removing the telescopic rods and locking mechanisms, and after repair of the telescopic rods and locking mechanisms.	Do this action following the ACTION paragraph in Korff + Co. KG Service Bulletin SB–KOCO and 05/818, issue 2, and Korff Work Instructions AW–KOCO–05/818, issue 2, both dated January 16, 2001, and the sailplane flight manual.

(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. Send your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 1: This AD applies to each sailplane 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 sailplanes 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 Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; facsimile: (816) 329–4090.

(g) *What if I need to fly the sailplane 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 sailplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done following Korff + Co. KG Service Bulletin–KOCO 05/818, issue 2, and Korff Work Instructions AW–KOCO 05/818, issue 2, both dated January 16, 2001. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Korff + Co. KG, Luftfahrttechnischer Betrieb, LBA II–A 189, Dieselstrasse 5, D–63128, Dietzenbach, Germany; telephone: (49) 6074/4006; facsimile: (49) 6074/4033. You can look at copies at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on April 13, 2001.

Note 2: The subject of this AD is addressed in German AD 2000–392, dated December 15, 2000.

Issued in Kansas City, Missouri, on March 6, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–6283 Filed 3–22–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–254–AD; Amendment 39–12151; AD 2001–06–04]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–8–33, –42, –55, and –61 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to McDonnell Douglas Model DC–8–33, –42, –55, and –61 series airplanes. This action requires detailed visual and eddy current inspections of the lower wing skin at the 3 outboard fasteners of stringer 64 end fitting to detect cracks; and corrective actions, if necessary. This action is necessary to prevent fatigue cracking of the lower wing skin, which could reduce structural integrity and loss of fail-safe capability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective April 9, 2001.

The incorporation by reference of McDonnell Douglas Service Bulletin DC8–57–100, Revision 02, dated June 21, 2000, as listed in the regulations, is approved by the Director of the Federal Register as of April 9, 2001.

The incorporation by reference of McDonnell Douglas Service Bulletin DC8–57–100, Revision 01, dated August 26, 1998, as listed in the regulations, was approved previously by the Director of the Federal Register as of February 29, 2000 (65 FR 3794, January 25, 2000).

Comments for inclusion in the Rules Docket must be received on or before May 22, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–254–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–254–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 Aircraft Group, Long Beach

Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Greg DiLibero, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5231; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: On January 13, 2000, the FAA issued AD 2000–02–01, amendment 39–11518 (65 FR 3794, January 25, 2000), applicable to certain McDonnell Douglas Model DC–8 series airplanes, to require detailed visual and eddy current inspections of the lower wing skin at the 3 outboard fasteners of stringer 64 end fitting to detect cracks; and corrective actions, if necessary. The actions required by that AD are intended to prevent fatigue cracking of the lower wing skin, which could reduce structural integrity and loss of fail-safe capability of the airplane.

Actions Since Issuance of AD 2000–02–01

Since the issuance of AD 2000–02–01, the FAA has received a report indicating that certain serial numbers of the affected airplanes were inadvertently omitted from McDonnell Douglas Service Bulletin DC8–57–100, Revision 01, dated August 26, 1998 (which was referenced in AD 2000–02–01 as the appropriate source of service information). These additional airplanes are subject to the addressed unsafe condition.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin DC8–57–100, Revision 02, dated June 21, 2000. The detailed visual and eddy current inspections and corrective actions are identical to those described in Revision 01 of the service bulletin. Revision 02 of the service bulletin expands the effectivity listing to include additional airplanes and clarifies information about a non-destructive testing reference standards and test equipment. Accomplishment of the actions specified in either of the service bulletins is intended to adequately address the identified unsafe condition.

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 of the lower wing skin, which could reduce structural integrity and loss of fail-safe capability of the airplane. This AD requires accomplishment of the actions specified in the service bulletin (either revision level) described previously.

Cost Impact

None of the Model McDonnell Douglas Model DC–8–33, –42, –55, and –61 series airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 4 work hours to accomplish the required actions, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this AD would be $240 per airplane.

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–254–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:

2001–06–04 McDonnell Douglas: Amendment 39–12151. Docket 2000–NM–254–AD.

Applicability: Model DC–8–33, –42, –55, and –61 series airplanes, manufacturer's fuselage numbers 0079, 0115, 0246, and 0325; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the lower wing skin, which could reduce structural integrity and loss of fail-safe capability of the airplane, accomplish the following:

Note 2: This AD will affect Principal Structural Elements (PSE) 57.08.037, 57.08.038, 57.08.021, and 57.08.022 of the DC–8 Supplemental Inspection Document (SID).

Inspection, Repair, and Modification

(a) Within 24 months after the effective date of this AD, do detailed visual and eddy current inspections to detect cracks in the lower wing skin fastener holes in the area surrounding 3 outboard fasteners of stringer 64 end fitting, per McDonnell Douglas Service Bulletin DC8–57–100, Revision 01, dated August 26, 1998; or Revision 02, dated June 21, 2000.

Note 3: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(1) If any crack is detected in the skin fastener holes and it is less than 3.1 inches long, before further flight, repair per the service bulletin. Within 14,100 landings after accomplishment of the repair, inspect the lower wing skin to detect cracks, per a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA.

(2) If any crack is detected in the skin fastener holes and it is greater than or equal to 3.1 inches long, before further flight, repair per a method approved by the Manager, Los Angeles ACO.

(3) If no crack is found, within 24 months after the effective date of this AD, do the preventative modification (including stress or split sleeve coining the three fastener holes in the skin, and installing new pins), per the service bulletin. Accomplishment of this action constitutes terminating action for the requirements of this AD.

Note 4: This AD does not terminate the inspection requirements for PSE's 57.08.037, 57.08.038, 57.08.021, and 57.08.022 of the DC–8 SID per AD 93–01–15, amendment 39–6330.

Alternative Methods of Compliance

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

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(d) Except as provided by paragraphs (a)(1) and (a)(2) of this AD, the actions shall be done in accordance with McDonnell Douglas Service Bulletin DC8–57–100, Revision 01, dated August 26, 1998; or McDonnell Douglas Service Bulletin DC8–57–100, Revision 02, dated June 21, 2000.

(1) The incorporation by reference of McDonnell Douglas Service Bulletin DC8–57–100, Revision 02, dated June 21, 2000, is approved by the Director of the Federal Register per 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of McDonnell Douglas Service Bulletin DC8–57–100, Revision 01, dated August 26, 1998, was approved previously by the Director of the Federal Register as of February 29, 2000 (65 FR 3794, January 25, 2000).

(3) Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on April 9, 2001.

Issued in Renton, Washington, on March 12, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–6643 Filed 3–22–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–60–AD; Amendment 39–12149; AD 2001–06–02]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–8 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–8 series –10 through –50, –61, –61F, –71, –71F airplanes, that currently requires a visual or eddy current inspection(s) of the left and right wing front spar lower caps to detect cracks migrating from attachment holes; and repair, if necessary. That AD also provides for an optional terminating modification of the front spar lower cap. This amendment is prompted by a report that additional cracking was found in the front spar lower cap of a wing. This amendment requires accomplishment of the previously optional terminating action. This amendment also expands the applicability of the existing AD to include additional airplanes and increases the interval for the repetitive

eddy current inspections. The actions specified by this AD are intended to prevent reduced structural integrity of the left or right wing due to metal fatigue failure of the front spar lower cap.

DATES: Effective April 27, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 27, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Greg DiLibero, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5231; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 86–20–08, amendment 39–5434 (51 FR 35502, October 6, 1986), which is applicable to certain McDonnell Douglas Model DC–8 series airplanes, was published in the **Federal Register** on May 10, 2000 (65 FR 30028). The action proposed to continue to require an eddy current inspection(s) to detect cracks of the lower front spar caps of the wings at the attachment holes of the leading edge assembly between stations Xfs=515.000 and Xfs=526.760, and corrective actions, if necessary. The action also proposed to require accomplishment of the previously optional terminating action and a follow-on inspection. In addition, the action proposed to expand the applicability of the existing AD to include additional airplanes that are subject to the identified unsafe condition of this AD and to increase the interval for the repetitive eddy current inspections.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Incorrect Reference to Superseded AD

Two commenters point out that the proposed AD incorrectly references AD 86–20–06 as the AD being superseded instead of AD 86–20–08. The FAA finds that the commenters are correct and has revised the final rule accordingly.

Request To Supersede AD 90–16–05

One commenter requests that the proposed AD also supersede AD 90–16–05, amendment 39–6614 (55 FR 31818, August 6, 1990), as it pertains to McDonnell Douglas Service Bulletin 57–90, Revision 2, dated March 1, 1991. The commenter states that superseding AD 90–16–05 would ensure that there is no conflict between the inspection and modification requirements of both AD's.

The FAA partially agrees. We acknowledge that there is a conflict between the eddy current inspection requirements of the proposed AD and AD 90–16–05 with respect to the revision level of McDonnell Douglas Service Bulletin (SB) DC8–57–090 (formerly numbered 57–90). We find that accomplishment of the eddy current inspection(s) required by this AD per Revision 05 of SB DC8–57–090 constitutes compliance with the inspection(s) required by paragraph A. of AD 90–16–05, as it pertains to SB 57–90, Revision 2. However, accomplishment of the eddy current inspection(s) does not terminate the remaining requirements of AD 90–16–05, as it applies to other service bulletins. Operators are required to continue to inspect and/or modify per the other service bulletins listed in that AD. Therefore, we have revised the final rule to include a new paragraph (h) to specify this information.

Request To Exclude Certain Airplanes or Give Credit for Doing a Certain Modification

One commenter requests that either paragraph (b) or the applicability of the proposed AD be reworded to exclude airplanes modified per McDonnell Douglas DC–8 Service Bulletin 57–90, original issue, dated October 3, 1983, or that note 5 be revised to include the original service bulletin. The commenter states that some airplanes have done the optional terminating modification specified in AD 86–20–08, which referenced the original issue of SB 57–90 as the appropriate source of service information, or the modification specified in paragraph (f) of the proposed AD. The commenter states that it is not clear which paragraphs of the proposed AD are applicable to airplanes that have been modified per the original issue of SB 57–90.

The FAA agrees that paragraph (b) and note 5 of the proposed AD should be revised as the commenter requests. We find that the applicability of paragraph (b) is unclear. Our intent was that paragraph (b) of the AD apply to all affected airplanes listed in Revision 05 of SB DC8–57–090 that are not listed in the original issue of that service bulletin (approximately 140 additional airplanes), and on which the modification specified in any of the following McDonnell Douglas DC–8 service bulletins has not been done:

Service bulletin	Revision level	Date
57–90	Original	Oct. 3, 1983.
57–90	1	June 16, 1988.
57–90	2	March 1, 1991.
57–90	3	March 25, 1992.
57–90	4	March 3, 1995.
DC8–57–090	05	June 16, 1997.

We have revised paragraph (b) of the final rule accordingly. Also, see the change below under the heading ''Explanation of Change to Applicability of Paragraph (a) of the AD'' and ''Explanation of Change to note 5 of the AD.''

Request To Revise Compliance Time of Paragraph (e) of the Proposed AD

One commenter asks if the compliance time in paragraph (e) of the proposed AD was intended to be before 100,000 ''total'' flight hours. No justification was given by the commenter. The FAA finds that the compliance time identified in the proposed AD is not consistent with the compliance time of related AD 90–16–05, which requires the modification to be completed before the airplane accumulates 100,000 ''total'' flight hours. Therefore, we have revised the compliance time of paragraph (e) of the final rule to state that the modification must be done before the accumulation of 100,000 ''total'' flight hours.

Explanation of Change to Applicability of Paragraph (a) of the AD

The FAA has determined that the applicability of paragraph (a) of the proposed AD should be revised. We have approved the modification described in the service bulletins listed in the table above (under the heading

''Request to Exclude Certain Airplanes or Give Credit for Doing a Certain Modification'') for compliance with the requirements of paragraph (a) of this AD. Therefore, we have added an identical table in paragraph (a) of the final rule (i.e., Table 1. Applicable Service Bulletins for Preventative Modification) and revised the applicability of that paragraph to exclude airplanes on which the modification specified in any of the service bulletins listed in that table has been done.

Explanation of Change to Note 5 of the AD

Note 5 of the proposed AD contained a typographical error. Accomplishment of the modification specified in note 5 of the AD is considered acceptable for compliance with the requirements of paragraph (e) of the AD, not paragraph (d). In addition, modification of the lower front spar cap accomplished before the effective date of this AD per McDonnell Douglas DC–8 Service Bulletin 57–90, dated October 3, 1983, in addition to the other revision levels specified in note 5, is considered acceptable for compliance with the requirements of paragraph (e) of the AD. The FAA has revised note 5 of the final rule accordingly.

Clarification of Compliance Time of Paragraph (g) of the AD

The FAA considers that the compliance time in paragraph (g) of the proposed AD is not clear as it is currently worded, and that operators may misinterpret when the follow-on inspection must be done. Our intent was that the follow-on inspection be done within 32,900 flight hours after accomplishing the modification (reference Service Bulletin DC8–57–090 or 57–90) required by AD 86–20–08, AD 90–16–05, or either paragraph (d)(1) or (e) of the proposed AD; all of these modifications are identical.

Note 5 of the proposed AD gives operators credit for accomplishing the subject modification before the effective date of the AD (i.e., operators that accomplished the subject modification specified in AD 86–20–08, which was optional in that AD). Paragraph (f) of the proposed AD also gives operators credit for accomplishing the subject modification per paragraph B. of AD 90–16–05. If an operator takes credit for accomplishing the modification in note 5 or paragraph (f) of the AD, it was our intent in the proposed AD that the operator do the follow-on inspection and corrective actions, if necessary, per paragraph (g) of the AD. Therefore, for clarification purposes, we have revised the compliance time of paragraph (g) of the final rule to ''within 32,900 flight hours after accomplishing the modification * * * '' and to reference the modification specified in AD's 86–20–08 and 90–16–05.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 294 Model DC–8 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 251 airplanes of U.S. registry will be affected by this AD.

It will take approximately 2 work hours per airplane to accomplish the required inspection at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $30,120, or $120 per airplane, per inspection cycle.

It will take approximately between 12 and 14 work hours per airplane to accomplish the required modification at an average labor rate of $60 per work hour. Required parts will cost approximately between $303 and $1,202 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be between $256,773, or $512,542, or between $1,023, or $2,042 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–5434 (51 FR 35502, October 6, 1986), and by adding a new airworthiness directive (AD), amendment 39–12149, to read as follows:

2001–06–02 McDonnell Douglas: Amendment 39–12149. Docket 99–NM–60–AD. Supersedes AD 86–20–08, Amendment 39–5434.

Applicability: Model DC–8 series airplanes, as listed in McDonnell Douglas Service Bulletin DC8–57–090, Revision 05, dated June 16, 1997; 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 (i) 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 reduced structural integrity of the left or right wing due to metal fatigue failure of the front spar lower cap, accomplish the following:

Note 2: This AD will affect the inspections, corrective actions, and reports required by AD 93–01–15, amendment 39–8469 (58 FR 5576, January 22, 1993), for Principal Structural Elements (PSE) 57.08.021 and 57.08.022 of the DC–8 Supplemental Inspection Document (SID).

Note 3: Where there are differences between this AD and the referenced service bulletin, the AD prevails.

Eddy Current Inspection

(a) For Model DC–8–10 through DC–8–50, inclusive, DC–8–61, –61F, –71, and –71F series airplanes, equipped with left or right wing front spar lower cap, part number (P/N) 5597838–1 or –2; not modified per any of the McDonnell Douglas DC–8 service bulletins listed in Table 1 of this AD: Do an eddy current inspection to detect cracks of the lower front spar caps of the wings at the attachment holes of the leading edge assembly between stations Xfs=515.000 and Xfs=526.760, per McDonnell Douglas Service Bulletin DC8–57–090, Revision 05, dated June 16, 1997; at the time specified in either paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable. Table 1 is as follows:

TABLE 1.—APPLICABLE SERVICE BULLETINS FOR PREVENTATIVE MODIFICATION.

Service bulletin	Revision level	Date
57–90	Original	Oct. 3, 1983.
57–90	1	June 16, 1988.
57–90	2	March 1, 1991.
57–90	3	March 25, 1992.
57–90	4	March 3, 1995.
DC8–57–090	05	June 16, 1997.

Note 4: Eddy current inspections done before the effective date of this AD per McDonnell Douglas DC–8 Service Bulletin 57–90, Revision 1, dated June 16, 1988; Revision 2, dated March 1, 1991; Revision 3, dated March 25, 1992; or Revision 4, dated March 3, 1995; are considered acceptable for compliance with the requirements of paragraph (a) of this AD.

(1) For airplanes on which the immediately preceding inspection was conducted using eddy current techniques per AD 86–20–08 before the effective date of this AD: Inspect within 3,600 flight hours or 3 years after accomplishment of the last eddy current inspection, whichever occurs first.

(2) For airplanes on which the immediately preceding inspection was conducted visually per AD 86–20–08 before the effective date of this AD: Inspect within 3,200 flight hours or 2 years after accomplishment of the last visual inspection, whichever occurs first.

(3) For airplanes on which a visual or eddy current inspection or the modification required by AD 86–20–08 has not been done: Inspect before the accumulation of 30,000 total flight hours, or within 200 flight hours after the effective date of this AD.

(b) For airplanes other than those identified in paragraph (a) of this AD; not modified per any of the McDonnell Douglas DC–8 service bulletins listed in Table 1 of this AD: Within 3,200 flight hours or 2 years after the effective date of this AD, whichever occurs first, do the eddy current inspection specified in paragraph (a) of this AD.

Repetitive Inspections

(c) If no crack is detected during any inspection required by this AD, repeat the eddy current inspection every 3,600 flight hours or 3 years, whichever occurs first.

Repair

(d) If any crack is detected during any inspection required this AD, before further flight, do the action specified in either paragraph (d)(1) or (d)(2) of this AD, as applicable.

(1) For cracks within the limits specified in Conditions 2 through 6, inclusive, Table 1 of paragraph 3.B.4 of the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC8–57–090, Revision 05, dated June 16, 1997: Modify the lower front spar cap per McDonnell Douglas Service Bulletin DC8–57–090, Revision 05, dated June 16, 1997. Accomplishment of the modification constitutes compliance with the requirements paragraphs (c) and (e) of this AD.

(2) For cracks that exceed the limits specified in Conditions 2 through 6, inclusive, Table 1 of paragraph 3.B.4 of the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC8–57–090, Revision 05, dated June 16, 1997: Repair per a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA.

Preventative Modification

(e) Before the accumulation of 100,000 total flight hours, modify the lower front spar cap per paragraph 3.B.2.B of the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC8–57–090, Revision 05, dated June 16, 1997. Accomplishment of the modification constitutes compliance with the requirements paragraphs (a) and (b) of this AD and terminates the repetitive inspection requirements of paragraph (c) of this AD.

Note 5: Modification of the lower front spar cap accomplished before the effective date of this AD per McDonnell Douglas DC–8 Service Bulletin 57–90, dated October 3, 1993; Revision 1, dated June 16, 1988; Revision 2, dated March 1, 1991; Revision 3, dated March 25, 1992; or Revision 4, dated March 3, 1995; is considered acceptable for compliance with the requirements of paragraph (e) of this AD.

(f) Accomplishment of the modification required by paragraph B. of AD 90–16–05, amendment 39–6614 (55 FR 31818, August 6, 1990) (which references ''DC–8 Aging Aircraft Service Action Requirements Document'' (SARD), McDonnell Douglas Report MDC K1579, Revision A, dated March 1, 1990, as the appropriate source of service information for accomplishing the modification) constitutes compliance with paragraphs (a), (b), and (e) of this AD and terminates the repetitive inspection requirements of paragraph (c) of this AD.

Follow-On Inspection

(g) Within 32,900 flight hours after accomplishment of the modification specified in paragraph (g)(1), (g)(2), (g)(3), or (g)(4) of this AD, or within 2 years after the effective date of this AD, whichever occurs later, perform an inspection to detect cracks in the area specified in paragraph (a) of this AD, and corrective actions, if necessary; per a method approved by the Manager, Los Angeles ACO.

(1) Modification required by paragraph (d)(1) of this AD;

(2) Modification required by paragraph (e) of this AD;

(3) Modification specified in paragraph D. of AD 86–20–08; or

(4) Modification required by paragraph B. of AD 90–16–05.

Certain Actions Constitute Compliance With AD 90–16–05

(h) Accomplishment of the eddy current inspection(s) required by this AD constitutes compliance with the inspections required by paragraph A. of AD 90–16–05, as it pertains to McDonnell Douglas DC–8 Service Bulletin 57–90, Revision 2, dated March 1, 1991. Accomplishment of the eddy current inspection(s) does not terminate the remaining requirements of AD 90–16–05, as it applies to other service bulletins. Operators are required to continue to inspect and/or modify per the other service bulletins listed in that AD.

Alternative Methods of Compliance

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

Note 6: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(k) Except as provided by paragraphs (d)(2) and (g) of this AD, the actions shall be done in accordance with McDonnell Douglas Service Bulletin DC8–57–090, Revision 05,

dated June 16, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(l) This amendment becomes effective on April 27, 2001.

Issued in Renton, Washington, on March 12, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–6645 Filed 3–22–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–119–AD; Amendment 39–12150; AD 2001–06–03]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–301, –321, –322 Series Airplanes; and Model A340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Airbus Model A330–301, –321, and –322 series airplanes, and all Model A340 series airplanes. This action requires replacing, with oversize fasteners, the interference fit fasteners between ribs 2 and 7 and between ribs 9 and 11; and reinforcing the cover plate of the torsion box of the aft passenger/crew doors. This action is necessary to prevent propagation of fatigue cracking of the top wing skin and the torsion box of the aft passenger/crew doors, which could lead to reduced structural capability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective April 9, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 9, 2001.

Comments for inclusion in the Rules Docket must be received on or before April 23, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–119–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–119–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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. 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: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on all Airbus Model A330 and A340 series airplanes. The DGAC advises that fatigue tests on the test wing revealed cracks propagating from fastener holes in the top wing skin and the rear spar flange between wing ribs 2 and 11. Cracks were also found at the cover plate of the torsion box of the aft passenger/crew door at frame (FR) 73A and FR75A. These conditions, if not corrected, could result in reduced structural capability of the airplane.

Explanation of Relevant Service Information

Airbus has issued the following service bulletins:

Model	Service bulletin	Actions
A330	A330–57–3054, Revision 02, dated November 22, 1999.	Removal of the interference fit fasteners in the top skin panel and rear spar flange between rib 9 and rib 11. High frequency eddy current (HFEC) rototest inspection around the fastener holes to detect cracking.
A340	A340–57–4061, Revision 02, dated November 23, 1999.	Drilling, reaming, and cold expanding the holes. Installing oversize interference fit fasteners.
A330	A330–57–3053, Revision 01, dated June 15, 1999.	Removal of the interference fit fasteners in the top skin panel and rear spar flange between rib 2 and rib 7. HFEC rototest inspection around the fastener holes to detect cracking.
A340	A340–57–4060, Revision 01, dated November 8, 1999.	Drilling, reaming, and cold expanding the holes. Installing new interference bolts.
A330	A330–53–3054, Revision 01, dated May 17, 1999.	Reinforcement of the cover plate of the torsion box of the left and right aft passenger/crew doors, including installing gusset plates, cold expanding specified drain holes, drilling and reaming fastener holes, and installing oversize fasteners.
A340	A340–53–4072, dated June 29, 1998.	

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified these service bulletins as mandatory and issued the following French airworthiness directives to ensure the continued airworthiness of these airplanes in France:

Airworthiness directive	Date
2000–124–113(B)	March 8, 2000.
2000–123–138(B)	March 8, 2000.
2000–122–112(B)	March 8, 2000.
2000–121–137(B) R1	October 4, 2000.

Airworthiness directive	Date
2000–135–117(B)	March 22, 2000.
2000–136–142(B)	March 22, 2000.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.19) 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.

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 registered in the United States, this AD is being issued to prevent propagation of fatigue cracking of the top wing skin and the torsion box of the aft passenger/crew doors, which could lead to reduced structural capability of the airplane. This AD requires replacing, with oversize fasteners, the interference fit fasteners between ribs 2 and 7 and between ribs 9 and 11; and reinforcing the cover plate of the torsion box of the aft passenger/crew doors. The actions are required to be accomplished in accordance with the service bulletins described previously, except as discussed below.

Differences Between This AD and Relevant Service Information

Operators should note that, although the service bulletins specify that the manufacturer may be contacted for disposition of certain repair conditions, this AD requires the repair of those conditions to be accomplished in accordance with a method approved by either the FAA, or the DGAC (or its delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this AD, a repair approved by either the FAA or the DGAC would be acceptable for compliance with this AD.

Cost Impact

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

Should an affected airplane be imported and placed on the U.S. Register in the future, the following cost estimates to comply with the requirements of this AD would apply:

Action (specified per Airbus service bulletin)	Work hours	Average labor rate	Parts cost	Per-airplane cost
A330–57–3054 or A340–57–4061	32	$60	$2,080	$4,000
A330–57–3053	72	60	21,540	25,860
A340–57–4060	72	60	8,940	13,260
A330–53–3054 or A340–53–4072	12 or 20 (depending on kit)	60	55–488	775–1,688

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 2000–NM–119–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:

2001–06–03 Airbus Industrie: Amendment 39–12150. Docket 2000–NM–119–AD.

Applicability: All Model A330–301, –321, and –322 series airplanes; and all Model A340 series airplanes; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the propagation of fatigue cracking of the top wing skin and the torsion box of the aft passenger/crew doors, which could lead to reduced structural capability of the airplane, accomplish the following:

Modifications

(a) Do the modifications (including reaming, drilling, and cold expanding specified fastener holes; replacing fasteners; and performing high frequency eddy current inspections to detect cracking); as specified and at the applicable times in paragraphs (a)(1), (a)(2), and (a)(3) listed in Table 1 of this AD, as follows:

TABLE 1.—REQUIRED ACTIONS

Modify	Before the airplane accumulates	For model	Per Airbus service bulletin
(1) The top wing skin and rear spar flange between wing ribs 9 and 11.	(i)17,200 total flight cycles or 53,500 total flight hours, whichever occurs first.	A330	A330–57–3054, Revision 02, dated November 22, 1999.
	(ii) 7,200 total flight cycles or 31,700 total flight hours, whichever occurs first.	A340	A340–57–4061, Revision 02, dated November 23, 1999.
(2) The top wing skin and the rear spar flange between wing ribs 2 and 7.	(i) 13,200 total flight cycles or 41,000 total flight hours, whichever occurs first.	A330	A330–57–3053, Revision 01, dated June 15, 1999.
	(ii) 9,100 total flight cycles or 45,500 total flight hours, whichever occurs first.	A340, pre-Modification 41300.	A340–57–4060, Revision 01, dated November 8, 1999.
	(iii) 8,700 total flight cycles or 43,500 total flight hours, whichever occurs first.	A340, post-Modification 41300.	A340–57–4060, Revision 01, dated November 8, 1999.
(3) The cover plate of the torsion box of the aft passenger/crew door.	(i) 10,000 total flight cycles	A330	A330–53–3054, Revision 01, dated May 17, 1999.
	(ii) 8,750 total flight cycles	A340	A340–53–4072, dated June 29, 1998.

Note 2: Accomplishment, prior to the effective date of this AD, of a modification in accordance with a service bulletin listed in Table 2 of this AD is also acceptable for compliance with the applicable requirements of paragraph (a) of this AD, as follows:.

TABLE 2.—ADDITIONAL ACCEPTABLE SERVICE BULLETINS

Applicable paragraph of this AD	Model	Applicable service bulletin	Revison level	Date
(a)(1)	A330	A330–57–3054	Original 01	May 29, 1998. June 3, 1999.
	A340	A340–57–4061	Original 01	May 29, 1998. October 29, 1998.
(a)(2)	A330	A330–57–3053	Original	September 23, 1998.
	A340	A340–57–4060	Original	June 3, 1999.
(a)(3)	A330	A330–53–3054	Original	June 29, 1998.

Repair

(b) If any crack or assembly difference is found during any inspection required by paragraph (a) of this AD, and the applicable service bulletin specifies to contact Airbus for appropriate actopm: Prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Direction Generale de l'Aviation Civile (DGAC).

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators

shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(e) Except as required by paragraph (b) of this AD: The actions shall be done in accordance with the Airbus service bulletins listed in Table 3 of this AD, as follows:

TABLE 3.—SERVICE BULLETINS FOR INCORPORATION BY REFERENCE

Service bulletin number	Revision level	Date
A330–57–3054	02	Nov. 22, 1999.
A340–57–4061	02	Nov. 23, 1999.
A330–57–3053	01	June 15, 1999.
A340–57–4060	01	Nov. 8, 1999.
A330–53–3054	01	May 17, 1999.
A340–53–4072	Original	June 29, 1998.

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

Note 4: The subject of this AD is addressed in the French airworthiness directives identified in Table 4 of this AD, as follows:

TABLE 4.—FRENCH AIRWORTHINESS DIRECTIVES

Airworthiness directive	Date
2000–124–113(B)	March 8, 2000.
2000–123–138(B)	March 8, 2000.
2000–122–112(B)	March 8, 2000.
2000–121–137(B) R1 ...	October 4, 2000.
2000–135–117(B)	March 22, 2000.
2000–136–142(B)	March 22, 2000.

Effective Date

(f) This amendment becomes effective on April 9, 2001.

Issued in Renton, Washington, on March 12, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–6644 Filed 3–22–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–32–AD; Amendment 39–12154; AD 2001–06–07]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 Series Airplanes

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 Bombardier Model CL–600–2B19 series airplanes. This action requires a one-time inspection to find chafing or damage of the integrated drive generator cables of the cable harness assembly of the engines, and follow-on actions. This action is necessary to prevent such chafing or damage, which could result in electrical arcing between the cable and an engine cowl door, creating a possible ignition source and consequent fire and/or loss of electrical power on the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective April 9, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 9, 2001.

Comments for inclusion in the Rules Docket must be received on or before April 23, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–32–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 the Internet must contain ''Docket No. 2001–NM–32–AD'' in the subject line and need not be submitted in triplicate. Comments sent via fax or 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 Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Luciano Castracane, Aerospace Engineer, ANE–172, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7535; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on certain Bombardier Model CL–600–2B19 series airplanes. TCCA advises that electrical arcing between the integrated drive generator (IDG) cable and an engine cowl door has been reported. Such arcing has been attributed to chafing of the IDG cable against the structure and engine cowl doors, due to wear. This condition, if not corrected, could result in a possible ignition source and consequent fire and/or loss of electrical power on the airplane.

Explanation of Relevant Service Information

The manufacturer has issued Bombardier Alert Service Bulletin A601R–24–103, Revision B, dated January 26, 2001, which describes procedures for the following:

- Part A of the Accomplishment Instructions: A visual inspection to find chafing or damage of the IDG cables between the service pylon connections to the cable harness assembly of the left and right engines, and follow-on actions (below).
- Part B of the Accomplishment Instructions: Installation of a protective conduit on the IDG cable harness assembly if there is no damage found or if there is damage to the outer core of the cable only.
- Part C of the Accomplishment Instructions: Replacement of damaged (inner core damage, or damaged/broken conductor strands) IDG cables with new cables.

Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The TCCA classified this service bulletin as mandatory and issued Canadian airworthiness directive CF–2001–02, dated January 17, 2001, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, TCCA has kept the FAA informed of the situation described above. The FAA has examined the findings of the TCCA, 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.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent chafing or damage of the IDG cables, which could result in electrical arcing between the cable and an engine cowl door, creating a possible ignition source and consequent fire and/or loss of electrical power on the airplane. This AD requires a one-time general visual inspection to find chafing or damage of the IDG cables between the service pylon connections to the cable harness assembly of the engines, and follow-on actions. The actions are required to be accomplished per the service bulletin described previously.

Determination of Rule's Effective Date

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 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 2001–NM–32–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.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–06–07 Bombardier, Inc. (Formerly Canadair): Amendment 39–12154. Docket 2001–NM–32–AD.

Applicability: Model CL–600–2B19 series airplanes, serial numbers 7003 through 7462 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 per 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 done previously.

To prevent chafing or damage of the integrated drive generator (IDG) cables of the cable harness assembly of the engines, which could result in electrical arcing between the cable and an engine cowl door, creating a possible ignition source and consequent fire and/or loss of electrical power on the airplane; do the following:

Inspection/Repair/Replacement

(a) Within 50 flight hours after the effective date of this AD: Do a one-time general visual

inspection of the IDG cables between the service pylon connections to the cable harness assembly of the left and right engines to find chafing or damage, per Part A of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–24–103, Revision B, dated January 26, 2001.

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

(1) If no chafing or damage to any cable is found, do the installation required by paragraph (b) of this AD at the time specified.

(2) If chafing or damage is found on the outer core of any cable, and the inner core of the cable is not damaged, before further flight, repair per Part A, or replace per Part C of the Accomplishment Instructions of the service bulletin.

(3) If any damaged cable (inner core damage, or damaged/broken conductor strands) is found, before further flight, replace with a new cable per part C of the Accomplishment Instructions of the service bulletin.

Installation of Protective Conduit

(b) If no chafing or damage of any IDG cable is found, or there is outer core damage to the cable only, within 550 flight hours after doing paragraph (a) of this AD: Install a protective conduit on the IDG cable harness assembly per Part B of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–24–103, Revision B, dated January 26, 2001.

Note 3: Inspections, repairs, or replacements done before the effective date of this AD per Bombardier Alert Service Bulletin A601R–24–103, dated December 28, 2000, or Revision A, dated January 18, 2001; are considered acceptable for compliance with the applicable actions specified in this AD.

Reporting Requirement

(c) Within 30 days after doing the inspection required by paragraph (a) of this AD: Submit a report of any findings of chafing or damage to Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

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, New York Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

Special Flight Permits

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

Incorporation by Reference

(f) The actions shall be done per Bombardier Alert Service Bulletin A601R–24–103, Revision B, dated January 26, 2001. This incorporation by reference was approved by the Director of the Federal Register per 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in Canadian airworthiness directive CF–2001–02, dated January 17, 2001.

Effective Date

(g) This amendment becomes effective on April 9, 2001.

Issued in Renton, Washington, on March 13, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–6788 Filed 3–22–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–19–AD; Amendment 39–12155; AD 2001–06–08]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600, –700, and –800 Series Airplanes

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 737–600, –700, and –800 series airplanes. This action requires repetitive inspections of certain elevator hinge plates, and corrective action, if necessary. This action also provides for an optional replacement of the elevator hinge plates with new, improved hinge plates, which would end the repetitive inspections. This action is necessary to detect and correct fatigue cracking of the elevator hinge plates, which could lead to the loss of the attachment of the elevator to the horizontal stabilizer, and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective April 9, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 9, 2001.

Comments for inclusion in the Rules Docket must be received on or before May 22, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–19–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. 2001–NM–19–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: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2028; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received a report that, during flight testing of Boeing Model 737–600, –700,

and –800 series airplanes, the elevator hinge plates at elevator hinges 3, 4, 5, 6, 7, and 8 experienced higher-than-expected loads due to buffeting by the spoiler. The higher loads reduce the service life of the elevator hinge plates. Reduced service life of the elevator hinge plates could lead to fatigue cracking of the elevator hinge plates in service. Such cracking could lead to the loss of the attachment of the elevator to the horizontal stabilizer, and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 737–55–1067, dated October 19, 2000, which describes instructions for the following:

- Repetitive detailed visual inspections of the elevator hinge plate lugs (three locations) at elevator hinges 3, 5, 6, 7, and 8.
- Repetitive high frequency eddy current (HFEC) and detailed visual inspections of the hinge plate at elevator hinge 4. (Analysis has shown that the hinge plate at elevator hinge 4 is most critical; therefore, in addition to the detailed visual inspection, an HFEC inspection is necessary for elevator hinge 4.)
- Corrective actions, which entail replacement of the hinge plate with a new part, if any crack or unusual wear is found on a hinge plate. (For the purposes of this AD, unusual wear is defined as elongated holes, loose or missing nuts or bolts, or missing primer or finish.)
- Replacement of the elevator hinge plates at hinges 3, 4, 5, 6, 7, and 8, with new, improved hinge plates, and modification of the elevator upper skin, the upper and lower hinge covers, and the upper and lower closure panels, as applicable. Doing these actions eliminates the need to do the repetitive inspections.

Explanation of the 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 detect and correct fatigue cracking of the elevator hinge plates, which could lead to the loss of the attachment of the elevator to the horizontal stabilizer, and consequent reduced controllability of the airplane. This AD requires accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Difference Between This AD and the Service Bulletin

Operators should note that the service bulletin recommends doing the inspections prior to the accumulation of 7,000 total flight cycles on the airplane. The FAA finds that such a compliance time could put some airplanes out of compliance as of the effective date of this AD if the airplane already has accumulated more than 7,000 total flight cycles before the effective date of the AD. Therefore, this AD provides a grace period of 90 days after the effective date of this AD for the inspection for airplanes that are close to or over the threshold of 7,000 total flight cycles.

Operators also should note that, although the service bulletin specifies to contact Boeing for wear limits during replacement of elevator hinge plates, this AD requires that such wear limits be obtained from the Manager, Seattle Aircraft Certification Office (ACO), FAA, or a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings.

Interim Action

This is considered to be interim action. The service bulletin recommends the replacement of elevator hinge plates prior to the accumulation of 15,000 total flight cycles, or within 5 years since date of delivery of the airplane, whichever occurs first. This AD provides for the replacement as optional. The FAA is currently considering requiring the replacement of the elevator hinge plates with new parts, which is described in the service bulletin and which would constitute terminating action for the repetitive inspections required by this AD action. However, the planned compliance time for the replacement is sufficiently long so that notice and opportunity for prior public comment will be practicable.

Determination of Rule's Effective Date

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 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 2001–NM–19–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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44

FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–06–08 Boeing: Amendment 39–12155. Docket 2001–NM–19–AD.

Applicability: Model 737–600, –700, and –800 series airplanes; line numbers 1 through 84 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 detect and correct cracking of the elevator hinge plates, which could lead to the loss of the attachment of the elevator to the horizontal stabilizer, and consequent reduced controllability of the airplane, accomplish the following:

Inspections and Corrective Actions

(a) Prior to the accumulation of 7,000 total flight cycles or within 90 days after the effective date of this AD, whichever occurs later, perform high frequency eddy current and detailed visual inspections of the hinge plate at elevator hinge 4, and a detailed visual inspection of the elevator hinge plate lugs (three locations) at elevator hinges 3, 5, 6, 7, and 8. Do these inspections per Part I of the Accomplishment Instructions of Boeing Service Bulletin 737–55–1067, dated October 19, 2000. Repeat the inspections thereafter no later than every 4,000 flight cycles, per the service bulletin, until paragraph (b) of this AD has been accomplished. If any cracking or unusual wear (i.e., elongated holes, loose or missing nuts or bolts, or missing primer or finish) is found during any inspection per this paragraph, before further flight, replace the affected hinge plate with a new, improved hinge plate, and modify the elevator upper skin, the upper and lower hinge covers, and the upper and lower closure panels, as applicable, per the service bulletin, except as provided by paragraph (c) of this AD. Such replacement and modification ends the repetitive inspections for the replaced hinge plate.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Optional Replacement of Hinge Plates

(b) Replacement of the elevator hinge plates at hinges 3, 4, 5, 6, 7, and 8, with new, improved hinge plates; including modification of the elevator upper skin, the upper and lower hinge covers, and the upper and lower closure panels, as applicable; per Part II of the Accomplishment Instructions of Boeing Service Bulletin 737–55–1067, dated October 19, 2000, except as provided by paragraph (c) of this AD; ends the repetitive inspections required by this AD.

Exception to Service Bulletin Instructions: Wear Limits

(c) During the replacement of elevator hinge plates per paragraph (a) or (b) of this AD, where Boeing Service Bulletin 737–55–1067, dated October 19, 2000, specifies to contact Boeing for wear limits, before further flight, contact the Manager, Seattle Aircraft Certification Office (ACO), FAA, or a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For wear limits 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 §§ 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 737–55–1067, dated October 19, 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 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 April 9, 2001.

Issued in Renton, Washington, on March 15, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–7173 Filed 3–22–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 2001–ASW–05]

Revision of Class E Airspace; Bay City, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment revises the Class E airspace at Bay City, TX. The development of a Nondirectional Radio Beacon (NDB) Standard Instrument Approach Procedure (SIAP), at Bay City Municipal Airport, Bay City, TX, has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for Instrument Flight Rules (IFR) operations to Bay City Municipal Airport, Bay City, TX.

DATES: Effective 0901 UTC, July 12, 2001. Comments must be received on or before May 7, 2001.

ADDRESSES: Send comments on the rule in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 2001–ASW–05, Fort Worth, TX 76193–0520. The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 2601 Meacham Boulevard, Room 663, Fort Worth, TX, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR part 71 revises the Class E airspace at Bay City, TX. The development of a NDB SIAP, at Bay City Municipal Airport, Bay City, TX, has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for IFR operations to Bay City Municipal airport, Bay City, TX.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9H, dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR § 71.1. The Class E airspace designation listed in this document will be published subsequently in the order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document will be published in the **Federal Register**. This document may withdraw the direct final rule in whole or in part. After considering the adverse or negative comment, we may publish another direct final rule or publish a notice of proposed rulemaking with a new comment period.

Comments Invited

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2001–ASW–05.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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

Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Polices 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. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

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

* * * * *

ASW TX E5 Bay City, TX [Revised]

Bay City, Bay City Municipal Airport, TX

(Lat. 28°58′24″N., long. 95°51′49″W.)

Bay City NDB

(Lat. 28°58′21″N., long. 95°51′36″W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius

of Bay City Municipal Airport and within 4 miles northeast and 7 miles southwest of the 311° bearing of the Bay City NDB extending from the 7-mile radius to 7.5 miles northwest of the airport.

* * * * *

Issued in Fort Worth, TX, on March 13, 2001.

A.L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 01–7062 Filed 3–22–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AWP–12]

Modification of Class E Airspace; Molokai, HI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class E airspace area at Molokai, HI. The development of an Area Navigation (RNAV) Global Positioning System (GPS)–B Standard Instrument Approach Procedure (SIAP) to Kaunakakai/Molokai Airport has made action necessary. Additional controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing the RNAV (GPS)–B SIAP to Kaunakakai/Molokai Airport. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IRF) operations at Kaunakakai/Molokai Airport, Molokai, HI.

EFFECTIVE DATE: 0901 UTC May 17, 2001.

FOR FURTHER INFORMATION CONTACT: Jeri Carson, Airspace Specialist, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6611.

SUPPLEMENTARY INFORMATION:

History

On January 17, 2001, the FAA proposed to amend 14 CFR part 71 by modifying the Class E airspace area at Kaunakakai/Molokai HI (66 FR 3887). Additional controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing the RNAV (GPS)–B SIAP at Kaunakakai/Molokai Airport, Molokai, HI. This action will provide adequate controlled airspace for aircraft executing the RNAV (GPS)–B SIAP to Kaunakakai/Molokai Airport, Molokai, HI.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations for airspace extending from 700 feet or more above the surface of the earth are published in paragraph 6005 off FAA Order 7400.9H dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies the Class E airspace area at Molokai, HI. The development of an RNAV (GPS)–B SIAP has made this action necessary. The effect of this action will provide adequate airspace for aircraft executing the RNAV (GPS)–B SIAP at Kaunakakai/Molokai Airport, Molokai, HI.

The FAA has determined that this regulation only involved an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; 40120; E. O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

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

* * * * *

AWP HI E5 Molokai, HI [Revised]

Kaunakakai/Molokai Airport, HI
(Lat. 21°09′11″N, long. 157°05′47″W)
Molokai VORTAC
(Lat. 21°08′17″N., long. 157°10′03″W)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of the Kaunakakai/Molokai Airport and within 1.8 miles each side of the Molokai VORTAC 268° radial, extending from the 6.8-mile radius of the Kaunakakai/Molokai Airport to 4.3 miles west of the Molokai VORTAC.

* * * * *

Dated: Issued in Los Angeles, California, on March 6, 2001.

Dawna J. Vicars,

Assistant Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 01–7274 Filed 3–22–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 000510129–1004–02]

RIN 0648–A018

Florida Keys National Marine Sanctuary Regulations; Announcement of Effective Date

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Announcement of effective date.

SUMMARY: This document announces that the Revised Designation Document and the final regulations that were published in the **Federal Register** on January 17, 2001, (66 FR 4267), for the Florida Keys National Marine Sanctuary, became effective in Federal waters on March 8, 2001. The Revised

Designation Document expands the boundary of the Sanctuary and the regulations implement the expansion, establish and implement the Tortugas Ecological Reserve, and make other revisions to the Sanctuary regulations.

DATES: The final regulations published at 66 FR 4267 (January 17, 2001) are effective March 8, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Billy Causey, (305) 743–2437.

SUPPLEMENTARY INFORMATION:

Background

This document announces the effective date in Federal waters for the Revised Designation Document expanding the boundary of the Florida Keys National Marine Sanctuary (FKNMS or Sanctuary) and the final regulations that implement the boundary expansion, establish and implement the Tortugas Ecological Reserve, and that make certain revisions to the Sanctuary regulations. The expansion of the Sanctuary boundary encompasses an area of the State of Florida waters and Federal waters at the far western end of the Florida Keys, and the submerged lands thereunder. The **Federal Register** document publishing those regulations also contained the Revised Designation Document and summarized the final supplemental management plan for the Sanctuary. The Revised Designation Document sets forth the geographical area included within the Sanctuary, the characteristics of the area that give it conservation, recreational, ecological, historical, research, education, or esthetic value, and the type of activities subject to regulation. The supplemental management plan details the goals and objectives, management responsibilities, research activities, interpretive and educational programs, and enforcement activities of the area. As stated in the preamble to the final rule, the regulations become effective after the close of a review period of 45 days of continuous session of Congress beginning on the day on which the final rule was published unless the Governor of the State of Florida certifies to the Secretary of Commerce that the designation or any of its terms is unacceptable, in which case the designation or any unacceptable terms shall not take effect in State of Florida waters unless and until approved by the Board of Trustees of the Internal Improvement Fund of the State of Florida. The Congressional review period ended on March 7, 2001. On March 6, 2001, the Governor of the State of Florida certified to the Secretary of Commerce that the revised designation, the supplemental management plan, and the regulations implementing the Tortugas Ecological Reserve were unacceptable unless and until approved by the Board of Trustees. The Governor further advised the Secretary that the State of Florida is committed to the protection of the Tortugas area and its resources and that it is expected that the Board of Trustees will consider the proposed designation, ecological reserve, and the implementing regulations within a reasonable time.

Accordingly, the designation of the Sanctuary and the regulations implementing that designation became effective in Federal waters on March 8, 2001. The regulations will not take effect in Florida State waters until approved by the Board of Trustees of the Internal Improvement Fund of the State of Florida. This **Federal Register** document announces the effective date of the Revised Designation Document and the final regulations as March 8, 2001.

Ted I. Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 01–7273 Filed 3–22–01; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 33

[Docket No. RM98–4–001; Order No. 642–A]

Revised Filing Requirements Under Part 33 of the Commission's Regulations

Issued March 15, 2001.

AGENCY: Federal Energy Regulatory Commission.

ACTION: final rule; order on rehearing.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing an order addressing requests for rehearing of Order No. 642, a final rule updating the filing requirements applications filed under the Commission's regulations. (65 FR 70984 (Nov. 28, 2000).) Order No. 642 was designed to implement the Commission's Policy Statement concerning mergers under the Federal Power Act. The final rule codified the Commission's screening approach to mergers that may raise horizontal competitive concerns, provided specific filing requirements consistent with Appendix A of the Commission's Merger Policy Statement, established guidelines for vertical competitive analysis, and identified filing requirements for mergers that potentially raise vertical market power concerns. The order on rehearing addresses issues relating to the Merger Policy Statement, the abbreviated filing requirements, adequacy of data requirements, consideration of retail competitive effects, generic conditions for mergers, a temporary moratorium on mergers and other miscellaneous issues.

FOR FURTHER INFORMATION CONTACT: Diana Moss, Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–0087.

SUPPLEMENTARY INFORMATION:

Federal Energy Regulatory Commission

Before Commissioners: Curt Hébert, Jr., Chairman; William L. Massey, and Linda Breathitt.

Order No. 642–A; Order on Rehearing

I. Introduction

The Federal Energy Regulatory Commission (Commission) is issuing an order addressing requests for rehearing of Order No. 642, a final rule updating the filing requirements applications filed under Part 33 of the Commission's regulations, including public utility mergers.[1] The rehearing order denies rehearing but provides clarification on these issues.

II. Background

Pursuant to section 203 of the Federal Power Act (FPA), Commission authorization is required for public utility acquisitions or dispositions of jurisdictional facilities, including public utility mergers and consolidations.[2] Since 1996, the Commission has approved such transactions if they are consistent with the public interest under guidelines established in the Merger Policy Statement.[3] The Policy Statement sets out three factors the Commission will generally consider when analyzing a merger proposal: effect on competition, effect on rates, and effect on regulation.

Order No. 642 revised the filing requirements in Part 33 of the Commission's regulations to enable

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[1] 65 FR 70984 (Nov. 28, 2000); III FERC Stats. & Regs. ¶ 31,111 (Nov. 15, 2000), codified at, 18 CFR Part 33.

[2] 16 U.S.C. 824(b).

[3] *Inquiry Concerning the Commission's Merger Policy Under the Federal Power Act: Policy Statement,* Order No. 592, 61 FR 68595 (Dec. 30, 1996), III FERC Stats. & Regs. ¶ 31,044 (Dec. 18, 1996), *reconsideration denied,* Order No. 592-A, 62 FR 33341 (1997), 79 FERC ¶ 61,321 (1997) (Policy Statement).

applicants and intervenors to address more effectively and predictably the types of issues that have arisen in applications filed since the issuance of the Policy Statement, as well as issues that we anticipate may arise as the energy industry continues to make the transition to more competitive markets. Order No. 642 was also designed to implement the Policy Statement and provide detailed guidance to applicants for preparing applications under section 203 of the FPA. The revised filing requirements are designed to assist the Commission in determining whether applications are consistent with the public interest, and to provide more certainty and expedite the Commission's handling of such applications.

Among other things, Order No. 642 codifies the Commission's screening approach to mergers that may raise horizontal competitive concerns, provided specific filing requirements consistent with Appendix A of the Commission's Merger Policy Statement, established guidelines for vertical competitive analysis, and set forth filing requirements for mergers that potentially raise vertical market power concerns. Order No. 642 also streamlined and eliminated outdated and unnecessary Part 33 filing requirements, and reduced the information burden for dispositions of jurisdictional facilities that raise no competitive concerns.

Requests for rehearing were filed by the National Rural Electric Cooperative Association (NRECA) and jointly by the American Public Power Association and the Transmission Access Policy Study Group (APPA/TAPS). As discussed below, the Commission denies rehearing, but clarifies certain aspects of the filing requirements in Order No. 642.

III. Discussion

A. Reversal of the Policy Statement

Rehearing Requests

NRECA and APPA/TAPS are concerned that Order No. 642 relies too heavily on the Appendix A competitive screen analysis and improperly shifts the burden of proof regarding a disposition's competitive effects from applicants to intervenors. This, they argue, reverses the Policy Statement without adequate explanation. Specifically, Petitioners are concerned about Order No. 642's declaration that:

> If the screen is violated, the Commission will take a closer look at whether the merger would harm competition. If not, and no intervenors make a convincing case that the merger has anticompetitive effects despite passing the screen, the horizontal analysis stops there.

APPA/TAPS contend that, if the foregoing is read literally, the Commission will treat passing the screen as creating a ''nearly irrebuttable'' presumption that intervenors may overcome only by ''a convincing case that the merger has anti-competitive effects.'' This, they argue, flips the statutory burden of proof from applicants to intervenors by requiring intervenors to make a ''convincing case'' of competitive problems, a standard that was not proposed in the Notice of Proposed Rulemaking (NOPR). APPA/TAPS point to the standard in the Policy Statement, which stated:

> [S]uch claims must be substantial and specific. In other words, they should focus on errors or other factual challenges to the data or assumptions used in the analysis, or whether the analysis has overlooked certain effects of the merger.[4]

While APPA/TAPS understand the ''substantial and specific'' standard articulated in the Policy Statement to be consistent with the assignment of the burden of proof under the FPA, they assert that the ''convincing case'' terminology used in Order No. 642 suggests application of an unlawfully heavier burden.

Therefore, Petitioners argue that the Commission should clarify that the applicant bears the ultimate burden of proof to demonstrate that the transaction is consistent with the public interest. In addition, APPA/TAPS state that it is not clear whether, if applicants take advantage of the safe harbors outlined in Order No. 642, intervenors may be left with the impossible task of ''making a convincing case'' based on other factors, in less than the 60 day period for comments, without the benefit of the information required in an Appendix A analysis.

Moreover, NRECA points out that the statement ''the horizontal analysis stops there'' is ambiguous. This deviates from the Policy Statement, Petitioners state, and abandons the Commission's statutory duty to be pro-active regarding mergers. They note that the Policy Statement made clear that the screen was just one factor to be considered in setting a case for hearing and described the screen as a tool, allowing mergers of concern to be identified based on facts not fully reflected in or completely outside the screen. APPA/TAPS reiterate that the Policy Statement instructed intervenors to provide specific concerns, not generalized claims, consistent with the ''substantial and specific'' standard.

APPA/TAPS also cite past instances where the Commission looked beyond the screen, such as the hearing order for the merger between American Electric Power Company and Central and South West Corporation.[5] Thus, Petitioners contend that the Commission must clarify that it will look beyond the screen at other market power concerns which may arise. NRECA also requests that the Commission clarify that, even absent an intervenor making a clear and convincing case, the Commission has the authority and the duty to inquire further into a merger's competitive effects.

Commission Response

The Commission believes that Order No. 642 does not reverse the PolicyStatement. Rather, Order No. 642 implements the Policy Statement and sets forth filing requirements that are consistent with the Policy Statement.[6] APPA/TAPS' concern that under Order No. 642, passing the screen creates an irrebuttable presumption which can be overcome only with ''a convincing case'' that the merger has anti-competitive effects is misplaced. The term ''convincing case'' is consistent with the Policy Statement, to which APPA/TAPS themselves cite:

> [there] also may be disputes over the data used by applicants or over the way applicants have conducted the screen analysis. However, these claims must be substantial and specific.[7]

As envisioned in Order No. 642, unsubstantiated, unspecific claims made by any party to the proceeding do not constitute a convincing case.

Given the foregoing, we also disagree with NRECA's claim that the phrase ''the horizontal analysis stops there'' is ambiguous. To the contrary, it makes clear that the Commission will be satisfied that there is no need for further investigation on this issue if the criteria for passing the screen are met. As stated in Order No. 642, these criteria include: (1) Intervenors do not make a convincing case (*i.e.,* they do not raise substantial and specific claims) that the merger has anticompetitive effects[8] and (2) the evidence as to the lack of effect on competition is convincing and verifiable.[9] In crafting Order No. 642 to

[4] Order No. 592 at 30,119.

[5] *American Electric Power Company, et al.,* 85 FERC ¶ 61,201 (1998), *reh'g* 87 FERC ¶ 61,274 (1999), *appeal pending sub nom.,* Wabash Valley Power Assn. v. FERC, Docket 00–1297 (D.C. Cir. 2000).

[6] Order No. 642 at 31,872 and 31,874.

[7] Order No. 592 at 30,119.

[8] Order No. 642 at 31,897.

[9] *Id.* at 31,878.

be consistent with the Policy Statement, the Commission was cognizant of the value of the screen as ''* * * a standard, generally conservative check to allow the Commission, applicants and intervenors to quickly identify mergers that are unlikely to present competitive problems.'' [10] However, to ensure that mergers with potential competitive problems will be appropriately identified and analyzed, the Commission was also careful to state in Order No. 642 that ''[the] horizontal screen is not meant to be a definitive test of the likely competitive effects of a proposed merger.'' [11]

Therefore, we do not agree with Petitioners that Order No. 642 reverses the Policy Statement and we deny their request for rehearing on this issue.

B. Abbreviated Filing Requirements

Rehearing Request

APPA/TAPS argue that the abbreviated filing requirements specified in Order No. 642 are inappropriate because: (1) They are erroneously based on whether applicants are actual or potential competitors in each other's geographic markets; (2) they create strong incentives to craft potentially anti-competitive combinations that can be portrayed to qualify for abbreviated filing requirements; and (3) the procedures allow less than 60 days for interventions, giving intervenors (whom the Commission relies on as a critical source of information) less time and information to accomplish the task of making a ''convincing case'' that a corporate disposition has anti-competitive effects. APPA/TAPS urge the Commission to impose the same (non-abbreviated) filing requirements on all applicants under section 203 and, absent that, to require a competitive analysis if the applicants would own or control 5,000 MWs or more of generation. Petitioners also urge the Commission not to shorten the 60-day intervention period. At a minimum, APPA/TAPS suggest the Commission automatically grant extensions to a 60-day notice period if any intervenor requests additional time to prepare its case.

Commission Response

As stated in Order No. 642, the abbreviated filing requirements apply when it is relatively easy to determine that a disposition will not harm competition.[12] In cases where this determination is not obvious, as also explained in Order No. 642, the Commission would be unlikely to consider merger applications for review under the abbreviated filing requirements, but would make such decisions after examining the specifics of each case.[13] Given the foregoing, Petitioners' proposals regarding the 60-day notice period are unnecessary, and defeat the purpose of the abbreviated filing requirements. In addition, APPA/TAPS have not demonstrated why non-abbreviated filing requirements should be required of all applicants that own or control 5,000 MW or more of generation.

APPA/TAPS' concern that the Commission will overlook market power issues in abbreviated filings if applicants do not have a pre-merger presence in each other's geographic markets is based on a misreading of Order No. 642. As explained in Order No. 642, to be eligible for an abbreviated filing, applicants must demonstrate that the merging entities do not currently operate in the same geographic markets, or if they do, that the extent of such overlapping operation is *de minimis.*[14] Relevant geographic markets include, but are not limited to, Applicants' own geographic markets. In the case of a horizontal merger, the overlapping relevant markets in question would be downstream electricity markets and in a vertical merger case, they would be upstream input and downstream electricity markets.[15] As such, the abbreviated filing requirements do not overlook either horizontal or vertical market power issues. We therefore deny Petitioners' request for rehearing on this issue.

C. Confidentiality of ''Market Strategy'' Information

Rehearing Requests

Petitioners object to the presumption of confidentiality for applicant's ''market strategy'' information unless intervenors can show that denying disclosure would violate intervenors' due process rights. NRECA believes that this provision creates an incentive to shield large classes of information by labeling it ''market strategies.'' APPA/TAPS point out that there is a constitutional dimension to the burden placed upon requests for secrecy, and there is also long-established Commission precedent placing an exacting standard on those seeking to justify confidential treatment. NRECA also points out that the Commission's existing discovery rules provide procedures for invoking privilege to limit discovery of specific information. APPA/TAPS argue that due process and the Commission's *ex parte* rules require disclosure in all cases to intervenors willing to abide by reasonable protective orders and that denying intervenor access to that information even under a protective order directly conflicts with the Commission's *ex parte* rules.

Petitioners suggest that the Commission clarify that merger applicants are subject to a heavy burden to demonstrate that confidential treatment is required and that to the extent information is treated as confidential, it will be made available to intervenors willing to execute protective agreements. Absent this, NRECA argues that the Commission should clarify that the confidentiality provision applies only to ''market strategy'' information voluntarily submitted by applicants in response to intervenor concerns about perceived potential competition but not to data or information labeled by applicants as ''market strategies'' but submitted for other reasons or obtained through discovery.

Commission Response

As we explained in Order No. 642, the Commission's treatment of confidential information in merger applications will be consistent with the Commission's long-standing rules governing the protection of any documents filed at the Commission for which the confidentiality privilege is claimed.[16] Under these regulations, applicants may claim confidentiality for certain information included in their merger applications at the time the application is filed, and parties to the proceeding may seek access to that information pursuant to § 388.107 of the Commission's regulations.[17] At that time, we will review the documents to determine whether the information falls within the exemption from public disclosure under the Freedom of Information Act (FOIA) for ''trade secrets and commercial or financial information obtained from a person and privileged or confidential.''[18] We therefore deny Petitioners' request for rehearing on this issue.

D. Inadequacy of Data Requirements

Rehearing Requests

APPA/TAPS allege that Order No. 642 fails to address their concern that the data collected for merger analysis may be inadequate. In their comments on the NOPR, APPA/TAPS explained the need

[10] *Id.* at 31,879.

[11] *Id.*

[12] *Id.* at 31,901.

[13] *Id.* at 31,902.

[14] *Id.*

[15] *Id.* at 31,901 and 31,907.

[16] 18 CFR 388.112.

[17] 18 CFR 388.107.

[18] 18 CFR 388.107(d).

for data and information obtained through a ''second request'' issued by the Department of Justice or the Federal Trade Commission. APPA/TAPS argue that despite the Commission's claim that it can request additional data, the Commission has not demonstrated that it has the time or resources to do so. Therefore, APPA/TAPS argue that ''second request''-type data should be submitted automatically with the merger filing and be made available to intervenors when they execute the appropriate confidentiality agreements. Alternatively, APPA/TAPS suggest that the Commission should permit intervenors to obtain limited discovery during the initial intervention period.

Commission Response

We disagree with Petitioners that Order No. 642 does not addresses their concern that data collected for merger analysis may be inadequate. To the contrary, Order No. 642 sets forth data and information requirements sufficient to ensure comprehensive review of applications under section 203. Moreover, as we stated several times in Order No. 642, the Commission retains the right to request additional information that we deem necessary to evaluate the economic and regulatory impacts brought about by a prospective corporate disposition.[19] Contrary to Petitioners' assertions, the Commission has requested additional information in a number of instances and intervenors have benefitted from that information.[20] Thus, we believe that expanding the data requirements to cover all contingencies is unnecessary. We will therefore deny Petitioners' request for rehearing on this issue.

E. Consideration of Retail Competitive Effects

Rehearing Requests

Petitioners argue that Order No. 642 fails to adequately consider the effect of mergers by limiting the Commission's review of retail markets to only those situations where ''a state lacks authority in these kinds of circumstances and asks us to do so.'' APPA/TAPS argue that the Commission is responsible for considering the impact of its actions and ensuring that those actions further the public interest, which includes an analysis of retail markets. NRECA argues that state merger evaluation standards are not necessarily related to those required under the FPA, and that the Commission should not substitute state determinations (or lack thereof) for its own determination.

Commission Response

We stated in Order No. 642 that we will look at retail competitive impacts only when a state lacks authority and asks us to do so.[21] The petitions for rehearing offer no reasoned basis for changing our policy. Accordingly, we will deny Petitioners' request for rehearing on this issue.

F. Generic Conditions for Mergers

Rehearing Requests

Petitioners claim that Order No. 642 should impose certain generic conditions on mergers. APPA/TAPS claim that all mergers should be generically conditioned on: (1) The requirement (as APPA/TAPS originally proposed in their comments on the NOPR) that applicants take service to meet their retail load under their Open Access Transmission Tariffs and ''treat their own dispatch comparably with service to others;'' (2) participation in a properly structured Regional Transmission Organization (RTO) prior to the consummation of the merger; and (3) continued or expanded reserve sharing, or equivalent mechanisms. NRECA also argues that if merger applicants voluntarily commit to join an RTO, the Commission's regulations should include provisions to enforce that commitment. APPA/TAPS also argues that Order No. 642 should provide for other conditions—such as financial disincentives—to address the improper use of merger-related market power.

Commission Response

Order No. 642 does not specifically address APPA/TAPS' proposal that mergers be generically conditioned on applicants taking service to meet their retail load under their Open Access Transmission Tariff (OATT). However, we did explain in Order No. 642 that while there are numerous mitigation measures that may be effective, the adequacy of specific mitigation proposals must still be evaluated on a case-by-case basis.[22] Petitioners have not supported the need for generic mitigation measures such as participation in an RTO, expanded reserve sharing requirements or the use of financial disincentives, and we deny rehearing on this issue.

With regard to the RTO issue raised by NRECA, we note that when voluntary commitments to join Commission-approved RTOs are recognized in our approval of mergers, we expect applicants to honor such commitments.

G. Temporary Moratorium on Mergers

Rehearing Requests

Petitioners claim that Order No. 642 fails to adequately explain why the Commission rejected a moratorium on large utility mergers. They cite recent events in electricity markets around the country, including California, as support for just such a moratorium. Absent a moratorium, APPA/TAPS contend that mergers should be approved only if merger-related benefits are shown to be sufficient to offset harm to actual or potential competition.

Commission Response

We will deny Petitioners' request for rehearing on this issue. As we explained in Order No. 642, regulatory safeguards are in place to prevent such adverse competitive effects, regardless of the size of a merger.[23] Moreover, in implementing the Policy Statement, Order No. 642 states that we will determine, on a case-by-case basis, whether a merger will adversely affect competition. We disagree with Petitioners' proposals that applicants should be required to demonstrate that merger-related benefits offset competitive harm. Such a specific requirement would conflict with the flexibility embedded in Order No. 642 and the Policy Statement, which provide that merger applicants failing the competitive analysis screen should propose mitigation *or* go on to evaluate the following four factors: (1) The potential adverse competitive effects of the merger; (2) whether entry by competitors can deter anticompetitive behavior or counteract adverse competitive effects; (3) the effects of efficiencies that could not be realized absent the merger; and (4) whether one or both of the merging firms is failing and, absent the merger, the failing firm's assets would exit the market.[24] This is consistent with our finding that a transaction taken as a whole must be consistent with the public interest.[25]

[19] *See, e.g.,* Order No. 642 at 31,881 (on deficient filings), 31,902 (on abbreviated filing requirements) and 31,918 (on retail access).

[20] *See id.* at 31,881, n. 26.

[21] *Id.* at 31,918 and 31,919. In reviewing Order No. 642, we found a typographical error. The second to last sentence in the paragraph before Section C at 31,919 should read: ''We take this opportunity to clarify that we will consider retail market issues when circumstances warrant.''

[22] *Id.* at 31,900.

[23] Order No. 642 at 31,919.

[24] *Id.* at 31,898.

[25] *See, e.g., Northeast Utilities Service Co.* v. *FERC,* 993 F.2d 937 (1st Cir. 1993).

H. Regulatory Flexibility Act Certification Analysis

Rehearing Requests

NRECA argues that, contrary to the Commission's assertion that the rule will not have a ''significant economic impact on a substantial number of small entities,'' there are an increasing number of rural electric cooperatives, some of them modest in size, that have become subject to the Commission's jurisdiction as they have paid off their debt from the Rural Utilities Service. NRECA argues that Order No. 642 will affect ''small'' public utilities if those entities choose to merge to better deal with the increasing market power of larger public utilities. NRECA requests that the Commission either perform the Regulatory Flexibility Act analysis, or provide for waivers of the reporting requirements for small public utilities.

Commission Response

The Commission has evaluated the various types of mergers and other section 203 transactions subject to these revised filing requirements. The number of cooperatives subject to Commission jurisdiction as public utilities, and therefore affected by these requirements, is small. In addition, Order No. 642 does not increase the number of small entities that are subject to the Commission's jurisdiction under section 203. In fact, the final rule reduces the regulatory burdens and reporting requirements on most entities, both large and small, by streamlining and eliminating outdated and unnecessary filing requirements.

The Commission therefore certifies that Order No. 642 will not have a significant economic impact on small entities.

I. Miscellaneous Issues

Rehearing Requests

APPA/TAPS argue that Order No. 642 fails to reflect components of a detailed competitive analysis that are not adequately captured by market concentration statistics. They point to the failure of market concentration analysis to reveal the constraints which they believe are now apparent in California, including: transmission constraints and their manipulation; incentives not to build transmission; insufficient generation; and gas supply, water, and emission constraints. NRECA requests that the Commission modify § 33.3(c) of the Commission's regulations to require horizontal merger applicants to analyze firm requirements power as a relevant product.

Commission Response

Petitioners' concern that the Commission will rely exclusively on the horizontal screen analysis in evaluating the effect of a merger on competition is misplaced. For example, we stated in Order No. 642 that:

> [T]he horizontal screen is not meant to be a definitive test of the likely competitive effects of a proposed merger. Instead, it is intended to provide a standard, generally conservative check to allow the Commission, applicants and intervenors to quickly identify mergers that are unlikely to present competitive problems.[26]

This is consistent with the Policy Statement.

We also note in Order No. 642 the limitations on the use of concentration statistics.[27] In addition, Order No. 642 points out that we have sought additional information from merger applicants when circumstances warranted and that the intervention process itself allows other market participants to raise concerns.[28] Together, these factors indicate that the Commission will not rely exclusively on market concentration statistics in evaluating the competitive effects of mergers.

Finally, we disagree with NRECA's position that firm requirements power should be considered as a separate relevant product. In Order No. 642, we explain that it is important to define relevant products from the perspective of the consumer, *i.e.,* including in a product group those products considered by the consumer to be good substitutes.[29] NRECA has not demonstrated how firm requirements power meets this standard. We therefore deny Petitioners' request for rehearing on these issues.

The Commission orders:

For the reasons discussed above, the Commission denies rehearing of Order No. 642.

By the Commission.

David P. Boergers,

Secretary.

[FR Doc. 01–7200 Filed 3–22–01; 8:45 am]

BILLING CODE 6717–01–P

[26] Order No. 642 at 31,879.

[27] *Id.* at 31,882, 31,897.

[28] *Id.* at 31,881.

[29] *Id.* at 31,883.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Monensin and Tylosin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two supplemental new animal drug applications (NADA's) filed by Elanco Animal Health. These supplemental NADA's provide for using tylosin or monensin and tylosin single-ingredient Type A medicated articles to make tylosin liquid Type B medicated feeds or combination drug liquid Type B medicated feeds. The liquid Type B medicated feeds are used to make dry Type C medicated feeds for cattle.

DATES: This rule is effective March 23, 2001.

FOR FURTHER INFORMATION CONTACT: Daniel A. Benz, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0223.

SUPPLEMENTARY INFORMATION: Elanco Animal Health, A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, filed supplemental NADA 12–491 that provides for use of TYLAN® (40 or 100 grams per pound (g/lb) tylosin phosphate) Type A medicated articles to make liquid Type B medicated feeds. The tylosin liquid Type B medicated feeds are, in turn, used to make dry Type C medicated feeds for reduction of the incidence of liver abscesses caused by *Fusobacterium necrophorum* and *Actinomyces* (*Corynebacterium*) *pyogenes* in beef cattle. Elanco Animal Health also filed supplemental NADA 104–646 that provides for use of RUMENSIN® (20, 30, 45, 60, 80, or 90.7 g/lb monensin activity as monensin sodium) and TYLAN® Type A medicated articles to make liquid combination drug Type B medicated feeds. The combination drug liquid Type B medicated feeds are, in turn, used to make dry Type C medicated feeds used for improved feed efficiency and reduction of the incidence of liver abscesses caused by *F. necrophorum* and *A.* (*Corynebacterium*) *pyogenes* in cattle fed in confinement for slaughter. The supplemental NADA's are approved as of February 2, 2001, and the regulations are amended in 21 CFR

558.355 and 558.625 to reflect the approval.

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

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

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.355 is amended in paragraph (f)(3)(ii)(*b*) by adding a new sentence after the second sentence to read as follows:

§ 558.355 Monensin.

* * * * *

(f) * * *

(3) * * *

(ii) * * *

(*b*) * * * Combination drug liquid Type B medicated feeds may be used to manufacture dry Type C medicated feeds and shall conform to mixing instructions as in § 558.625 (c).

* * * * *

3. Section 558.625 is amended by adding paragraph (c) to read as follows:

§ 558.625 Tylosin.

* * * * *

(c) *Special considerations.* (1) Type C medicated feeds for cattle may be manufactured from tylosin liquid Type B medicated feeds which have a pH between 4.5 and 6.0 and which bear appropriate mixing directions as follows:

(i) For liquid Type B feeds stored in recirculating tank systems: Recirculate immediately prior to use for no fewer than 10 minutes, moving not less than 1 percent of the tank contents per minute from the bottom of the tank to the top. Recirculate daily as described even when not used.

(ii) For liquid Type B feeds stored in mechanical, air, or other agitation-type tank systems: Agitate immediately prior to use for no fewer than 10 minutes, creating a turbulence at the bottom of the tank that is visible at the top. Agitate daily as described even when not used.

(2) Tylosin liquid Type B medicated feeds used to make Type C medicated feeds for cattle may be manufactured from tylosin Type A medicated articles according to the following mixing directions:

(i) Presolubilize tylosin in 50 percent urea for approximately 1 hour prior to adding any feed components or other active ingredients.

(ii) Maintain a pH between 4.5 and 6.0.

(3) Tylosin liquid Type B medicated feeds must bear an expiration date of 8 weeks after the date of manufacture.

* * * * *

Dated: March 8, 2001.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 01–7182 Filed 3–22–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8916]

RIN 1545–AY29

Application of Section 904 to Income Subject to Separate Limitations and Section 864(e) Affiliated Group Expense Allocation and Apportionment Rules; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final and temporary regulations.

SUMMARY: This document contains corrections to final and temporary regulations that were published in the **Federal Register** on Wednesday, January 3, 2001 (66 FR 268) relating to the section 864(e)(5) and (6) rules on affiliated group interest and other expense allocation and other expense allocation and apportionment and to the section 904(d) foreign tax credit limitation.

DATES: This correction is effective January 3, 2001.

FOR FURTHER INFORMATION CONTACT: Bethany A. Ingwalson (202) 622–3850 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final and temporary regulations that are the subject of these corrections are under section 864 and 904 of the Internal Revenue Code.

Need for Correction

As published, the final and temporary regulations contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final and temporary regulations (TD 8916), that were the subject of FR Doc. 00–32477, is corrected as follows:

1. On page 268, column 3, in the preamble in the caption **DATES** under the *''Applicability Dates:''* paragraph heading, first full paragraph, line 6 and 7, the language ''9(h)(5)(i) and (ii), § 1.861–11(d)(8), and § 1.861–14(d)(1), (d)(2)(i), and (d)(2)(ii)'' is corrected to read ''9(h)(5)(iii), § 1.861–11(d)(2)(iv) and (d)(7), and § 1.861–14(d)(1) and (d)(2)(iii)''.

§ 1.904–4 [Corrected]

2. On page 276, column 3, § 1.904–4, paragraph (g)(3)(ii)(C), line 6, the language ''determination whether a distribution'' is corrected to read ''determination of whether a distribution''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Office of Special Counsel (Modernization and Strategic Planning).

[FR Doc. 01–7165 Filed 3–22–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 9

Nondisplacement of Qualified Workers Under Certain Contracts; Rescission of Regulations Pursuant to Executive Order 13204

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule; rescission of regulations.

SUMMARY: On February 17, 2001, President Bush issued Executive Order 13204, which revoked Executive Order 12933 of October 20, 1994, on nondisplacement of qualified workers under certain federal contracts and directed the Secretary of Labor to promptly rescind the regulations and

policies implementing Executive Order 12933. The directive also ordered the termination of all investigations or other compliance actions based on Executive Order 12933. In accordance with this directive, the Department of Labor is issuing a final rule to rescind the regulations on nondisplacement of qualified workers under certain contracts, which were promulgated pursuant to the authority provided by Executive Order 12933.

EFFECTIVE DATE: This rule is effective March 23, 2001.

FOR FURTHER INFORMATION CONTACT: Timothy Helm, Team Leader, Government Contracts Team, Office of Enforcement Policy, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S3018, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–0064. This is not a toll free number.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

The information collection requirements contained in Regulations, 29 CFR part 9, were previously approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and assigned OMB Control Number 1215–0190.

II. Background

Executive Order 12933 of October 20, 1994—''Nondisplacement of Qualified Workers Under Certain Contracts,'' provided that workers on a building service contract for a public building be given the right of first refusal for employment with a successor contractor if they would otherwise lose their jobs as a result of termination of the contract. The implementing regulations, 29 CFR part 9, were promulgated in accordance with the terms of Executive Order 12933 and were published in the **Federal Register** of May 22, 1997 (62 FR 28176). On February 17, 2001, President Bush signed Executive Order 13204—Revocation of Executive Order on Nondisplacement of Qualified Workers Under Certain Contracts (66 FR 11228; February 22, 2001). Executive Order 13204 directs the Secretary of Labor to terminate any investigations or other compliance actions based on Executive Order 12933, and to ''promptly move to rescind any orders, rules, regulations, guidelines, or policies implementing or enforcing Executive Order 12933 of October 20, 1994 * * *.'' Since the authority for these regulations no longer exists, the Department for good cause hereby finds that it is unnecessary and impracticable to afford notice and comment procedures on the rescission of the regulations at 29 CFR part 9, and that such rescission should be effective upon publication. As provided in Executive Order 13204, the revocation of Executive Order 12933 and the rescission of these regulations extend to all investigations or other compliance actions based on Executive Order 12933.

Document Preparation

This document was prepared under the direction and control of Thomas M. Markey, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, pursuant to the delegated authority of Secretary's Order No. 5–96 (62 FR 107, January 2, 1997), and Employment Standards Order No. 97–1, dated April 8, 1997.

List of Subjects in 29 CFR Part 9

Employment, Federal buildings and facilities, Government contracts.

PART 9—[REMOVED]

Accordingly, and under the authority of Executive Order 13204, 66 FR 11228, part 9 of title 29 of the Code of Federal Regulations is hereby removed.

Signed at Washington, D.C. on the 14th day of March, 2001.

Thomas M. Markey,

Acting Administrator, Wage and Hour Division.

[FR Doc. 01–7146 Filed 3–22–01; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 773

RIN 1029–AB94

Requirements for Permits and Permit Processing; Correction

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

ACTION: Final rule, correction.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement, are publishing corrections to a final rule which was published on Tuesday, December 19, 2000 (65 FR 79582). The final rule related to requirements for permits and permit processing and ownership and control under the Surface Mining Control and Reclamation Act of 1977, as amended.

EFFECTIVE DATE: March 23, 2001.

FOR FURTHER INFORMATION CONTACT: Stephen McEntegart, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240. Telephone: 202–208–2968. Electronic Mail: smcenteg@osmre.gov. Additional information concerning OSM and related documents may be found on OSM's Internet home page (Internet address: *http://www.osmre.gov*) and on our AVS Office's Internet home page (Internet address: *http://www.avs.osmre.gov*).

SUPPLEMENTARY INFORMATION: We are making corrections to the final rule published on Tuesday, December 19, 2000 (65 FR 79582). The final rule redesignated former § 773.13 as § 773.6. In amendatory language revising a cross-reference contained in the newly designated paragraph § 773.6(a)(3)(ii), we made a typographical error by citing the paragraph as ''§ 773.5(a)(3)(ii).'' The instruction should have read ''newly designated § 773.6(a)(3)(ii).''

The final rule also redesignated former paragraph § 773.15(d) as section § 773.16. Former paragraph § 773.15(d) began with the paragraph heading ''*Performance bond submittal.*'' Inadvertently, we failed to instruct the **Federal Register** to delete the paragraph heading for § 773.15(d) and to use it as the section heading for § 773.16.

Accordingly, the publication on December 19, 2000, of the final rule which was the subject of FR Doc. 00–32002, is corrected as follows:

§ 773.6 [Corrected]

1. On page 79663, in the third column, in amendatory instruction number 12, the citation to ''§ 773.5(a)(3)(ii)'' is corrected to read ''§ 773.6(a)(3)(ii).''

§ 773.16 [Corrected]

2. On page 79663, in the second column, amendatory instruction number 10 is corrected by adding the following redesignation in sequential order to the table to read as follows:

Section	Is redesignated as * * *
* * * * *	
773.15(d), paragraph heading.	773.16, section heading.

Dated: March 9, 2001.

Piet deWitt,

Acting Assistant Secretary, Land and Minerals Management.

[FR Doc. 01–7138 Filed 3–22–01; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD11–01–005]

Drawbridge Operating Regulation; Sacramento River, CA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eleventh Coast Guard District, has approved a temporary deviation to the regulations governing the opening of the Rio Vista highway drawbridge at mile 12.8 over the Sacramento River, Sacramento County, CA. The drawbridge need not open for vessel traffic at night from March 18 through April 2, 2001. Scheduled closure times are Sunday night through Friday morning from 10 p.m. until 5 a.m., and Friday night through Sunday morning from 11 p.m. until 6 a.m. This deviation is to allow California Department of Transportation to perform essential maintenance and seismic retrofit on the bridge.

DATES: The temporary deviation is effective from 12:01 a.m., March 18, 2001, through 11:59 p.m., April 2, 2001.

FOR FURTHER INFORMATION CONTACT: David H. Sulouff, Chief, Bridge Section; Eleventh Coast Guard District, Bldg. 50–6, Coast Guard Island, Alameda, CA 94501–5100, telephone (510) 437–3516.

SUPPLEMENTARY INFORMATION: The Rio Vista drawbridge, mile 12.8, over the Sacramento River, Sacramento County, CA, provides 17.8 feet vertical clearance above Mean High Water when closed. On March 1, 2001, the Coast Guard received the request from the California Department of transportation for the temporary deviation from the existing operating regulation in 33 CFR 117.5, which requires drawbridge to open promptly and fully when a request to open is given.

This deviation has been coordinated with commercial operators and various marinas on the waterway. No objections were received. Vessels that can pass under the bridge without an opening may do so at all times. In accordance with 33 CFR 117.35(c), this work shall be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the normal operating regulations in 33 CFR 117.5 is authorized in accordance with the provisions of 33 CFR 117.35.

Dated: March 15, 2001.

C.D. Wurster,

U.S. Coast Guard, Acting Commander, Eleventh Coast Guard District.

[FR Doc. 01–7199 Filed 3–22–01; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–01–032]

RIN 2115–AE47

Drawbridge Operation Regulations: Newtown Creek, Dutch Kills, English Kills and Their Tributaries, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary final rule governing the operation of the Pulaski Bridge, at mile 0.6, across the Newtown Creek between Brooklyn and Queens, New York. This temporary final rule allows the bridge owner to need open only one bascule span for the passage of vessel traffic from April 23, 2001 through August 31, 2001. This action is necessary to facilitate maintenance at the bridge.

DATES: This temporary final rule is effective from April 23, 2001 through August 31, 2001.

ADDRESSES: The public docket and all documents referred to in this notice are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Schmied, Project Officer, First Coast Guard District, (212) 668–7165.

SUPPLEMENTARY INFORMATION:

Regulatory Information

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM. The Coast Guard mailed letters to all known waterway users advising of the proposed single span operation. No objections or negative comments were received. No vessels known to use the waterway would be precluded from navigation during single span operation. Accordingly, an NPRM was deemed unnecessary. Additionally, conclusive information from the bridge owner confirming the start date for this single span bridge operation was not provided to the Coast Guard until February 26, 2001. As a result, it was impracticable to draft or publish a NPRM or a final rule in advance of the requested start date for this necessary maintenance. Any delay encountered in this regulation's effective date would be contrary to the public interest.

Background

The Pulaski Bridge, at mile 0.6, across Newtown Creek between Brooklyn and Queens has a vertical clearance of 39 feet at mean high water and 43 feet at mean low water. The existing regulations require the draw to open on signal at all times.

The bridge owner, New York City Department of Transportation, requested a single bascule span operation in order to facilitate sandblasting and painting at the bridge. The Coast Guard contacted all known users by letter advising of this proposed single span operation. No objections or negative comments were received.

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). This conclusion is based on the fact that the bridge will continue to open at all times for navigation.

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. ''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 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 conclusion is based on the fact that the bridge will continue to open on signal at all times for navigation.

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 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

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A written ''Categorical Exclusion Determination'' is not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. From April 23, 2001 through August 31, 2001, § 117.801 is temporarily amended by adding a new paragraph (a)(3) and a new paragraph (h) to read as follows:

§ 117.801 Newtown Creek, Dutch Kills, English Kills and their tributaries.

(a) * * *

(3) Except as provided in paragraphs (b) through (h) of this section, each draw shall open on signal.

* * * * *

(h) The Pulaski Bridge, at mile 0.6, across Newtown Creek, need open only one bascule span for the passage of vessel traffic.

Dated: March 16, 2001.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 01–7292 Filed 3–20–01; 3:29 pm]

BILLING CODE 4910–15–P

POSTAL SERVICE

39 CFR Part 111

NetPost Mailing Online Experiment: Introduction of Nonprofit Standard Mail Option

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule sets forth the *Domestic Mail Manual* (DMM) standards adopted by the Postal Service to introduce an option to mail at Nonprofit Standard Mail rates via the NetPost Mailing Online experiment initiated September 1, 2000.

EFFECTIVE DATE: April 5, 2001.

FOR FURTHER INFORMATION CONTACT: Jerome M. Lease, (703) 292–4184.

SUPPLEMENTARY INFORMATION: On August 29, 2000, the Postal Service announced in the **Federal Register** that the NetPost Mailing Online experiment is the third of an expected four-step process that will culminate in the establishment of a permanent NetPost Mailing Online service (See 65 FR 52308–52303, (August 29, 2000)). The Postal Service first conducted an operations test from March through September 1998, with a number of customers. That was followed by a one-year market test with limited customer participation conducted from October 1998 through October 1999, pursuant to the Postal Rate Commission's Docket No. MC98–1 Opinion and Recommended Decision issued on October 7, 1998, and approved by the Postal Service Governors on October 16, 1998. In that docket, the Postal Service also requested authorization to conduct an experiment, which request was later withdrawn by Board of Governors Resolution No. 99–5 (May 3, 1999).

The NetPost Mailing Online service is similar to the Mailing Online service that was offered during the market test. Users access the service by means of the Postal Service's main corporate Website, (USPS.com). The service is available nationwide.

NetPost Mailing Online provides an affordable, convenient option that makes using the mails easier for Postal Service customers, especially those running small offices or home offices who do not currently use more traditional mailing services. It employs advanced technology that benefits customers who otherwise might not have access to sophisticated digital printing technology or to list management and presort software necessary to qualify for lower automation rates. The Postal Service batches all submitted jobs and sends them via dedicated lines to one or more commercial digital printing contractors who then print the documents, finish them according to customer specifications, place them in envelopes bearing a delivery point barcode, and enters them as mail at a Business Mail Entry Unit. Mailings are accepted and verified using manifesting documentation and procedures specified in *Domestic Mail Manual* (DMM) P910.

The experiment currently allows small-volume customers to create First-Class Mail and Standard Mail mailings and have them entered at the automation basic rates. There is no minimum or maximum volume requirement. The service is ideally suited for newsletters, flyers, statements, invoices, and small direct mailings. Customers can mail both letters and flats using a number of different document format, binding, and envelope options.

In a single Website visit to (USPS.com), a NetPost Mailing Online customer is able to upload a word processing document and a list of addresses to a postal data center. The NetPost Mailing Online system presorts and distributes the mailing electronically to contract printers for printing and entry into the mail at a

local postal facility. Additional features of the service include online document proofing, a ''file cabinet'' that retains customer jobs for 30 days and offers document and mailing list management capabilities, real-time status reports of jobs submitted, and a quick calculator that provides immediate price quotations.

This final rule announces the expansion of the NetPost Mailing Online service for mailings of letters and flats at Nonprofit Standard Mail automation rates effective with the date shown above. For additional information concerning system specifications, payment procedures, user assistance, and mail matter classification assistance see 65 FR 52308–52313 (August 29, 2000), and DMM G091.

The Nonprofit Standard Mail option applies to eligible mail matter sent by authorized organizations as listed and defined in DMM E670.2.0 and E670.3.0. Mail matter eligible to be sent at Nonprofit Standard Mail rates by authorized parties is defined in DMM E670.5.0.

This final rule contains the DMM standards adopted by the Postal Service to implement the Nonprofit Standard Mail option. It also corrects a previous omission by adding ''cards'' to ''letters'' and ''flats'' as First-Class Mail options.

List of Subjects in 39 CFR Part 111

Postal Service.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is 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. Amend the Domestic Mail Manual as follows:

E Eligibility

* * * * *

E670 Nonprofit Standard Mail

* * * * *

8.0 Authorization—at Additional Offices

8.1 Application

[Amend 8.1 by adding a last sentence that exempts NetPost Mailing Online customers from the requirement to obtain an additional office authorization for their mailings printed and processed at sites other than where the original authorization to mail at Nonprofit Standard Mail rates is held.]

* * * Customers who use NetPost Mailing Online are not required to file Form 3623 for their mailings to be printed and processed at sites other than where the original authorization to mail at Nonprofit Standard Mail rates is held.

* * * * *

G General Information

* * * * *

G090 Experimental Classifications and Rates

* * * * *

G091 NetPost Mailing Online

* * * * *

1.0 Basic Eligibility

* * * * *

1.3 Mailings

[Amend 1.3 c(2) to read as follows; no other changes to text.]

Prepare mailings to be eligible for First-Class Mail, Standard Mail, and Nonprofit Standard Mail automation basic rates as required by standards in E140, E640, and M800.''}

* * * * *

2.0 Mail Classification

* * * * *

2.1 Customer Responsibility

[Amend 2.1 by changing the first and second sentences to read as follows; no other changes to text.]

A customer who uses NetPost Mailing Online service is responsible for claiming the proper rate of postage, subject to the eligibility requirements contained in E100 for First-Class Mail, E600 for Standard Mail, and E600 and E670 for Nonprofit Standard Mail. If the Standard Mail rates or Nonprofit Standard Mail rates are claimed in error, the customer may be required to pay the difference between the claimed rate and the appropriate First-Class Mail or Standard Mail rate, in accordance with the terms and conditions of use for the program.

2.2 Revenue Deficiency Procedures

[Amend 2.2 to read as follows:]

If a classification decision is made by the USPS that matter was ineligible for Standard Mail or Nonprofit Standard Mail rates because of a customer's failure to meet applicable standards, the USPS may take steps to recover the deficiency amount by advising the customer that its credit card account will be billed for the difference between the rate paid and the applicable First-Class Mail rate or Standard Mail rate paid, in accordance with the terms and conditions of use for the program. At such time, the customer also will be advised that the classification decision and related revenue deficiency may be appealed by submitting a letter to the NetPost Mailing Online Program Manager (see G043 for address). If the customer appeals, NetPost Mailing Online will refer it to the Rates and Classification Service Center (RCSC) in Chicago, Illinois, for a final agency decision except in the case of Nonprofit Standard Mail. An RCSC decision upholding a revenue deficiency for Nonprofit Standard Mail may be appealed through the RCSC to the Manager, Mail Preparation and Standards, USPS Headquarters, for a final agency decision.

3.0 Functionally Equivalent Systems

[Amend 3.0 by changing the first sentence to read as follows; no other changes to text.]

NetPost Mailing Online mailings that otherwise meet all addressing and machinability requirements for automation rates are permitted entry at automation rates without meeting required minimum volumes for First-Class Mail, Standard Mail, and Nonprofit Standard Mail mailings.

4.0 Postage and Fees

4.1 Postage

[Amend 4.1a. to read ''First-Class Mail, automation basic (letters, cards, and flats).'' In addition, amend 4.1 to add the following; no other changes to text.]

d. Nonprofit Standard Mail, automation basic (letters and flats).

* * * * *

This change will be published in a future issue of the *Domestic Mail Manual.* An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published.

Stanley Mires,

Chief Counsel, Legislative.

[FR Doc. 01–7317 Filed 3–22–01; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

39 CFR Part 111

Shipping Label Requirements

AGENCY: U.S. Postal Service.

ACTION: Final rule.

SUMMARY: The U.S. Postal Service, in its efforts to make package shipping easier for mailers, is developing standard

guidelines for creating package shipping labels. The following changes are being made to the markings (and endorsements) and Delivery Confirmation requirements in support of this effort: Addition of a service indicator at the top of the label to identify the class of mail; and modifications to the Delivery Confirmation format to support the new label design and identify the service option requested.

These changes are being incorporated into the *Domestic Mail Manual* (DMM) and subsequently into a publication, which will identify requirements and specifications to assist mailers in designing their shipping labels.

EFFECTIVE DATE: April 5, 2001.

FOR FURTHER INFORMATION CONTACT: John Gullo, 202–268–7322.

SUPPLEMENTARY INFORMATION: On December 1, 2000, the Postal Service published in the **Federal Register** proposed changes to the shipping label requirements (65 FR 75210). No comments were received so the Postal Service is adopting the following requirements.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404–414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the DMM as follows:

Domestic Mail Manual (DMM)

* * * * *

E Eligibility

* * * * *

E100 First-Class Mail

* * * * *

E120 Priority Mail

* * * * *

1.4 MARKING

* * * * *

[Add the following after the existing paragraph in 1.4:]

If shipping address labels are used, it is recommended that they contain the Priority Mail service indicator composed of two elements, the service icon and service banner (see Exhibit 1.4).

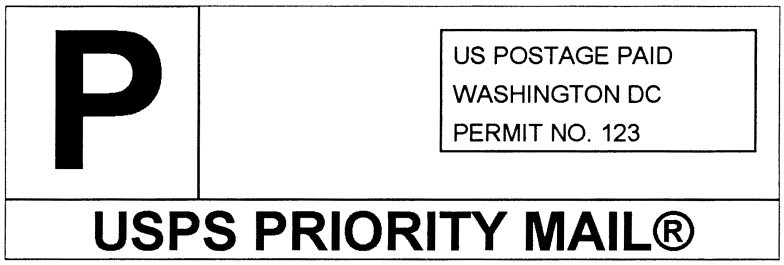
(a) The service icon should appear in a 1-inch square in the upper left corner of the shipping label. The letter ''P'' must be printed inside the 1-inch square and must be 0.75 inches (¾″) or greater. A minimum ¾-point line must border the 1-inch square.

(b) The service banner should appear directly below the postage payment area and the service icon, and it should extend across the shipping label. When the service banner is used, the text ''USPS PRIORITY MAIL'' must be printed in minimum 20-point bold sans serif typeface, uppercase letters, centered within the banner, and bordered above and below by minimum 1-point separator lines. There must be a 1/16-inch clearance above and below the text.

[Add the following Exhibit:]

Exhibit 1.4

Priority Mail Service Indicator



* * * * *

M MAIL PREPARATION AND SORTATION

M000 General Preparation Standards

M010 Mailpieces

* * * * *

M012 Markings and Endorsements

* * * * *

3.1 Basic Markings

* * * * *

[Add the following after the existing paragraph in 3.1:]

Optionally, the basic required marking may be printed on the shipping address label as service indicators composed of a service icon and service banner:

(a) The service icon that will identify all Package Services subclasses will be a 1-inch solid black square. If the service icon is used, it must appear in the upper left corner of the shipping label.

(b) The service banner must appear directly below the postage payment area and the service icon, and it must extend across the shipping label. If the service banner is used, the appropriate subclass marking (*e.g.*, PARCEL POST, BOUND PRINTED MATTER, etc.) must be preceded by the text ''USPS'' and must be printed in minimum 20-point bold sans serif typeface, uppercase letters, centered within the banner, and bordered above and below by minimum 1-point separator lines. There must be a 1/16-inch clearance above and below the text.

[Add the following Exhibit:]

Exhibit 3.1

Package Services Indicators

* * * * *

S SPECIAL SERVICES

S900 Special Postal Services

* * * * *

S918 Delivery Confirmation

* * * * *

[Revise Exhibit 2.1c as follows:]

Exhibit 2.1c

Privately Printed Label

On the Priority Mail label, you must use the registered trademark symbol following the Priority Mail text or add the following statement at the bottom of the label in Helvetica 6 point: ''Priority Mail is a registered trademark of the U.S. Postal Service.''

* * * * *

3.3 Printing

[Replace item a with the following:]

a. Each barcoded label must bear a unique Delivery Confirmation PIC barcode as specified in 3.2. The text ''USPS DELIVERY CONFIRMATION'' (if using retail service option, as specified in 1.4) or ''e/USPS DELIVERY CONFIRMATION'' (if using electronic service option, as specified in 1.4, and the postage is evident on the mailpiece) must be printed between ⅛ inch and ½ inch above the barcode in minimum 12-point bold sans serif type. Additionally, mailers approved for the electronic service option, at their discretion, may print the text ''ELECTRONIC RATE APPROVED #[D–U–N–S® (NUMBER]'' in minimum 8-point bold sans serif type directly below the bottom horizontal identification bar (see Exhibit 3.3). Human-readable characters that represent the barcode ID must be printed between ⅛ inch and ½ inch under the barcode in minimum 10-point bold sans serif type. These characters must be parsed in accordance with Publication 91, Confirmation Services Technical Guide. A minimum ⅛-inch clearance must be between the barcode and any printing. The preferred range of widths of narrow bars and spaces is 0.015 inch to 0.017 inch. The width of the narrow bars or spaces must be at least 0.013 inch but no more than 0.021 inch. All bars must be at least ¾ inch high. Minimum 1/16-inch bold bars must appear between ⅛ inch and ½ inch above and below the human-readable endorsements to segregate the Delivery Confirmation barcode from other areas of the shipping label. The line length should extend across the width of the label but must extend the length of the barcode at a minimum (see Exhibit 2.1c). Only information relating to Delivery Confirmation and/or other special services must be placed between these lines. Mailers will be required to comply with this change by October 5, 2001.

* * * * *

[Add the following Exhibit:]

Exhibit 3.3

Electronic Service Option Identification

e/ USPS DELIVERY CONFIRMATION

9101 0268 3733 1000 0010 16

ELECTRONIC RATE APPROVED # 026837331

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 01–7055 Filed 3–22–01; 8:45 am]

BILLING CODE 7210–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9, 141 and 142

[WH–FRL–6958–3]

RIN 2040–AB75

National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring: Delay of Effective Date

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; delay of effective date.

SUMMARY: In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001, this action temporarily delays for 60 days the effective date of the rule entitled National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring, published in the **Federal Register** on January 22, 2001, 66 FR 6976. That rule establishes a health-based, non-enforceable Maximum Contaminant Level Goal for arsenic of zero and an enforceable Maximum Contaminant Level for arsenic of 0.01 mg/L (10 ug/L) for public water systems. In addition, it clarifies monitoring and demonstration of compliance for new systems or sources of drinking water. It also clarifies compliance for State-determined monitoring after exceedances for inorganic, volatile organic, and synthetic organic contaminants. Finally, it recognizes the State-specified time period and sampling frequency for new public water systems and systems using a new source of water to demonstrate compliance with drinking water regulations.

DATES: The effective date of the National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring, amending 40 CFR Parts 9, 141 and 142, published in the **Federal Register** on Monday, January 22, 2001, at 66 FR 6976, is delayed for 60 days, from the originally scheduled effective date of March 23, 2001, to a new effective date of May 22, 2001, except for the amendments to §§ 141.23(i)(1), 141.23(i)(2), 141.24(f)(15), 141.24(h)(11), 141.24(h)(20), 142.16(e), 142.16(j), and 142.16(k) which are effective January 22, 2004. The amendment to § 141.6 in this rule is also effective May 22, 2001.

FOR FURTHER INFORMATION CONTACT: For information on today's action, contact Cynthia Dougherty, Director, Office of Ground Water and Drinking Water (4601), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, phone: (202) 260–5543.

SUPPLEMENTARY INFORMATION: To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, the Agency's implementation of this action without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3). Seeking public comment is impracticable, unnecessary and contrary to the public interest. The temporary 60-day delay in effective date is necessary to give Agency officials the opportunity for further review and consideration of new regulations, consistent with the Assistant to the President's memorandum of January 20, 2001. Given the imminence of the effective date, seeking prior public comment on this temporary delay would have been impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. The imminence of the effective date is also good cause for making this rule immediately effective upon publication.

List of Subjects in 40 CFR Part 141

Environmental protection, Chemicals, Indian lands, Intergovernmental relations, Radiation protection, Reporting and recordkeeping requirements, Water supply.

Dated: March 20, 2001.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR part 141 as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, and 300j–11.

Subpart A—[Amended]

2. Paragraph (j) of 40 CFR 141.6 as published at 66 FR 7061 on January 22, 2001, is amended by revising the last sentence to read as follows:

§ 141.6 Effective dates.

* * * * *

(j) * * * However, the consumer confidence rule reporting requirements relating to arsenic listed in § 141.154(b) and (f) are effective for the purpose of compliance on May 22, 2001.

* * * * *

[FR Doc. 01–7264 Filed 3–22–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CT064–7222A; A–1–FRL–6942–6]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Approval of Several NO_X Emission Trading Orders as Single Source SIP Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut. This revision establishes a mechanism to create and use emission trading credits for nitrogen oxides (NO_X) at electric generating facilities currently owned by Wisvest in Bridgeport and New Haven, Connecticut. This revision also approves retrospectively credits created at these facilities between April 16, 2000 and April 30, 2000. These credits can be used by facilities to comply with the NO_X emission limits required by Connecticut regulation 22a–174–22 (Control of Nitrogen Oxides). The revision also approves annual emission credits at Wisvest's power plant Bridgeport Harbor Station (unit no. 2). These annual credits can be used by facilities to offset any NO_X emission increases due to new construction or plant modification subject to EPA's nonattainment new source review program. Lastly, this revision changes the expiration date from December 1999 to December 2000 of previously issued Orders to four municipal waste incinerators. The intended effect of this action is this SIP revision in accordance with the Clean Air Act.

DATES: This direct final rule is effective on May 22, 2001 without further notice, unless EPA receives adverse comment by April 23, 2001. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Donald Dahl, Air Permit Program Unit, Office of Ecosystem Protection (mail code CAP) U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA; and the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Donald Dahl, (617) 918–1657.

SUPPLEMENTARY INFORMATION:

EPA's Action

A. What action is EPA taking today?
B. When did Connecticut submit this SIP revision request?
C. What does this revision accomplish?
D. What will be the effects of this SIP revision?
E. Why is EPA publishing this rule without prior proposal?
F. What if EPA receives public comment?

A. What Action Is EPA Taking Today?

Today, EPA is approving nine Emission Trading Agreement and Orders that will allow facilities in Connecticut to generate and or use emission credits for compliance with the NO_X emission limits that were established as part of Connecticut's strategy to lower ozone levels.

B. When Did Connecticut Submit This SIP Revision Request?

On May 19, 2000, Connecticut submitted to EPA a formal request to revise its State Implementation Plan (SIP).

C. What Does This Revision Accomplish?

The SIP revision consists of approving Trading Agreement and Order Nos. 8094 (Ogden Martin's facility in Bristol); 8095 (American Ref-Fuel Company of Southeastern Connecticut in Preston); 8100 (Bridgeport Resco Company in Bridgeport); 8116 (Connecticut Resources Recovery Authority in Hartford); 8176 (Wisvest's New Haven Station Unit No. 1 in New Haven); 8177 (Wisvest's Bridgeport Harbor Unit No. 3 in Bridgeport); 8178 (Wisvest's New Haven Harbor auxiliary boiler in New Haven); 8179 (Wisvest's Bridgeport Harbor Unit No. 4); and 8187 (Wisvest's Bridgeport Harbor Unit No. 2) into Connecticut's SIP.

D. What Will Be the Effects of This SIP Revision?

The Trading and Agreement Orders listed above can be grouped into four categories. First, Order Nos. 8094, 8095, 8100, and 8116 change the dates the subject facilities are allowed to generate NO_X emission credits from December 14, 1999 to December 19, 2000.

Second, Order Nos. 8178 and 8179 contain the procedure that the subject sources must follow in order to determine if the facility's need to obtain NO_X emission credits in order to comply with NO_X RACT. These Orders allow each facility to obtain credits, as necessary, until May 1, 2003.

Third, Order Nos. 8176 and 8177 contain the procedure to generate future credits and also contain previously quantified emission reduction credits. Order No. 8176 grants 15 tons of non-ozone season NO_X credits to Wisvest's New Haven Harbor facility. Order No. 8177 grants 42 tons of non-ozone season NO_X credits to Wisvest's Bridgeport Harbor facility.

Lastly, Order No. 8187 creates 816 tons of NO_X credits annually at Wisvest's Bridgeport Harbor facility Unit No. 2. Since these credits represent a permanent reduction in actual NO_X emission from Bridgeport Harbor that are not required by the Clean Air Act, the credits can be used as offsets in the nonattainment new source review program. Offsets are used by new or modified facilities in ozone nonattainment areas where the construction results in an increase of NO_X emissions into the air.

E. Why Is EPA Publishing This Rule Without Prior Proposal?

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This action will be effective May 22, 2001 without further notice unless the Agency receives adverse comments by April 23, 2001.

F. What if EPA Receives Public Comments?

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the

proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 22, 2001 and no further action will be taken on the proposed rule.

Final Action: EPA is approving the SIP revision submitted by Connecticut on May 19, 2000 as a revision to the SIP.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

The Congressional Review Act, 5 U.S.C. 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 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 22, 2001. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: January 8, 2001.

Mindy S. Lubber,

Regional Administrator, EPA-New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart H—Connecticut

2. Section 52.370 is amended by adding paragraph (c)(88) to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(88) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on May 19, 2000.

(i) Incorporation by reference.

(A) Connecticut Trading Agreement and Order No. 8177 issued to Wisvest Bridgeport Harbor's Unit No. 3 in Bridgeport on May 31, 2000.

(B) Connecticut Trading Agreement and Order No. 8187 issued to Wisvest Bridgeport Harbor's Unit No. 2 on January 12, 2000.

(C) Connecticut Trading Agreement and Order No. 8094, Modification No. 2, issued to Ogden Martin Systems of Bristol, Inc. on May 22, 2000.

(D) Connecticut Trading Agreement and Order No. 8095, Modification No. 2, issued to American Ref-Fuel Company of Southeastern Connecticut in Preston on May 22, 2000.

(E) Connecticut Trading Agreement and Order No. 8100, Modification No. 2, issued to Bridgeport Resco Company, Limited Partnership in Bridgeport on May 22, 2000.

(F) Connecticut Trading Agreement and Order No. 8116, Modification No. 2, issued to the Connecticut Resources Recovery Authority in Hartford on May 22, 2000.

(G) Connecticut Trading Agreement and Order No. 8178 issued to Wisvest's New Haven Harbor's auxiliary boiler in New Haven on May 22, 2000.

(H) Connecticut Trading Agreement and Order No. 8179 issued to Wisvest's Bridgeport Harbor's Unit No. 4 on May 22, 2000.

(I) Connecticut Trading Agreement and Order No. 8176, issued to Wisvest's New Haven Harbor Station's Unit No. 1 in New Haven on May 31, 2000.

(ii) Additional materials.

(A) Letter from the Connecticut Department of Environmental Protection dated May 19, 2000, submitting a revision to the Connecticut State Implementation Plan.

(B) SIP narrative materials, dated December 1999, submitted with Connecticut Trading Agreement and Order Nos. 8176, 8177, 8178, 8179, and 8187.

3. In § 52.385, Table 52.385 is amended by adding entries in state citations following the existing entries for section 22a–174–22 to read as follows:

§ 52.385—EPA-approved Connecticut regulations.

* * * * *

TABLE 52.385.—EPA-APPROVED REGULATIONS

Connecticut State citation	Title/subject	Dates		Federal Register citation	Section 52.370	Comments/description
		Date adopted by State	Date approved by EPA			
22a–174–22	Control of NO_X nitrogen oxide emissions.	1/12/00	March 23, 2001	[Insert FR citation from published date].	(c)(88)	Case-specific trading order for Wisvest Bridgeport Harbor Station's Unit No. 2 in Bridgeport.
		5/22/00	March 23, 2001	[Insert FR citation from published date].	(c)(88)	Amendment to case-specific trading order for Ogden Martin System's facility in Bristol.
		5/22/00	March 23, 2001	[Insert FR citation from published date].	(c)(88)	Amendment to case-specific trading order for Connecticut Resources Recovery Authority.
		5/22/00	March 23, 2001	[Insert FR citation from published date].	(c)(88)	Amendment to case-specific order for American Ref-Fuel Company.
		5/22/00	March 23, 2001	[Insert FR citation from published date].	(c)(88)	Amendment to case-specific trading order for Bridgeport Resco Company.
		5/22/00	March 23, 2001	[Insert FR citation from published date].	(c)(88)	Case-specific trading order for Wisvest Bridgeport Harbor Station's Unit No. 4 in Bridgeport.
		5/22/00	March 23, 2001	[Insert FR citation from published date].	(c)(88)	Case-specific trading order for Wisvest New Haven Harbor Station's auxiliary Boiler in New Haven.
		5/31/00	March 23, 2001	[Insert FR citation from published date].	(c)(88)	Case-specific trading order for Wisvest Bridgeport Harbor Station's Unit No. 3 in Bridgeport.
		5/31/00	March 23, 2001	[Insert FR citation from published date].	(c)(88)	Case-specific trading order for Wisvest New Haven Harbor Station's Unit No. 1 in New Haven.

[FR Doc. 01–6566 Filed 3–22–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[MO 112–1112a; FRL–6956–9]

Approval and Promulgation of Implementation Plans and Part 70 Operating Permits Program; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is announcing it is approving revisions to the Missouri State Implementation Plan (SIP) and part 70 Operating Permits Program. EPA is approving revisions to Missouri's Definitions and Common Reference Tables rule and Operating Permits rule. These revisions will strengthen the SIP with respect to attainment and maintenance of established air quality standards, ensure consistency between the state and Federally approved rules, and ensure Federal enforceability of the state's air program rule revisions pursuant to both section 110 and part 70.

DATES: This direct final rule will be effective May 22, 2001 unless EPA receives adverse comments by April 23, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of the state submittal(s) are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101; and the Environmental Protection Agency, Air and Radiation Docket and Information

Center, Air Docket (6102), 401 M Street, S.W., Washington, DC 20460.

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

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we, us, or our'' is used, we mean EPA.

This section provides additional information by addressing the following questions:

What is a SIP?
What is the Federal approval process for a SIP?
What does Federal approval of a state regulation mean to me?
What is the Part 70 Operating Permits Program?
What is being addressed in this document?
Have the requirements for approval of a SIP revision been met?
What action is EPA taking?

What is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by us. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally enforceable SIP.

Each Federally approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by us under section 110 of the CAA are incorporated into the Federally approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled ''Approval and Promulgations of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in the CAA.

What's the Part 70 Operating Permits Program?

The CAA Amendments of 1990 require all states to develop operating permits programs that meet certain Federal criteria. In implementing this program, the states are to require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. One purpose of the part 70 operating permits program is to improve enforcement by issuing each source a single permit that consolidates all of the applicable CAA requirements into a Federally enforceable document. By consolidating all of the applicable requirements for a facility into one document, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in our implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen dioxide, or PM_{10}; those that emit 10 tons per year of any single hazardous air pollutant (HAP) (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of HAPs.

Revisions to the state and local agencies' operating permits program are also subject to public notice, comment, and our approval.

What is Being Addressed in This Document?

The Missouri Department of Natural Resources (MDNR) has requested that EPA approve as a revision to the Missouri SIP and part 70 Operating Permits Program, recently adopted revisions to rules 10 CSR 10–6.020, Definitions and Common Reference Tables, and 10 CSR 10–6.065, Operating Permits.

Revisions to the Definitions rule, which became state effective on May 30, 2000, are: (1) Section (2)(B)(2) corrects a reference to the Air Increment Table in the definition for ''baseline area''; (2) section (2)(C)(26) adds a definition for ''criteria pollutant.'' This new definition reads, ''Air pollutants for which air quality standards have been established in 10 CSR 10–6.010.'' (the latter state rule tracks the criteria pollutants for which EPA has set standards under 40 CFR part 50); (3) section (2)(N)(2) adopts by reference the EPA definition for ''net emission increase'' at 40 CFR 51.166(b)(3) in place of the previous extemporaneous definition; and (4) section (2)(N)(5)(C), the definition for the St. Louis carbon monoxide (CO) nonattainment area, was deleted since the area has recently been redesignated to attainment for CO.

The revisions to the Operating Permits rule, which became state effective on May 30, 2000, are: (1) Section (1)(B), the definition for ''basic state installations,'' was revised to add clarifying language and to correct typographical errors; (2) sections (1)(D) and (1)(D)(6) were revised to correct typographical errors; (3) section (1)(D)(7) was revised to make it consistent with EPA requirements pertaining to the application of part 70 requirements for sections 111 and 112 sources; (4) section (3)(D) was revised to add clarifying language pertaining to exempt installations; (5) section (3)(E) was amended for clarification and then incorporated into section (3)(D) (section (3)(E) has been renumbered as sections (3)(D)(15) through (3)(D)(19)); and (6) sections (4)(J) and (4)(M) were revised for clarification.

Further discussion and background information are contained in the technical support document (TSD) prepared for this action, which is available from the EPA contact listed above.

Have the Requirements for Approval of a SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the TSD which is part of this document, the revisions meet the substantive SIP requirements of the CAA, including section 110 and implementing regulations, and the substantive requirements of Title V of the CAA and 40 CFR part 70.

What Action is EPA Taking?

EPA is processing this action as a direct final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments.

Conclusion

Final action: EPA is approving an amendment to the Missouri SIP relevant to rules 10 CSR 10–6.020, Definitions and Common Reference Tables, and 10 CSR 10–6.065, Operating Permits, pursuant to section 110. EPA is also approving these rules as a program revision to the state's Part 70 Operating Permits Program pursuant to Part 70. This direct final rule is effective on May 22, 2001 without further notice, unless EPA receives adverse comment by April 23, 2001. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves preexisting requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 22, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

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

40 CFR Part 70

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

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

Dated: January 17, 2001.

Dennis Grams,

P.E., Regional Administrator, Region 7.

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

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart AA—Missouri

2. In § 52.1320(c) the table is amended under Chapter 6 by revising the entries for ''10–6.020'' and ''10–6.065'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA–APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanations
	Missouri Department of Natural Resources			
*	*	*	*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
*	*	*	*	*
10–6.020	Definitions and Common Reference Tables.	5/30/00	[*insert publication date and FR cite*] cite].	
*	*	*	*	*
10–6.065	Operating Permits	5/30/00	[*insert publication date and FR cite]*	The state rule has sections (4)(A), (4)(B), and (4)(H)—Basic State Operating Permits. EPA has not approved those sections.
*	*	*	*	*

PART 70—[AMENDED]

1. The authority citation for Part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.* Appendix A—[Amended]

2. Appendix A to part 70 is amended by adding paragraphs (h) and (i) to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Missouri

* * * * *

(h) The Missouri Department of Natural Resources submitted Missouri rule 10 CSR 10–6.065, ''Operating Permits,'' on June 8, 2000, approval effective May 22, 2001.

(i) The Missouri Department of Natural Resources submitted Missouri rule 10 CSR 10–6.020, ''Definitions and Common Reference Tables,'' on July 31, 2000, approval effective May 22, 2001.

* * * * *

[FR Doc. 01–7025 Filed 3–22–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6955–7]

RIN 2060–AF26

National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; corrections.

SUMMARY: On October 26, 1999, EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Publicly Owned Treatment Works (POTW) (64 FR 57572). This final rule corrects grammatical, typographic, formatting, and cross-reference errors.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because the changes to the rule are minor technical corrections, are noncontroversial in nature, and do not substantively change the requirements of the POTW rule. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Section 553(d)(3) allows an agency, upon finding good cause, to make a rule effective immediately. Because today's changes do not substantively change the requirements of the POTW rule, we find good cause to make these amendments effective immediately.

EFFECTIVE DATE: March 23, 2001.

ADDRESSES: Docket No. A–96–46 contains the supporting information for the POTW final rule and this action. The docket is located at the U.S. EPA in room M–1500, Waterside Mall (ground floor), 401 M Street SW., Washington, DC 20460, and may be inspected from 8:00 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For information concerning these final corrections, contact Mr. Robert Lucas, Waste and Chemical Processes Group, Emission Standards Division (MD–13), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–0884, facsimile number: (919) 541–0246, electronic mail address: *lucas.bob@epa.gov.*

SUPPLEMENTARY INFORMATION: *Regulated entities.* Categories and entities potentially affected by this action include:

Category	SIC[a]	NAICS[b]	Regulated entities
Federal Government	4952	22132	Sewage treatment facilities, and federally owned treatment works.

Category	SIC[a]	NAICS[b]	Regulated entities
State/local/tribal governments	4952	22132	Sewage treatment facilities, municipal wastewater treatment facilities, and publicly owned treatment works.

[a] Standard Industrial Classification
[b] North American Information Classification System

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that we are now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine the applicability criteria in § 63.1580 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

World Wide Web (WWW). The text of today's document will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of this action 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.

I. What Is the Background for These Corrections?

On October 26, 1999 (64 FR 57573), we published the National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works final rule. Today's action consists of editorial, cross-reference, and clarifying corrections to the promulgated rule. These corrections will become effective immediately (without further rulemaking action) on March 23, 2001. We have determined that it is unnecessary to provide prior notice and opportunity to comment on these corrections.

As stated, we are correcting typographical, grammatical, and cross-reference errors in the promulgated rule with this action. For example, as promulgated, we incorrectly use the word ''reconstructed'' in the last sentence of § 63.1586(a) when referring to a defined term. The correct and intended term is ''reconstruction,'' and not ''reconstructed,'' which is not defined. For another example, in § 63.1589(a), we incorrectly cross reference performance standard provisions (i.e., § 63.1586(b)) in lieu of intended equipment standard provisions (i.e., § 63.1586(a)). We are correcting these errors with this action.

Other examples of corrections we are making consist of revising the rule to include greater cross-reference specificity to increase the clarity of the rule. For example, § 63.1589(a)(3), as promulgated, refers the reader to the provisions of § 63.1588(a) for instances where repair of a defect is delayed. For clarity and consistency of specificity within the rule, we are clarifying that such provisions are found in § 63.1588(a)(3). These cross-reference specificity amendments eliminate the need for the reader to look at all of paragraph (a) for the specified provisions.

II. What Are the Administrative Requirements for These Corrections?

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

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law No. 104–113), directs EPA 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 (e.g., materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

This final rule corrects grammatical, typographic, formatting, and cross-reference errors.

This correction action does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing these corrections, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of these rule amendments in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. These rule amendments do not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the October 26, 1999 final POTW rule.

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise

provided by the Congressional Review Act if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, the EPA has made such a good cause finding, including the reasons therefor, and established an effective date of March 23, 2001. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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: February 23, 2001.

Robert D. Brenner,

Acting Assistant Administrator for Air and Radiation.

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is 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.*

Subpart VVV—[Amended]

2. Section 63.1586 is amended by revising the last sentence of paragraph (a) introductory text as follows:

§ 63.1586 What are the emission points and control requirements for a non-industrial POTW treatment plant?

* * * * *

(a) * * * Reconstruction is defined in § 63.1595.

* * * * *

3. Section 63.1589 is amended by:

a. Revising paragraph (a) introductory text;

b. Revising paragraph (a)(3);

c. Revising paragraph (b).

The revisions read as follows:

§ 63.1589 What records must I keep?

(a) To comply with the equipment standard specified in § 63.1586(a), you must prepare and maintain the records required in paragraphs (a)(1) through (4) of this section:

* * * * *

(3) In the event that repair of the defect is delayed, in accordance with the provisions of § 63.1588(a)(3), you must also record the reason for the delay and the date you expect to complete the repair.

* * * * *

(b) To comply with the performance standard specified in § 63.1586(b), you must prepare and maintain the records required in paragraphs (b)(1) through (3) of this section:

(1) A record of the methods and data used to determine your POTW's annual HAP emissions as determined in § 63.1588(c)(2);

(2) A record of the methods and data used to determine that your POTW meets the fraction emitted standard of 0.014 or less, as determined in § 63.1588(c)(3); and

(3) A record of the methods and data that demonstrates that your POTW is in continuous compliance with the requirements of § 63.1588(c)(4).

4. Section 63.1590 is amended by revising the last sentence of paragraph (b); and revising paragraph (c) as follows:

§ 63.1590 What reports must I submit?

* * * * *

(b) * * * After you have been issued a title V permit, and each time a notification of compliance status is required under this subpart, you must submit the notification of compliance status to the appropriate permitting authority, as described in paragraph (d) of this section, following completion of the relevant compliance demonstration activity specified in this subpart.

(c) You must comply with the delay of repair reporting required in § 63.1588(a)(3).

* * * * *

5. Section 63.1595 is amended by revising the definition for ''Fraction emitted'' as follows:

§ 63.1595 List of definitions.

* * * * *

Fraction emitted means the fraction of the mass of HAP entering the POTW wastewater treatment plant which is emitted prior to secondary treatment. The value is calculated using the following steps:

(1) Determine mass emissions from all equipment up to, but not including, secondary treatment for each HAP listed in Table 1 to subpart DD of this part;

(2) Sum the HAP emissions ($\sum E$);

(3) Sum the HAP mass loadings ($\sum L$) in the influent to the POTW wastewater treatment plant; and

(4) Calculate the fraction emitted (f_e monthly) using f_e monthly = $\sum E / \sum L$.

* * * * *

6. Table 1 to Subpart VVV is amended by revising entries ''63.1(a)(1)'' and ''63.5(b)(3)'' to read as follows:

TABLE 1 TO SUBPART VVV—APPLICABILITY OF 40 CFR PART 63 GENERAL PROVISIONS TO SUBPART VVV

General provisions reference	Applicable to subpart VVV	Explanation
* * *	* * *	*
§ 63.1(a)(1)	Yes	Terms defined in the Clean Air Act.
* * *	* * *	*
§ 63.5(b)(3)	Yes	No new major sources without Administrator approval.
* * *	* * *	*

[FR Doc. 01–7281 Filed 3–22–01; 8:45 am]
BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301112; FRL–6776–4]

RIN 2070–AB78

Diflubenzuron; Pesticide Tolerance Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule, technical correction.

SUMMARY: EPA is issuing this final rule to make corrections to the requirements for diflubenzuron tolerance residues that currently appear in the Code of Federal Regulations (CFR). This action is being taken to correct unintended changes erroneously made by certain documents previously published in the **Federal Register**.

DATES: This technical correction is effective on March 23, 2001.

FOR FURTHER INFORMATION CONTACT: Rita Kumar, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8291; fax number: (703) 305–6596; e-mail address: kumar.rita@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301112. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background

A. What Does this Technical Correction Do?

EPA published in the **Federal Register** of September 29, 1999 (64 FR 52450) (FRL–6382–1), a final rule establishing a tolerance in § 180.377 for diflubenzuron on pears at 0.5 ppm. The expiration date was listed in the document as 3/31/01, but was incorrectly carried as 3/31/00 in the regulatory text table at the end of the document.

In the **Federal Register** of May 24, 2000 (65 FR 33691) (FRL–6043–1), a final rule was published revising § 180.377. The May 2000 revision was based upon text taken from the 1998 version of the CFR instead of the 1999 version of the CFR. The text listing the time-limited tolerance for pears was incorrectly removed and paragraph (b) was reserved. Also, by using text from the 1998 version of the CFR, the tolerance status and residue levels for rice, grain and rice, straw appearing in paragraph (a)(2) were incorrectly revised to be a temporary tolerance in or on rice grain at 0.01 ppm.

EPA issued a final rule to correct the expiration date for pears in the **Federal Register** of September 27, 2000 (65 FR 57956) (FRL-6741-3). However, it was brought to EPA's attention that the document published on May 24, 2000, incorrectly removed and reserved paragraph (b).

This document withdraws the correction published on September 27, 2000, and revises paragraph (a)(2) and adds text to paragraph (b), with the correct expiration date for the time-limited pear tolerance of 3/31/01, and the correct level and status of tolerance for rice grain and rice straw.

With the technical corrections contained in this document, the CFR will accurately present the requirements for diflubenzuron tolerance residues.

B. Why is this Technical Correction Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment, because EPA is correcting the expiration date for the tolerance of diflubenzuron on pears to March 31, 2001, which was incorrectly given as March 31, 2000. This rule is also correcting the tolerance status and residue levels of diflubenzuron on rice grain and rice straw. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

III. Regulatory Assessment Requirements

This final rule implements a technical correction to the CFR, and it does not otherwise impose or amend any

requirements. As such, the Office of Management and Budget (OMB) has determined that a technical correction is not a ''significant regulatory action'' subject to review by OMB under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Nor does this final rule contain any information collection requirements that require review and approval by OMB pursuant to the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*).

Because this action is not economically significant as defined by section 3(f) of Executive Order 12866, this action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action will not result in environmental justice related issues and does not, therefore, require special consideration under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since the Agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the APA or any other statute (see Unit II.B.), this action is not subject to provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA.

This final rule will not have substantial direct effects on the States or on one or more Indian tribes, on the relationship between the national government and the States or one or more Indian tribes, or on the distribution of power and responsibilities among the various levels of government or between the Federal government and Indian tribes. As such, this action have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000), or any ''federalism implications'' as described in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999).

This action does not involve any technical standards that require the Agency's consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

In issuing this final rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988, entitled *Civil Justice Reform* (61 FR 4729, February 7, 1996).

EPA has complied with Executive Order 12630, entitled *Governmental Actions and Interference with Constitutionally Protected Property Rights* (53 FR 8859, March 15, 1988), by examining the takings implications of this rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order.

For information about the applicability of the regulatory assessment requirements to the final rule that was issued on September 29, 1999 (64 FR 52450), please refer to the discussion in Unit VIII. of that document.

IV. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and 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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: March 12, 2001.

James Jones.

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. By withdrawing the final rule correction to § 180.377(b) as published in the **Federal Register** of September 27, 2000 (65 FR 57956) (FRL–6741–3).

3. In § 180.377, by revising paragraph (a)(2) and by adding text to paragraph (b) to read as follows:

§ 180.377 Diflubenzuron; tolerances for residues.

(a)***

(2) Tolerances are established for residues of the insecticide diflubenzuron (*N*-[[4-chlorophenyl)amino]-carbonyl]-2,6-difluorobenzamide) and its metabolites 4-chlorophenlyurea and 4-chloroaniline on rice grain at 0.02 ppm and rice straw at 0.8 ppm.

(b) *Section 18 emergency exemptions*. Time-limited tolerances are established for residues of diflubenzuron and its metabolites, PCA (4-chloroaniline) and CPU (4-chlorophenylurea), expressed as the parent diflubenzuron, in connection with use of this pesticide under a section 18 emergency exemption granted by EPA. The tolerances will expire on the dates specified in the following table:

Commodity	Parts per million	Expiration/revocation date
Pears	0.5	3/31/01

* * * * *

[FR Doc. 01–7289 Filed 3–22–01; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; FCC 01–85]

Petition for Reconsideration Filed by AT&T

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: In this document, the Commission denies AT&T's Petition for Reconsideration to adopt a proposal to base contributions on current revenues. The Commission concludes that under this proposal, the contribution factor is set using prior-year revenues, but carriers contribute based on application of this contribution factor to their current revenues.

FOR FURTHER INFORMATION CONTACT: Richard Smith, Attorney, Common

Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration in CC Docket No. 96–45 released on March 14, 2001. 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, SW., Washington, DC 20554.

1. The Commission denies AT&T's Petition for Reconsideration at this time to adopt a proposal to base contributions on current revenues. The Commission concludes that under this proposal, the contribution factor is set using prior-year revenues, but carriers contribute based on application of this contribution factor to their current revenues. This proposal would increase reporting burdens on carriers by requiring carriers to file revenue information 13 times per year within very short timeframes. We agree with the majority of commenters that this proposal would be unduly burdensome on carriers, particularly smaller carriers. We also have concerns that the adoption of this proposal might affect the sufficiency of the universal service fund and require the collection of a reserve fund to protect against a fund shortfall. For these reasons, we decline to adopt this proposal at this time and deny AT&T's petition.

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

I. Ordering Clauses

3. Pursuant to the authority contained in sections 4(i), 4(j), 254, and 303(r) of the Communications Act of 1934, this Order on Reconsideration is adopted.

4. The Petition for Reconsideration filed on March 1, 2000 by AT&T is denied.

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

List of Subjects 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–7230 Filed 3–22–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; FCC 01–85]

Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission modifies the existing methodology used to assess contributions that carriers make to the federal universal service support mechanisms. Specifically, the Commission modifies the existing contribution methodology to reduce the interval between the accrual of revenues and the assessment of universal service contributions based on those revenues. Currently, contributions to the federal universal service support mechanisms are based on carriers' interstate and international end-user telecommunications revenues from the prior year. With this modification, the Commission shortens the interval between the accrual of revenues and assessment based on those revenues by six months.

DATES: Effective April 23, 2001.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in CC Docket No. 96–45 released on March 14, 2001. 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, SW., Washington, DC 20554.

I. Introduction

1. In this Order, we modify the existing methodology used to assess contributions that carriers make to the federal universal service support mechanisms. Specifically, we modify the existing contribution methodology to reduce the interval between the accrual of revenues and the assessment of universal service contributions based on those revenues. Currently, contributions to the federal universal service support mechanisms are based on carriers' interstate and international end-user telecommunications revenues from the prior year. With this modification, we shorten the interval between the accrual of revenues and assessment based on those revenues by six months.

2. By reducing the interval between the accrual and assessment of revenues for contributions to the universal service fund, the revised methodology will improve upon the existing methodology by basing assessments on revenue data that are more reflective of current market conditions. As a result, the revised contribution methodology will prevent the possibility that certain carriers will be at a competitive disadvantage as market conditions change. By our action today, we ensure that the assessment of contributions to the federal universal service support mechanisms remains competitively neutral, and that the mechanisms continue to meet the statutory requirement of section 254(d) to be specific, predictable, and sufficient.

3. Although the action we take today improves the operation of the current universal service assessment methodology, we believe that more fundamental modifications may be warranted to simplify the way in which carriers contribute to the universal service mechanisms. Accordingly, very shortly we intend to initiate a proceeding to seek comment on whether and how to modify our rules related to carriers' recovery of their universal service contribution obligations to simplify the process for carriers and consumers and ensure that the universal service fund remains sufficient and predictable.

II. Discussion

4. We modify the existing contribution methodology to significantly reduce the current interval between the accrual of revenues and the assessment of universal service contributions based on those revenues. Although we continue to believe that the current methodology is competitively neutral and satisfies the requirements of the Act, we conclude that reducing this interval will be superior to the current methodology by basing assessments on revenue data that are more reflective of current market conditions, without significantly increasing administrative costs for carriers and USAC. The shortened interval will allow contributions to better reflect market trends influencing carriers' revenues, such as the entry of new providers into the interstate marketplace. As a result, the revised

methodology will further the Commission's goal of maintaining competitive neutrality.

A. Modified Universal Service Contribution Methodology

5. We adopt, with minor modifications, the contribution methodology proposal set forth in the *Contribution Further Notice*, 65 FR 67322 (November 9, 2000), to reduce the interval between the accrual of revenues by carriers and assessment of universal service contributions based on those revenues. This revised methodology will reduce the interval from 12 months to an average interval of six months.

6. The revised contribution methodology will operate in a manner similar to the current methodology with only minor differences. The Commission will continue to set contribution factors on a quarterly basis using the same timeframes as under the current methodology. Carriers will continue to file Form 499–A in April to report their annual revenues from the prior year. Under the revised methodology we adopt today, carriers will also file on a quarterly basis the new Form 499–Q to report their revenues from the prior quarter. We direct USAC to provide revenue data to the Commission at least thirty days before the start of each quarter. The Commission and USAC will use the revenue information from a particular quarter to set the contribution factor for the second following quarter. For example, contributions in the third quarter will be assessed based on revenues accrued in the first quarter. Accordingly, the revised methodology reduces to six months the average interval between the accrual of revenues and the assessment of universal service contributions based on those revenues. The specific timelines for implementation and transition are detailed.

7. USAC will use the revenue data provided by carriers in the FCC Form 499–A to perform annual true-ups to the quarterly revenue data submitted by carriers during the prior calendar year. As necessary, USAC will then refund or collect from carriers any over-payments or under-payments. If the combined quarterly revenues reported by a carrier are greater than those reported on its annual revenue report (Form 499–A), then a refund will be provided to the carrier based on an average of the two lowest contribution factors for the year. If the combined quarterly revenues reported by a carrier are less than those reported on its annual revenue report (Form 499–A), then USAC shall collect the difference from the carrier using an average of the two highest contribution factors from that year. We believe this will provide an incentive for carriers to accurately report their quarterly revenues.

8. By reducing the interval between the accrual and assessment of revenues for contribution to the universal service fund, the revised methodology improves upon the existing methodology by basing assessments on revenue data more reflective of current market conditions. As a result, the revised contribution methodology ensures that contributions to the universal service support mechanisms continue to operate in a competitively neutral manner. The shortened interval between accrual of revenues and assessment of contributions will allow the revised methodology to reflect more accurately trends in telecommunications conditions, such as new carriers entering the interexchange market, or declining revenue bases for carriers that are losing market share. We conclude that the shortened interval will constitute a significant enhancement to the current methodology. Because it is similar to the existing contribution methodology, however, the methodology that we adopt herein will also be relatively easy to administer and implement. Similarly, we conclude that USAC will be able to continue to monitor carrier submissions to ensure that such submissions are accurate and timely without substantial changes in its auditing authority or the adoption of additional enforcement rules.

9. We decline to adopt at this time the proposal to base contributions on current revenues as set forth in the *Contribution Further Notice*. Under this proposal, the contribution factor is set using prior-year revenues, but carriers contribute based on application of this contribution factor to their current revenues. This proposal would increase reporting burdens on carriers by requiring carriers to file revenue information 13 times per year within very short timeframes. We agree with the majority of commenters that this proposal would be unduly burdensome on carriers, particularly smaller carriers. We also have concerns that the adoption of this proposal might affect the sufficiency of the universal service fund and require the collection of a reserve fund to protect against a fund shortfall.

10. We also decline to adopt the alternative contribution methodologies suggested by some commenters in this proceeding, such as having carriers base contributions on projected revenues, or permitting carriers to have the option of using more than one contribution methodology. We reject these proposals because we conclude that the costs they impose would outweigh any potential benefits. We have concerns that these proposals would create incentives for carriers to under-report revenues or otherwise encourage carrier gaming of the contribution system. We also conclude that some of these proposals would unduly increase the costs of administering the universal service mechanisms. Accordingly, we decline to adopt these proposals at this time. Moreover, we do not preclude the possibility of adopting at some later date a surcharge methodology to recover contributions to the universal service mechanisms. Such a methodology may satisfy the goals of section 254(d) to be specific, predictable, and sufficient, while protecting consumers from excessive or confusing universal service charges on their telephone bills. We do not, however, have an adequate record at this time to adopt such a proposal. Therefore, we intend to seek further comment on this issue in the very near future.

B. Transition to the Revised Contribution Methodology

11. We direct USAC to begin implementation of the revised contribution methodology effective for the second quarter of 2001 (*i.e.*, April through June of 2001). To ensure a smooth transition for second quarter 2001, during the month of April 2001, certain aspects of the existing contribution methodology will remain unchanged. As currently required under the existing methodology, on April 2, 2001, carriers will file the Form 499–A, reporting revenues billed from January through December 2000. Also as required under the existing methodology, carriers' April 2001 contributions will be calculated based on their reported revenues from January through June 2000 (*i.e.*, revenues reported on the 2000 Form 499–S).

12. Beginning in May 2001, for the entire second quarter 2001, USAC shall calculate carriers' contributions based on revenues that approximate the revenues earned in fourth quarter 2000. Specifically, we direct USAC to derive the fourth quarter 2000 revenue by subtracting the revenues reported by carriers in the Form 499–S (January through June 2000) from the revenues reported in the April 2001 Form 499–A (January through December 2000). USAC must then divide this revenue amount by two, to approximate carrier revenues for the fourth quarter of 2000. We direct USAC to include this revenue information in its quarterly filing due on May 2, 2001. Based on this fourth quarter 2000 revenue information, the

Commission will determine whether to modify the contribution factor accordingly.

13. We direct USAC to calculate carriers' contributions for the second quarter 2001 using the fourth quarter 2000 revenue information, as discussed. For each carrier, USAC shall compare this amount with the amount the carrier would have paid under the existing methodology. USAC shall then make appropriate adjustments to individual carriers' bills in May and June 2001 to: (1) Reflect the revised contribution amounts for second quarter, and (2) true-up any amounts that a carrier may have over- or underpaid in the April 2001 bill. For example, if during the second quarter of 2001 Carrier A would have paid $12,000 using the existing methodology, but would only have paid $9,000 using the revised methodology, Carrier A would be billed for the second quarter of 2001 in the following manner. For April, Carrier A would pay $4,000 (*i.e.*, one-third of $12,000). For May and June, however, Carrier A would pay $2,500 each month. Under the revised methodology, Carrier A owes $3,000 per month. But because Carrier A overpaid $1,000 in April, this amount shall be refunded in equal amounts to Carrier A during May and June (in the form of $500 credit each month).

14. After this initial transition period, the contribution methodology will operate as follows. Carriers will file Form 499–Q on May 11, 2001, reporting revenue data from the first quarter of 2001. On June 1, 2001, USAC shall file revenue data from the first quarter 2001. Using this revenue data and the projected program demand data supplied by USAC in its quarterly filing in May, the Commission will calculate a new contribution factor for the third quarter of 2001. Carriers will be billed in accordance with the new contribution factor for the third quarter. Thereafter, carriers will file Form 499–Q, reporting their revenues for the prior quarter, by the beginning of the second month in each quarter (*i.e.*, February 1, May 1, August 1, and November. 1). Carriers will continue to receive annual true-ups when they file their Forms 499–A in April of each year. USAC will file projected program demand data at least 60 days prior to the start of a quarter and total contribution base revenue data at least 30 days prior to the start of a quarter. The Commission delegates authority under § 54.711(c) to the Common Carrier Bureau to take whatever additional steps are necessary to implement the contribution methodology adopted herein.

15. In addition, the Commission directs USAC and the other fund administrators to devise an appropriate cost allocation plan for the additional costs for collecting, validating, and distributing the contributor data provided in the Form 499–Q.

III. Procedural Matters

A. Final Regulatory Flexibility Analysis

16. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Contribution Further Notice*. The Commission sought written public comment on the proposals in the *Contribution Further Notice*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

1. Need for and Objectives of This Report and Order and the Rules Adopted Herein

17. The Commission issues this Report and Order (Order) as a part of its implementation of the Act's mandate that ''[e]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service.'' In light of significant recent developments in the interstate telecommunications marketplace, such as the entry of Regional Bell Operating Companies (RBOCs) into the interexchange services market under section 271, the Commission sought comment on whether the existing contribution methodology provides or will provide a competitive disadvantage to certain carriers in the marketplace. This Order modifies the existing assessment methodology to determine carriers' contributions to the federal universal service support mechanisms. Currently, contributions to the federal universal service mechanisms are based on carriers' interstate and international end-user telecommunications revenues from the prior year. In this Order, we shorten the interval between accrual of revenues and assessment based on those revenues by six months. In so doing, we ensure that assessment of contributions to the federal universal service support mechanisms remains competitively neutral, and that the mechanisms continue to meet the statutory requirement of section 254(d) to be specific, predictable, and sufficient.

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

18. We received no comments directly in response to the IRFA in this proceeding. Some comments generally addressed the potential administrative burdens of the various proposals set forth in the *Contribution Further Notice* to modify the universal service contribution methodology. These commenters express concern that the administrative costs associated with increasing the number of revenue filings may outweigh the benefits associated with reducing the contribution interval between the accrual of revenues by carriers and the assessment of contributions to the universal service support mechanisms.

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

19. 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. In this Order, we stated that the modifications adopted will 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 modifications to the universal service contribution methodology adopted in this Order.

20. 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.

21. 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.

22. 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.

23. *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.'' 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 decisions and rules adopted in this Order.

24. *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 decisions and rules adopted in this Order.

25. *Local Exchange Carriers, Interexchange Carriers, Competitive Access Providers, Operator Service Providers, Payphone 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), payphone providers 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 1,395 incumbent LECs, 349 CAPs, 204 IXCs, 21 OSPs, 758 payphone providers and 541 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 1,395 incumbent LECs, 349 CAPs, 204 IXCs, 21 OSPs, 758 payphone providers, and 541 resellers that may be affected by the decisions and rules adopted in this Order.

26. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. The applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. According to the most recent *Telecommunications Industry Revenue* data, 808 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service (PCS) services, which are placed together in the data. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. We estimate that there are fewer than 808 small cellular service carriers that may be affected by the decisions and rules adopted in this Order.

27. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase

I licensing was conducted by lotteries in 1992 and 1993. 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. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons. 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. If this general ratio continues in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

28. *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 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. 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. The SBA has approved these definitions. An auction of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. Two auctions of Phase II licenses have been conducted. In the first auction, nine hundred and eight (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% of the Regional licenses, and 54% of the EA licenses. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.

29. *Private and Common Carrier Paging.* In the Paging Third Report and Order, 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. The SBA has approved these definitions. An auction of Metropolitan Economic Area (MEA) licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. At present, there are approximately 24,000 Private-Paging site-specific licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Telecommunications Industry Revenue* data, 172 carriers reported that they were engaged in the provision of either paging or ''other mobile'' services, which are placed together in the data. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and therefore are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 172 small paging carriers that may be affected by the decisions and rules adopted in this Order. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

30. *Broadband Personal Communications Service (PCS).* The broadband PCS spectrum is divided into six frequency 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 their 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 the 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% of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses; there were 48 small business winning bidders. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, plus the 48 winning bidders in the re-auction, for a total of 231 small entity PCS providers as defined by the SBA and the Commission's auction rules. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as small or very small businesses.

31. *Narrowband PCS.* To date, two auctions of narrowband PCS licenses have been conducted. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. For purposes of the two auctions that have already been held, small businesses were defined as entities with average gross revenues for the prior three calendar years of $40 million or less. To ensure meaningful participation of small business entities in the auctions, the Commission adopted a two-tiered definition of small businesses in the *Narrowband PCS Second Report and Order,* 65 FR 35875 (June 6, 2000). A small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A very small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. These definitions have been approved by the SBA. In the future, the Commission will auction 459 licenses to serve MTAs and 408 response channel licenses. There is also one megahertz of narrowband PCS spectrum that has been held in reserve and that the Commission has not yet decided to release for licensing. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future auctions. However, four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined

under the Commission's Rules. The Commission assumes, for purposes of this IRFA, that a large portion of the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

32. *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.

33. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service. 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 under the SBA definition.

34. *Specialized Mobile Radio (SMR).* Pursuant to 47 CFR 90.814(b)(1), the Commission has defined ''small business'' for purposes of auctioning 900 MHz SMR licenses, 800 MHz SMR licenses for the upper 200 channels, and 800 MHz SMR licenses for the lower 230 channels on the 800 MHz band, as a firm that has had average annual gross revenues of $15 million or less in the three preceding calendar years. The SBA has approved this small business size standard for the 800 MHz and 900 MHz auctions. Sixty winning bidders for geographic area licenses in the 900 MHz SMR band qualified as small business under the $15 million size standard. The auction of the 525 800 MHz SMR geographic area licenses for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten winning bidders for geographic area licenses for the upper 200 channels in the 800 MHz SMR band qualified as small businesses under the $15 million size standard. An auction of 800 MHz SMR geographic area licenses for the General Category channels began on August 16, 2000 and was completed on September 1, 2000. Of the 1,050 licenses offered in that auction, 1,030 licenses were sold. Eleven winning bidders for licenses for the General Category channels in the 800 MHz SMR band qualified as small business under the $15 million size standard. In an auction completed on December 5, 2000, a total of 2,800 EA licenses in the lower 80 channels of the 800 MHz SMR service were sold. Of the 22 winning bidders, 19 claimed small business status. In addition, there are numerous incumbent site-by-site SMR licenses on the 800 and 900 MHz band.

35. 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 no more than $15 million. One firm has over $15 million in revenues. We assume, for purposes of this FRFA, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA.

36. For geographic area licenses in the 900 MHz SMR band, there are 60 who qualified as small entities. For the 800 MHz SMR's, 38 are small or very small entities.

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

37. In this Order, we adopt modifications to the federal universal service contribution methodology that will require carriers to report their interstate end-user telecommunications revenues on a quarterly basis. In addition, carriers will continue to file annually FCC Form 499–A reporting total interstate end-user telecommunications revenues from the prior calendar year, as they are currently required to do. Carriers will, however, no longer be required to file FCC Form 499–S. In order to comply with the quarterly filing requirements, it may be necessary for some carriers to adopt additional or accelerated recordkeeping procedures to report their quarterly revenues in a timely and accurate manner.

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

38. The Commission has considered a number of proposals, both in the *Contribution Further Notice,* and in response to commenter suggestions for revising the existing universal service contribution methodology. In an effort to minimize the economic impact on all carriers, particularly small carriers, that are required to contribute to the universal service mechanisms, the Commission has taken into consideration the benefits of reducing the contribution interval against any corresponding increase in administrative burdens on carriers. For example, we rejected an alternative proposal that would have increased the number of filings that carriers are required to file annually to as many as 13 per year. We have concluded that the administrative cost of compliance on carriers, particularly smaller carriers, would outweigh the corresponding benefit of reducing the contribution interval under this proposal. We have also taken into consideration alternative proposals that would not have increased the existing reporting requirements. As discussed, these alternative proposals were rejected because they failed to significantly reduce the contribution interval or impose significant alterations to the existing contribution methodology that would create substantial uncertainty in ensuring the continued predictability and sufficiency of the universal service fund. Although the revised contribution methodology adopted herein will increase carrier filings from two to five filings per year, the Commission has taken into consideration the corresponding benefit of substantially reducing the contribution interval. As discussed, we believe that carriers will benefit from a specific, predictable, and sufficient contribution methodology that ensures that all carriers, including small carriers, continue to be assessed contributions in a competitively neutral manner.

6. Report to Congress

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

B. Effective Date of Final Rules

40. Pursuant to 5 U.S.C. 553(d), the rule changes adopted herein shall take effect April 23, 2001.

IV. Ordering Clauses

41. Pursuant to the authority contained in sections 4(i), 4(j), 254, and 303(r) of the Communications Act of 1934, this Report and Order is adopted.

42. Part 54 of the Commission's rules, is amended as set forth, effective April 23, 2001.

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

List of Subjects 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

Subpart H—Administration

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. In § 54.709, amend paragraph (a)(3) by revising the fourth sentence to read as follows:

§ 54.709 Computations of required contributions to universal service support mechanisms.

(a) * * *

(3) * * * Based on data submitted to the Administrator on the Telecommunications Reporting Worksheets, the Administrator must submit the total contribution base to the Common Carrier Bureau at least thirty (30) days before the start of each quarter. * * *

* * * * *

3. In § 54.711, amended paragraph (a) by revising the second sentence to read as follows:

§ 54.711 Contributor reporting requirements.

(a) * * * The Telecommunications Reporting Worksheet sets forth information that the contributor must submit to the Administrator on a quarterly and annual basis. * * *

* * * * *

[FR Doc. 01–7231 Filed 3–22–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 94–129; FCC 00–255 and FCC 01–67]

Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final regulations that were published in the **Federal Register** on March 1, 2001, (66 FR 12877). The regulations were adopted to implement the slamming provisions of the Communications Act of 1934, as amended by the Telecommunications Act of 1996.

DATES: This document contains information collection requirements that have not yet been approved by the Office of Management Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of this section.

FOR FURTHER INFORMATION CONTACT: Dana Walton-Bradford, Attorney, Accounting Policy Division, Common Carrier Bureau (202) 418–7400.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission (Commission) published a summary of the Commission's Third Report and Order and Second Order on Reconsideration (*Third Report and Order*) in CC Docket No. 94–129, which was released on August 15, 2000. This summary also contained amendments and modifications to the *Third Report and Order* that were adopted in an Order released on February 22, 2001. As published, the final regulations contain errors that need to be corrected.

In the final rule, FR Doc. 01–4794, published on March 1, 2001, (66 FR 12877), make the following corrections:

§ 64.1130 [Corrected]

1. On page 12893, in the first column, in amendatory instruction 3, line 3, correct ''(e)(4)'' to read ''(e)(5)''.

2. On the same page, in the second column, line 24, correct ''(4)'' to read ''(5)''.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–6785 Filed 3–22–01; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 001121328–1066–03; I.D. 111500CB]

RIN 0648–AN71

Fisheries of the Northeastern United States; Summer Flounder Fishery; 2001 Specifications

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

ACTION: Final rule, final specifications, and commercial quota adjustment.

SUMMARY: NMFS issues final specifications for the 2001 summer flounder fishery and makes preliminary adjustments to the 2001 commercial quotas for this fishery. The intent of this action is to comply with implementing regulations for the Fishery Management Plan for the Summer Flounder Fishery (FMP), which requires NMFS to publish measures for the upcoming fishing year that will prevent overfishing of this fishery.

DATES: The 2001 final specifications are effective March 20, 2001, through December 31, 2001.

ADDRESSES: Send comments on any ambiguity or unnecessary complexity arising from the language used in this final rule to Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930–2298.

Copies of supporting documents used by the Summer Flounder Monitoring Committee, the Regulatory Impact Review (RIR), the Final Regulatory Flexibility Analysis (FRFA) contained within the RIR, and the Environmental Assessment (EA) are available from the Northeast Regional Office at the same address. The EA/RIR/FRFA is also accessible via the Internet at http://www.nero.nmfs.gov/ro/doc/nr.htm.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, Fishery Policy Analyst, (978)281–9279, fax (978)281–9135, e-mail rick.a.pearson@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FMP was developed jointly by the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council) in consultation with the New England and South Atlantic Fishery Management Councils. The management unit specified in the FMP is summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the U.S./Canadian border. Implementing regulations for this fishery are found at 50 CFR part 648, subparts A and G.

Pursuant to § 648.100, the Administrator, Northeast Region, NMFS, (Regional Administrator) implements measures for the fishing year to assure that the 2001 biomass target (B2001) for this fishery is achieved. The biomass target and management measures are summarized below. Detailed background information regarding the status of the summer flounder stock and the development of the proposed specifications were provided in the proposed specifications for the 2001 summer flounder, scup and black sea bass fisheries (65 FR 71042, November 28, 2000), and is not repeated here. Final specifications for the scup and black sea bass fisheries were published at 66 FR 12902, March 1, 2001. NMFS will publish a proposed and final rule for the 2001 recreational management measures for the summer flounder fishery in the **Federal Register** at a later date.

Summer Flounder

In order to comply with a Court Order issued by the U.S. Court of Appeals for the District of Columbia on April 25, 2000, NMFS implemented an emergency interim rule on August 2, 2000 (65 FR 47648), temporarily amending the FMP and the regulations that establish the target to be achieved by the 2001 total allowable landings (TAL) for summer flounder. The emergency interim rule established a biomass target for 2001, rather than the F target specified in the FMP. Further, the emergency interim rule requires that the 2001 total quota be set at a level that will achieve, with at least a 50-percent probability, the biomass level that would have been achieved at the end of 2001 if the F targets had been met in 1999 and 2000, and would be met in 2001. The emergency interim rule was effective through January 29, 2001, and was extended for 180 days at 66 FR 8091, January 29, 2001, until July 28, 2001.

As indicated in the emergency interim regulations, the most recent stock assessment specified a biomass target of 148.8 million lb (67.5 million kg) by December 31, 2001. The biomass target was calculated using the results of the summer flounder stock assessment completed by the 31st Stock Assessment Review Committee Consensus Summary of Assessment (SARC 31) in June 2000. A summary of the summary flounder stock assessment was provided in the proposed rule for the 2001 specifications and is not repeated here.

The Summer Flounder Monitoring Committee reviewed the stock status and projections to meet the biomass target based on these data and recommended a 17.91-million lb (8.125-million kg) TAL for 2001, which would be divided into a commercial quota of 10.75 million lb (4.877 million kg) and a recreational harvest limit of 7.16 million lb (3.248 million kg). The Council adopted these recommendations, and this final rule implements them, because they are consistent with the emergency interim rule. Based on the current status of the stock and assuming the F targets in 1999 and 2000 have been achieved, this level has a 50-percent probability of achieving the 2001 biomass target of 148.8 million lb (6,751 mt).

Although the Council and the Commission's Summer Flounder Board (Board) met jointly, the Board declined to adopt the Council's 2001 TAL recommendation for summer flounder at its August 2000 meeting. The Board later adopted a 2001 summer flounder TAL of 20.5 million lb (9.298 million kg) on November 29, 2000, on the basis that this TAL is consistent with the F target in the Commission's Interstate FMP.

The Commission has voluntary measures in place to decrease discards of sublegal fish in the commercial fishery, as well as to reduce regulatory discards occurring as a result of landing limits in the states. The Commission established a system whereby 15 percent of each state's quota could be voluntarily set aside each year for vessels to land an incidental catch allowance (implemented as trip limits) after the directed fishery has been closed. Table 3 in the preamble of the proposed rule showed the 15-percent set-aside for each state.

This final rule implements the following summer flounder measures for 2001: (1) A TAL of 17.91 million lb (8.125 million kg); (2) a coastwide commercial quota of 10.75 million lb (4.877 million kg); and (3) a coastwide recreational harvest limit of 7.16 million lb (3.248 million kg). The preliminary final commercial quotas, by state, for 2001 are presented in Table 1 of this document.

Section 648.100(d)(2) provides that all landings of summer flounder for sale in a state shall be applied against that state's annual commercial quota. Any landings in excess of a state's commercial quota allocation in 1 year must be deducted from that state's annual quota allocation for the following year. The emergency interim rule established a provision for the specification of quotas in 2001 whereby any under-harvest of an individual state's summer flounder commercial quota in 2000 would be applied to the final 2001 specifications for that state. This temporary measure was enacted because NMFS expected that some states might have been prompted by the Court Order to reduce commercial harvests prior to the implementation of the emergency measures. Therefore, the measure was established to avoid penalizing states for their precautionary action. This final rule contains: (1) Final specifications, and (2) associated preliminary adjustments to each state's 2001 quotas as a result of known 2000 overages or underages. The adjustments made in this final rule are preliminary because it is likely that additional data will be received from the states that will alter the figures, including late landings reported from either federally permitted dealers or state statistical agencies reporting landings by non-federally permitted dealers. This document utilizes preliminary 2000 commercial landings data that have been provided to NMFS through March 19, 2001.

Based on dealer reports and other available information, NMFS has determined that the States of Maine, Massachusetts, New York, New Jersey, Delaware, Maryland, and North Carolina exceeded their 2000 quotas. Thus far, the remaining States of New Hampshire, Rhode Island, Connecticut, and Virginia are not known to have exceeded their 2000 quotas. The preliminary 2000 landings and resulting overages for all states are given in Table 2 of this document. The resulting adjusted 2001 commercial quota for each state is given in Table 3 of this document.

TABLE 1. PRELIMINARY FINAL 2001 SUMMER FLOUNDER STATE COMMERCIAL QUOTAS

State	Percent Share	lb	kg[1]
ME	0.04756	5,112	2,319
NH	0.00046	49	22
MA	6.82046	733,031	332,497
RI	15.68298	1,685,534	764,545
CT	2.25708	242,580	110,032
NY	7.64699	821,863	372,791
NJ	16.72499	1,797,524	815,343
DE	0.01779	1,912	867
MD	2.03910	219,153	99,406
VA	21.31676	2,291,026	1,039,192
NC	27.44584	2,949,751	1,337,985
Total	100.00	10,175,868	4,875,000

[1]Kilograms are as converted from pounds and may not add to the converted total due to rounding.

TABLE 2. SUMMER FLOUNDER PRELIMINARY 2000 LANDINGS BY STATE.

State	2000 Quota[1]		Preliminary 2000 landings		2000 Overages and Underages[3]	
	lb	kg[2]	lb	kg[2]	lb	kg[2]
ME	3,956	1,794	6,922	3,140	2,966	1,345
NH	51	23	0	0	(51)[3]	(23)[3]
MA	703,136	318,937	790,504	358,566	87,368	39,629
RI	1,742,566	790,415	1,694,283	768,514	(48,283)[3]	(21,901)[3]
CT	244,085	110,715	239,628	108,693	(4,457)[3]	(2,022)[3]
NY	849,672	385,405	873,984	396,432	24,312	11,028
NJ	1,794,299	813,880	2,153,632	973,793	359,333	162,991
DE	(31,303)[4]	(14,199)[4]	12,317	5,587	43,620	19,786
MD	226,568	102,770	261,207	118,481	34,639	15,712
VA	2,293,410	1,040,273	2,226,192	1,009,784	(67,218)[3]	(30,489)[3]
NC	3,049,560	1,383,257	3,347,841	1,518,555	298,281	135,298
Total	10,876,000	4,933,271	11,606,510	5,264,624		

[1]Reflects quotas as published on December 29, 2000 (65 FR 82945).
[2]Kilograms as converted from pounds and may not add to the converted total due to rounding.
[3]Numbers in parentheses are underages.
[4] Parentheses indicate a negative number.

TABLE 3. SUMMER FLOUNDER FINAL 2001 ADJUSTED QUOTAS

State	2001 Initial quota		2001 Adjusted quota	
	lb	kg[1]	lb	kg[1]
ME	5,112	2,319	2,146	973
NH	49	22	100	45
MA	733,031	332,497	645,663	292,868
RI	1,685,534	764,545	1,733,817	786,446
CT	242,580	110,032	247,037	112,054
NY	821,863	372,791	797,551	361,763
NJ	1,797,524	815,343	1,438,191	652,352
DE	1,912	867	(41,708)	(18,918)
MD	219,153	99,406	184,514	83,694
VA	2,291,026	1,039,192	2,358,244	1,069,681
NC	2,949,751	1,337,985	2,651,470	1,202,687
Total	10,747,535	4,875,000	10,058,733[2]	4,562,563[2]

Note: Parentheses indicate a negative number.
[1]Kilograms are as converted from pounds and may not add to the converted total due to rounding.
[2]Total accounts for DE as zero. Kilograms are as converted from pounds and may not add to the converted total due to rounding.

Comments and Responses

Five comments on the proposed rule were received regarding the summer flounder measures, primarily from fishing industry participants and organizations representing the commercial fishing industry. A co-signed document was submitted by a group of environmental organizations. All comments received prior to the close of the comment period that directly related to the measures in the proposed rule were considered in developing the measures contained in this final rule.

Comment 1: Four commenters stated that they were opposed to the proposed summer flounder TAL because, in their view, it is too low and will continue to

waste the resource due to regulatory discards.

Response: The summer flounder TAL being implemented by NMFS in this final rule has been developed through the FMP's procedures for establishing annual specifications and is consistent with the provisions of the FMP and an emergency interim rule implemented by NMFS on August 2, 2000. This emergency interim rule was published in response to a Court Order issued on April 25, 2000, and is intended to provide at least a 50-percent probability of attaining the stock biomass level by the end of 2001 that was contemplated by the FMP's rebuilding schedule. To set the TAL at a higher level would not ensure at least a 50-percent probability of the achieving the target biomass, causing NMFS to not meet its legal obligation.

Comment 2: The environmental organizations who are parties to a Settlement Agreement with NMFS, which was negotiated to conclude the NRDC v. Daley lawsuit challenging the 2000 summer flounder quota, and respond to a Court Order issued by the U.S. Court of Appeals for the District of Columbia on April 25, 2000, commented that NMFS should revise the 2001 summer flounder TAL of 17.91 million lb (8.12 million kg) downward, or adopt additional conservation measures in response to two developments: The Commission's adoption of a 2001 summer flounder TAL of 20.5 million lb (9.29 million kg), and a substantial recreational overage projected for the 2000 fishing year.

Response: NMFS is currently considering whether any action is necessary based on these two developments. Any action taken by NMFS to reduce the TAL could not prevent a harvest of summer flounder in excess of the reduced quota, because non-federally permitted vessels and recreational fisheries in state waters are capable of taking the Commission's higher TAL.

The procedure used by the Council and NMFS since quota management was established in 1993 has never compensated in subsequent years for recreational landings in excess of recreational harvest limits. To date, NMFS has not factored into a final TAL specification projected recreational landings from the previous year. Once recreational landings data for a particular year are finalized, they are utilized in the stock assessment the next year to set the TAL for the subsequent year (i.e., 1999 data were used in 2000 to set the 2001 TAL). Factoring preliminary recreational data from one year into the following year's specifications (i.e., 2000 data used for 2001 specifications) has been considered by the Council on several occasions, but there has been no consensus to do so, in part because recreational data are incomplete at the time the recreational harvest limit must be specified.

Classification

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

This action establishes annual quotas and management measures for the summer flounder fishery. Action to restrict landings must be taken immediately to conserve these fishery resources. It would be impracticable to delay implementation of the quota provisions because doing so would prevent NMFS from carrying out its function of preventing overfishing of the summer flounder resource. The fishery covered by this action is already in progress and quota monitoring for the fishing year began on January 1, 2001. Therefore, the Assistant Administrator finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delayed effectiveness period for the 2001 summer flounder quota.

NMFS determined that this rule will be implemented in a manner that is consistent, to the maximum extent practicable, with the approved coastal zone management programs of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida. This determination was submitted for review by the responsible state agencies on October 24, 2000, under section 307 of the Coastal Zone Management Act. The following states agreed with NMFS' determination: Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, North Carolina and Georgia. Maine, New Hampshire, Maryland, South Carolina and Florida did not respond and, therefore, consistency is inferred. The State of Connecticut concurred with all of the components of the 2001 specifications, except for the summer flounder TAL. Connecticut indicated that the commercial quota to be implemented by NMFS in response to the April 25, 2000, Court Order would be disruptive and harmful socioeconomically to Connecticut's fishing industry, due to annual fluctuations in harvest levels. NMFS notes that it is legally obligated to abide by the Court Order. The TAL meets the minimum requirements of that Order. Therefore, NMFS cannot implement the higher TAL alternative suggested by the State of Connecticut. Furthermore, NMFS is legally required under section 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act to rebuild the summer flounder fishery in a period not to exceed 10 years. The TAL is consistent with that requirement. Therefore, the summer flounder TAL is consistent, to the maximum extent practicable, with Connecticut's coastal zone management program and NOAA's Coastal Zone Management Act Federal consistency regulations.

The Council and NMFS prepared a final regulatory flexibility analysis (FRFA) for this action. A copy of this analysis is available from the Regional Administrator (see **ADDRESSES**). The preamble to the proposed rule included a detailed summary of the analyses contained in the IRFA, and that discussion is not repeated in its entirety here. A summary of the FRFA follows:

A description of the reasons why action by the agency is being taken and the objectives of this final rule are explained in the preambles to the proposed rule and this final rule and are not repeated here. This action does not contain any collection-of-information, reporting, recordkeeping, or other compliance requirements.

Public Comments

Five comments were received on the summer flounder measures contained in the proposed rule. Comments were not specifically on the IRFA, but were related to economic impacts on small entities (see response to comment 1 in the preamble of this rule).

Number of Small Entities

The measure established by this action potentially affects a total of 915 vessels that participated in the summer flounder fishery in 1999.

Minimizing Significant Economic Impact on Small Entities

In the FRFA, NMFS analyzed the measures being implemented in this action. The analysis compared the effects of the measures to both the 2000 adjusted quotas and to actual 2000 landings when available. When not available, 1999 landings were used.

For the 2001 specifications, NMFS was obligated by a Court Order to implement a summer flounder TAL that was determined to have at least a 50-percent probability of achieving a specified biomass target by December 31, 2001. No other alternative that was considered would meet this objective while minimizing significant economic impacts on small entities.

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this proposed rule. Such comments should be sent to the Northeast Regional Administrator (see **ADDRESSES**).

Dated: March 20, 2001.

William T. Hogarth

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–7266 Filed 3–20–01; 2:05 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 031901E]

Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock sole/Flathead sole/''Other flatfish'' Fishery Category by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for species in the rock sole/flathead sole/''other flatfish'' fishery category by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the first seasonal apportionment of the 2001 Pacific halibut bycatch allowance specified for the trawl rock sole/flathead sole/''other flatfish'' fishery category.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 20, 2001, until 1200 hrs, A.l.t., April 1, 2001.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586–7228.

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.

The first seasonal apportionment of the 2001 halibut bycatch allowance specified for the BSAI trawl rock sole/flathead sole/''other flatfish'' fishery category, which is defined at § 679.21(e)(3)(iv)(B)(2), is 498 metric tons (66 FR 7276, January 22, 2001).

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the first seasonal apportionment of the 2001 halibut bycatch allowance specified for the trawl rock sole/flathead sole/''other flatfish'' fishery in the BSAI has been caught. Consequently, the Regional Administrator is closing directed fishing for species in the rock sole/flathead sole/''other flatfish'' fishery category by vessels using trawl gear in the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to avoid exceeding the halibut bycatch allowance for rock sole/flathead sole/''other flatfish'' fishery category constitutes good cause to waive the requirement to provide prior notice opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to avoid exceeding the halibut bycatch allowance for rock sole/flathead sole/''other flatfish'' fishery category constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.21 and is exempt from review under E.O. 12866.

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

Dated: March 19, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–7267 Filed 3–20–01; 2:05 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 57
Friday, March 23, 2001

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–68–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

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

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Bombardier Model CL–600–2B19 series airplanes, that would have required repetitive eddy current inspections for cracking of the main landing gear (MLG) main fittings, and replacement with a new or serviceable MLG, if necessary. This new action revises the proposed rule by continuing to require the repetitive eddy current inspections of the MLG; and adds requirements to service the MLG shock struts, inspect the MLG shock struts for nitrogen pressure, visible chrome dimension, and oil leakage, and perform corrective actions, if necessary. The actions specified by this new proposed AD are intended to prevent failure of the MLG main fitting, which could result in collapse of the MLG upon landing. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by April 17, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–68–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-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–68–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 the proposed rule may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Serge Napoleon, Aerospace Engineer, ANE–171, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7512; fax (516) 568–2716.

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 shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

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 proposed 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 proposed 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 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 comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–68–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, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–68–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Bombardier Model CL–600–B219 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on August 23, 2000 (65 FR 51259). That NPRM would have required repetitive eddy current inspections for cracking of the main landing gear (MLG) main fittings, and corrective action, if necessary. Such cracking of the MLG, if not corrected, could result in collapse of the MLG upon landing.

Since the Issuance of Previous Proposal

Further investigation into the premature failure of the MLG main fitting has revealed that, under certain conditions, an improperly serviced shock strut could lead to the premature failure of the MLG main fitting.

Issuance of New Service Information

Since the issuance of the previous proposal, Bombardier issued Alert Service Bulletin (ASB) A601R–32–079, Revision D, dated December 1, 2000, that describes procedures for repetitive eddy current inspections to detect cracking of the MLG, and replacement of any cracked fitting with a new or serviceable fitting. Revision D of the ASB also describes procedures for

servicing the MLG shock struts, and repetitive inspections to determine the nitrogen pressure, visible chrome dimension, and any oil leakage. The ASB also describes corrective procedures for servicing the MLG, if necessary. The Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, issued Canadian airworthiness directive CF–1999–32R1, dated January 22, 2001, in order to assure the continued airworthiness of these airplanes in Canada.

Differences Between Service Information and this Proposed Rule

Operators should note that, although Revision D of Bombardier ASB A601R–32–079 also includes procedures for performing a visual inspection to detect cracking of the MLG, this proposed rule would not require that inspection. The FAA finds that a visual inspection in this area of the landing gear would not be reliable or effective in determining the existence of a crack at that location. This finding also is consistent with the findings of the TCCA.

Comments Received to Proposed Rule

Due consideration has been given to the comments received in response to the proposed rule.

One commenter, the manufacturer, requests that the FAA revise the NPRM to add new inspections of the MLG shock struts in accordance with Revision D of ASB A601R–32–079. The manufacturer states that results of an investigation indicate that, under certain conditions, an improperly serviced shock strut may be the probable cause of premature failure of the MLG main fitting. (The cause of cracking of the MLG fittings that were specified in the preamble of the NPRM was not known at that time.) Therefore, the manufacturer requests that the inspections of the shock struts, in accordance with the new service bulletin revision, be required.

The FAA agrees with the commenter for the reasons specified. We have added new paragraphs, (c) and (d), to this supplemental NPRM, which would require the previously described inspections of the fitting, and corrective actions, if necessary, per Revision D of the ASB.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Conclusion

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

Cost Impact

There are approximately 339 Bombardier Model CL–600–2B19 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 236 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish an eddy current inspection, and the servicing actions, and inspections specified in paragraphs (a), (b), and (c) of this AD. We estimate that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $42,480, or $180 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this 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 the following new airworthiness directive:

Bombardier, Inc. (Formerly Canadair): Docket 2000–NM–68–AD.

Applicability: Model CL–600–2B19 series airplanes, certificated in any category, serial numbers 7003 and subsequent.

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 (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the main fitting of the main landing gear (MLG), which could result in collapse of the MLG upon landing, accomplish the following:

Inspection and Replacement

(a) Prior to the accumulation of 1,500 total flight cycles, or within 150 flight cycles after the effective date of this AD, whichever occurs later: Perform an eddy current inspection to detect cracking of the MLG main fittings, in accordance with Part B of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000. If any cracking is found, prior to further flight, replace the cracked fitting with a new or serviceable fitting in accordance with the alert service bulletin. Repeat the inspection thereafter at intervals not to exceed 500 flight cycles.

Servicing the Shock Struts

(b) Prior to the accumulation of 1,500 total flight cycles since the date of manufacture, or within 500 flight cycles after the effective date of this AD, whichever occurs later: Perform a servicing (Oil and Nitrogen) of the MLG shock struts (left and right main landing shock struts), in accordance with Part C (for airplanes on the ground) or Part D (for airplanes on jacks) of the Accomplishment Instructions of the Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000.

Other Inspections

(c) Within 500 flight cycles after completing the actions required by paragraph (b) of this AD: Perform an inspection of the MLG left and right shock struts for nitrogen pressure, visible chrome dimension, and oil leakage, in accordance with Part E of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000. Thereafter, repeat the inspection at intervals not to exceed 500 flight cycles.

Corrective Actions for Certain Inspections

(d) If the chrome extension dimension of the shock strut pressure reading is outside the limits specified in the Airplane Maintenance Manual, Task 32–11–05–220–801, or any oil leakage is found: Prior to further flight, service the MLG shock strut in accordance with Part C (for airplanes on the ground) or Part D (for airplanes on jacks) of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000.

Extension of the Repetitive Interval

(e) After the effective date of this AD: After a total of five consecutive inspections of the MLG shock struts that verify that the shock struts are serviced properly, and a total of five consecutive eddy current inspections of the MLG main fitting has been accomplished that verify there is no cracking of the main fitting, in accordance with Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000, the repetitive interval for the eddy current inspections required by paragraph (a) of this AD may be extended from every 500 flight cycles to every 1,000 flight cycles.

Reporting Requirement

(f) Within 30 days after each inspection and servicing required by paragraphs (a), (b), and (c) of this AD, report all findings, positive or negative, to: Bombardier Aerospace, Regional Aircraft, CRJ Action Desk, fax number 514–855–8501. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Alternative Methods of Compliance

(g) 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, New York Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

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

Special Flight Permits

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

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–1999–32R1, dated January 22, 2001.

Issued in Renton, Washington, on March 15, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–7174 Filed 3–22–01; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 257

[Release No. 35–27357; File No. S7–07–01]

RIN 3235–AI12

Electronic Recordkeeping by Public Utility Holding Companies

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission is proposing for public comment amendments to revise rules under the Public Utility Holding Company Act of 1935 regarding recordkeeping requirements for registered public utility holding companies and mutual or subsidiary service companies. The current rules were most recently updated in 1984 and allow regulated companies to preserve records using storage media such as paper, magnetic tape, and microfilm. The proposed amendments would expand the approved recordkeeping methods to allow the use of modern information technology resources. The Commission is proposing these rule amendments in response to the passage of the Electronic Signatures in Global and National Commerce Act, which encourages federal agencies to accommodate electronic recordkeeping.

DATES: Comments must be received on or before April 23, 2001.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically at the following E-mail address: rulecomments@sec.gov. All comment letters should refer to File No. S7–07–01; this file number should be included in the subject line if E-mail is used. Comment letters will be available for public inspection and copying in the Commission's Public Reference Room, 450 5th Street, NW., Washington, DC Electronically submitted comment letters also will be posted on the Commission's Internet web site (http://www.sec.gov).[1]

FOR FURTHER INFORMATION CONTACT: Catherine A. Fisher, Assistant Director, Robert P. Wason, Chief Financial Analyst, or Victoria J. Adraktas, Attorney-Advisor, Office of Public Utility Regulation, (202) 942–0545, Division of Investment Management, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549–0503.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (''Commission'') today is requesting public comment on proposed amendments to rule 1 (17 CFR 257.1),[2] regarding the preservation and destruction of records of registered public utility holding companies and of mutual and subsidiary service companies, under the Public Utility Holding Company Act of 1935 [15 U.S.C. 79] (''Holding Company Act'').

Executive Summary

Federal law requires registered public utility holding companies and their mutual or subsidiary service companies to make and keep books and records.[3] The recordkeeping requirements are a key part of the Commission's public utility holding company regulatory program because they allow us to monitor the operations of companies and to evaluate their compliance with federal law. The recordkeeping rules permit records to be preserved and maintained using storage media such as paper, magnetic tape, and microfilm.

Last year, Congress passed the Electronic Signatures in Global and

[1] We do not edit personal identifying information, such as names or E-mail addresses, from electronic submissions. Submit only information you wish to make publicly available.

[2] Unless otherwise noted, all references to rule 1 will be to 17 CFR 257.1.

[3] ''Company'' or ''companies'' means a service company subject to 17 CFR 250.93, or a holding company subject to 17 CFR 250.26, which is not an electric utility company or a gas utility company, and any predecessor or inactive or dissolved associate company, the records of which are in the possession or control of such company.

National Commerce Act (''Electronic Signatures Act,'' ''Act,'' or ''ESIGN'') to facilitate the use of electronic records and signatures in interstate and foreign commerce.[4] Consistent with the purpose and goals of the Electronic Signatures Act, we are proposing rule amendments to expand the circumstances under which companies may keep their records on electronic storage media. We are also proposing amendments to clarify and update our recordkeeping rules. The proposal is designed to update rule 1 to reflect and accommodate companies' use of modern information technology resources to maintain and index records.

I. Discussion

A. Amendments to Rule 1

Rule 1 provides that companies may keep records in a variety of specified formats.[5] In particular, subparagraphs (e) through (h) of the rule permit companies to store records on a variety of media, including paper, magnetic or punch tape, microforms, and metallic recording data strips. The rule also permits companies to convert paper records to media permitted by the rule if certain certifications and other requirements are met. When we proposed the amendments to the rules in 1983, we noted that ''[i]mportant technological changes in data preservation systems'' [6] resulted in a need to revise our regulations governing the maintenance of required records. We also noted that our proposed amendments were ''not intended to restrict further developments.'' Nonetheless, in light of the advances in information technology since the rule was promulgated in 1984 and in particular the rapid changes in technology in recent years, we again believe that we should revise the standards for permissible recordkeeping media to allow the use of current electronic recordkeeping and storage resources in maintaining required records.[7] Moreover, because the proposed amendments do not specify the use of any particular technologies, they should allow for the adoption of new technologies in the future.

We are also proposing to adopt amendments to the recordkeeping rules to clarify the obligation of companies to provide copies of their records to Commission examiners. Currently the rules require that records ''shall be so arranged, filed, and currently indexed that such records be readily available for inspection * * *'' The proposed amendments would make clear that (i) ''readily available'' means in no case more than one business day after the request; (ii) printouts or copies of a storage medium include legible, true, and complete printouts or copies of the records (or the information necessary to generate the record) in the medium and format in which it is stored; and (iii) the company must provide a means to access, search, view, sort, and print the records. Comment is requested on these proposals as well as on whether our rules should be amended in other ways to accommodate electronic recordkeeping?

B. Interpretation of Electronic Signatures Act

Under the Electronic Signatures Act, an agency's recordkeeping requirements may be met by retaining electronic records that accurately reflect the information set forth in the record, and remain accessible to all persons who are entitled to access, in a format that can be accurately reproduced.[8] The Act allows us to interpret this provision pursuant to our authority under the Holding Company Act.[9] We anticipate that upon adoption of these amendments, we will interpret the Electronic Signatures Act as requiring companies to comply with rule 1 when they keep electronic records.

Our interpretation of the Electronic Signatures Act must be based on findings that (i) the regulations are substantially justified; (ii) the methods selected to carry out our purposes are substantially equivalent to the requirements imposed on records that are not electronic records and will not impose unreasonable costs on the acceptance and use of electronic records; and (iii) the methods selected to carry out our purposes do not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification for performing the functions of creating, storing, generating, receiving, communicating, or authenticating electronic records or electronic signatures.[10]

The Electronic Signatures Act's principles of accuracy and accessibility are consistent with the requirements of rule 1. Our requirements that companies store separately duplicate copies of their records, and maintain procedures to safeguard them from loss, alteration, or destruction protect the integrity of the records and assure that the records are ''accurate.'' If a company separately stores a duplicate copy of its records, then if one copy is altered or damaged there will still be an accurate backup copy. Procedures to safeguard records from loss, alteration, or destruction make it possible for companies and us to be reasonably confident that the records have not been changed in ways that cannot otherwise be detected. Our requirements that companies arrange and index records, and that they be ready to provide printouts or copies of the records, make those records accessible. Companies may keep many records. Those records are not truly accessible unless there is an index system that makes it possible to find a particular record. The records are also not truly accessible if they cannot be printed out or copied for later use.

We request comment on whether rule 1, as proposed to be amended, is consistent with the requirements of the Electronic Signatures Act.

II. General Request for Comments

We request comment on the proposed rule amendments that are the subject of this release, suggestions for additional provisions or changes to the rule, and comments on other matters that might have an effect on the proposals contained in this release.

III. Cost/Benefit Analysis

We are considering the costs and the benefits of the proposed amendments to rule 1. The primary benefit of the rule is the improved transparency and flexibility of our recordkeeping rules.

We do not believe the proposals will impose any costs on companies. As described above, the proposals would

[4] Electronic Signatures in Global and National Commerce Act, Pub. L. 106–229 (*see* Preamble).

[5] Sections 15 and 20 of the Holding Company Act authorize the Commission to prescribe by rule the books and records that a public utility holding company and its subsidiary companies must maintain. 15 U.S.C. 79(o) and 79(t). Rule 26 (17 CFR 250.26) under the Holding Company Act specifies the types of records that must be kept. Rule 1 generally specifies where and for how long these records must be kept. Subsections (c) and (d) of rule 1 provide that records must be stored in a reasonably protected space and be ''readily available for inspection by authorized representatives of regulatory agencies concerned.''

[6] Proposed Rulemaking, Rules Governing the Preservation of Records of Registered Holding Companies and their Mutual or Subsidiary Service Companies,'' Release No. 35–23049 (Sept. 19, 1983) 48 FR 41779.

[7] We recognize that the standards for electronic recordkeeping we are proposing for registered public utility holding companies are different from rules we have adopted for broker-dealers, which require brokerage records to be preserved in a non-rewritable, non-erasable (WORM) format. There are, however, significant differences between the industries of which they are members. In addition, we have not experienced any significant problems with registered holding companies altering stored records. In light of these factors, the costs of requiring registered public utility holding companies to invest in new electronic recordkeeping technologies may not be justified.

[8] ESIGN section 101(d)(1).

[9] ESIGN section 104(b)(1).

[10] ESIGN section 104(b)(2)(C).

allow companies to maintain records in compliance with the relevant recordkeeping requirements in electronic storage media. Electronic storage is optional under the proposals. We assume that companies will not opt for the electronic storage option provided for in the proposals unless doing so is cheaper (or otherwise more efficient and, therefore, supported by business considerations). By contrast, we believe that there may be significant benefits to the proposals. As stated, because using electronic storage media is optional, we do not believe that companies will employ such media unless the benefits conferred by the option outweigh the costs and, therefore, electronic storage makes good business sense. It is our belief, therefore, that the proposals, if adopted would allow companies greater flexibility to make (business) decisions about recordkeeping and, when appropriate, opt for electronic storage with potential cost savings and other benefits.

We request comment on this analysis of the costs and benefits of the proposed rule amendments and invite commenters to submit their own estimates of costs and benefits that would result from the proposal. In order to evaluate fully the costs and benefits associated with the proposed amendment, we request that commenters' estimates of the costs and benefits of the proposed amendments be accompanied by specific empirical data supporting their estimates.

IV. Paperwork Reduction Act

The proposals do not require a new collection of information. They affect only the manner in which, pursuant to rule 1, registrants can store the information that must be collected under rule 26 (17 CFR 250.26). In connection with rule 26, the Commission submitted to the Office of Management and Budget, pursuant to the Paperwork Reduction Act, a request for approval and received an OMB control number for the rule, OMB Control No. 3235–0183.

V. Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (U.S.C. 605(b)), the Chairman of the Commission has certified that the proposed amendment would not, if adopted, have a significant economic impact on a substantial number of small entities. The amendment would enable registered public utility holding companies and their mutual or subsidiary service companies to retain certain books and records in electronic format so long as the electronic record is accurate and accessible to those entitled to access it. The amendment is designed to facilitate the use of electronic media to fulfill the recordkeeping requirements under the Holding Company Act. The proposed rule amendment would have no economic impact on small entities because it would apply only to public utility holding companies registered under the Holding Company Act and mutual or subsidiary service companies of those registered holding companies. According to rule 110 (17 CFR 250.110) under the Holding Company Act, for purposes of compliance with the Regulatory Flexibility Act, a ''small business'' or ''small organization'' is defined as ''a holding company system whose gross consolidated revenues from sales of electric energy or of natural or manufactured gas distributed at retail for its previous fiscal year did not exceed $1,000,000.'' None of the public utility holding companies currently registered under the Holding Company Act fit the definition of ''small business'' or ''small organization'' and are unlikely to do so in the future, as operating revenues for the previous year for all holding company systems significantly exceeded rule 110's $1,000,000 maximum. A signed copy of the certificate is attached to this document as an Appendix.

Statutory Authority

The Commission is proposing amendments to rule 1 of the Holding Company Act pursuant to authority set forth in sections 15 and 20(a) of the Holding Company Act (15 U.S.C. 79(o) and 15 U.S.C. 79(t)).

List of Subjects in 17 CFR Part 257

Holding companies, Reporting and recordkeeping requirements.

Text of Proposed Rule Amendments

For reasons set forth in the preamble, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 257—PRESERVATION AND DESTRUCTION OF RECORDS OF REGISTERED PUBLIC UTILITY HOLDING COMPANIES AND OF MUTUAL AND SUBSIDIARY SERVICE COMPANIES

1. The authority citation for Part 250 is added to read as follows:

Authority: 15 U.S.C. 79(o) and 79(t), unless otherwise noted.

2. The authority citations following §§ 257.1 and 257.2 are removed.

3. Section 257.1 is amended by:

a. Removing paragraphs (e) through (h);

b. Adding new paragraph (e); and

c. Redesignating paragraphs (i) through (m), as paragraphs (f) through (j).

The addition reads as follows:

§ 257.1 General instructions.

* * * * *

(e)(1) *Micrographic and electronic storage permitted.* The records required to be maintained and preserved under § 250.26 of this chapter may be maintained and preserved for the required time by, or on behalf of, a company on:

(i) Micrographic media, including microfilm, microfiche, or any similar medium; or

(ii) Electronic storage media, including any digital storage medium or system that meets the terms of this section.

(2) *General requirements.* The company, or person that maintains and preserves records on its behalf, must:

(i) Arrange and index the records in a way that permits easy location, access, and retrieval of any particular record;

(ii) Provide promptly (but in no case more than one business day after the request) any of the following that the Commission (by its examiners or other representatives) or the directors of the company may request:

(A) A legible, true, and complete copy of the record (or the information necessary to generate the record) in the medium and format in which it is stored;

(B) A legible, true, and complete printout of the record; and

(C) Means to access, search, view, sort, and print the records; and

(iii) Separately store, for the time required for preservation of the original record, a duplicate copy of the record stored on the micrographic or electronic storage media or any media allowed by this section.

(3) *Special requirements for electronic storage media.* In the case of records on electronic storage media, the company, or person that maintains and preserves records on its behalf, must establish and maintain procedures:

(i) To maintain and preserve the records, so as to reasonably safeguard them from loss, alteration, or destruction;

(ii) To limit access to the records to properly authorized personnel, the directors of the company, and the Commission (including its examiners and other representatives); and

(iii) To reasonably ensure that any reproduction of a non-electronic original record on electronic storage

media is complete and true, and legible when retrieved.

* * * * *

Dated: March 19, 2001.

By the Commission.

Jonathan G. Katz,

Secretary.

Note: The Appendix to the Preamble will not appear in the Code of Federal Regulations.

Appendix A; Regulatory Flexibility Act Certification

I, Laura Unger, Acting Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that changes to rule 1 [17 CFR 257.1] under the Public Utility Holding Company Act of 1935 (''Act''), as amended, would not, if adopted, have a significant economic impact on a substantial number of small entities in the United States:

The proposed rule amendment would have no economic impact on small entities because it would apply only to public utility holding companies registered under the Act and mutual or subsidiary service companies of those registered holding companies. According to rule 110 [17 CFR 250.110] under the Act, for purposes of compliance with the Regulatory Flexibility Act, a ''small business'' or ''small organization'' is defined as ''a holding company system whose gross consolidated revenues from sales of electric energy or of natural or manufactured gas distributed at retail for its previous fiscal year did not exceed $1,000,000.'' None of the public utility holding companies currently registered under the Act fit the definition of ''small business'' or ''small organization'' and none are unlikely to do so in the future, as operating revenues for the previous year for all holding company systems significantly exceeded rule 110's $1,000,000 maximum. Moreover, the amendment, designed to facilitate the use of electronic media, merely expands the type of electronic media registered holding companies and mutual or subsidiary service companies may use to fulfill the recordkeeping requirements under the Act. The proposal is in response to the guidance and directives contained in the Electronic Signatures in Global Commerce Act, recently signed into law. The amendment will not result in a significant impact to the regulated companies, as it merely provides standards as to what types of electronic media are able to produce sufficient recording integrity to constitute compliance with the recordkeeping requirements of rule 1.

Accordingly, the proposed amendment would not have a significant impact on a substantial number of small entities.

Dated: March 16, 2001.

Laura S. Unger,

Acting Chairman.

[FR Doc. 01–7254 Filed 3–22–01; 8:45 am]

BILLING CODE 8010–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG–121109–00]

RIN 1545–AY52

Disclosure of Return Information to the Bureau of the Census; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: This document contains corrections to REG–121109–00 which was published in the **Federal Register** on Tuesday, February 13, 2001 (66 FR 9991). These regulations relate to additions to the list of items of information disclosed to the Bureau of the Census for use in the Longitudinal Employer-Household Dynamics (LEHD) project and the Survey of Income and Program Participation (SIPP) project.

FOR FURTHER INFORMATION CONTACT: Stuart Murray, (202) 622–4580 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is the subject of these corrections is under section 6103 of the Internal Revenue Code.

Need for Correction

As published, REG–121109–00 contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking (REG–121109–00), which was the subject of FR Doc. 01–1990, is corrected as follows:

§ 301.6103(j)(1)–1 [Corrected]

1. On page 9992, column 3, § 301.6103(j)(1)–1(b)(5)(iii), (iv) and (v), line 4 , the language ''§ 301.6103(j)(1)–T(b)(5)(iii), (iv), and (v)'' is corrected to read ''§ 301.6103(j)(1)–1T(b)(5)(iii), (iv), and (v)''.

2. On page 9992, column 3, § 301.6103(j)(1)–1(e), line 3, the language ''§ 301.6103(j)(1)–T(e) published'' is corrected to read ''§ 301.6103(j)(1)–1T(e) published''.

Cynthia Grigsby,

Chief, Regulations Unit, Office of Special Counsel (Modernization & Strategic Planning).

[FR Doc. 01–7166 Filed 3–22–01; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CT064–7222B; A–1–FRL–6942–5]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut—Approval of Several NO_X Emission Trading Orders as Single Source SIP Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Connecticut. This revision establishes a mechanism to create and use emission trading credits for nitrogen oxides (NO_X) at electric generating stations currently owned by Wisvest in Bridgeport and New Haven, Connecticut. This revision also approves retrospectively credits created at these facilities between April 16, 2000 and April 30, 2000. The revision also approves annual emission credits at Wisvest's power plant Bridgeport Harbor Station (unit no. 2). These permanent credits can be used by facilities to offset any NO_X emission increases due to new construction or plant modifications subject to EPA's nonattainment major new source review program. Finally, this revision changes the expiration date from December 1999 to December 2000 of previously issued Orders to four municipal waste incinerators. In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties

interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Written comments must be received on or before April 23, 2001.

ADDRESSES: Comments may be mailed to Donald Dahl, Air Permits Program, Office of Ecosystem Protection (mail code CAP), U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA and the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Donald Dahl, (617) 918–1657.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: January 8, 2001.

Mindy S. Lubber,

Regional Administrator, EPA-New England.

[FR Doc. 01–6567 Filed 3–22–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[MO 112–1112; FRL–6956–8]

Approval and Promulgation of Implementation Plans and Part 70 Operating Permits Program; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed action.

SUMMARY: EPA proposes to approve revisions to the Missouri State Implementation Plan (SIP) and part 70 Operating Permits Program. EPA is approving revisions to Missouri's Definitions and Common Reference Tables rule and Operating Permits rule. These revisions will strengthen the SIP with respect to attainment and maintenance of established air quality standards, ensure consistency between the state and Federally approved rules, and ensure Federal enforceability of the state's air program rule revisions pursuant to both section 110 and part 70.

In the final rules section of the **Federal Register**, EPA is approving the state's submittals as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed action must be received in writing by April 23, 2001.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

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

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: January 17, 2001.

Dennis Grams,

Regional Administrator, Region 7.

[FR Doc. 01–7024 Filed 3–22–01; 8:45 am]

BILLING CODE 6560–50–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 2090, 2200, 2710, 2740, 3800 and 9260

[WO–300–1990–00]

RIN 1004–AD22

Mining Claims Under the General Mining Laws; Surface Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule; proposed suspension of rules.

SUMMARY: The Bureau of Land Management (BLM) proposes to suspend final regulations published on November 21, 2000, that amended the rules governing mining operations involving metallic and some other minerals on public lands. A suspension would provide the BLM an opportunity to review some of the new requirements in light of issues plaintiffs raise in four lawsuits challenging the rules and in light of issues the Governor of Nevada and others have raised since the final rules were published. BLM has concerns about substantial policy and legal issues raised in the lawsuits and wants to resolve such concerns before implementing a new regulatory program. To avoid a regulatory vacuum that would result from a suspension, BLM proposes to republish and reinstate as a final rule the rules that were in place on January 19, 2001, the day before the revised rules became effective.

DATES: You must submit your comments to BLM at the appropriate address below on or before May 7, 2001. BLM will not necessarily consider any comments received after the above date in making its decisions on the final rule.

ADDRESSES:

Mail: Director (630), Bureau of Land Management, Administrative Record, Room 401 LS, 1849 C Street, NW, Washington, DC 20240.

Personal or messenger delivery: Room 401, 1620 L Street, NW, Washington, DC 20036.

Internet e-mail: WOComment@blm.gov. (Include ''Attn: AD22'').

FOR FURTHER INFORMATION CONTACT: Michael H. Schwartz, at 202–452–5198. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. Comment Procedures
II. Background and Proposed Action
III. Procedural Matters

I. Comment Procedures

A. How Do I Comment on the Proposed Rule?

If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to Director (630), Bureau of Land Management, Administrative Record, Room 401 LS, 1849 C Street, NW, Washington, DC 20240.

You may deliver comments to Room 401, 1620 L Street, NW, Washington, DC 20036.

You may also comment via the Internet to WOComment@blm.gov.

Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include Attn: ''AD22'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact us directly at (202) 452–5030.

Please make your written comments on the proposed rule as specific as possible, confine them to issues pertinent to the proposed rule, and explain the reason for any changes you recommend. Where possible, your comments should reference the specific section or paragraph of the proposal that you are addressing. BLM will consider comments you submitted during the 1999 and 2000 comment periods on the earlier rulemaking if you identify such comments and ask us to consider them.

BLM may not necessarily consider or include in the Administrative Record for the final rule comments that BLM receives after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I Review Comments Submitted by Others?

Comments, including names and street addresses of respondents, will be available for public review at the address listed under **ADDRESSES**: Personal or messenger delivery'' during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except holidays. Individual respondents may request confidentiality, which we will honor to the extent allowable by law. If you wish to withhold your name or address, except for the city or town, you must state this prominently at the beginning of your comment. 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.

II. Background and Proposed Action

On November 21, 2000, BLM published final regulations revising title 43 of the Code of Federal Regulations (43 CFR) subpart 3809 and related sections governing hardrock mining on the public lands (the ''revised 3809 rules''). See 65 FR 69998. BLM completed a final environmental impact statement one month earlier. The revised 3809 rules completely replaced the previous version of 43 CFR subpart 3809 (1999) that, for the most part, were issued in 1980. See 45 Fed. Reg. 78902–78915 (November 26, 1980). The revised 3809 rules were the last step of a rulemaking which, among other things, relied upon a congressionally mandated report by the National Research Council, entitled Hardrock Mining on Federal Lands. Congress also directed BLM as to how to conduct the rulemaking and what provisions BLM could include in a final rule. In particular, Congress provided express guidance to BLM in the FY 2000 and FY 2001 Interior Appropriations bills as follows:

> None of the funds in this Act or any other Act shall be used by the Secretary of the Interior to promulgate final rules to revise 43 CFR subpart 3809, except that the Secretary, following the public comment period required by section 3002 of Public Law 106–31, may issue final rules to amend 43 CFR Subpart 3809 which are not inconsistent with the recommendations contained in the National Research Council report entitled ''Hardrock Mining on Federal Lands'' so long as these regulations are also not inconsistent with existing statutory authorities. Nothing in this section shall be construed to expand the existing statutory authority of the Secretary.

Public Law 106–113, 113 Stat. 1501, App. C., 113 Stat. 1501A–210 sec. 357 (1999). An identical provision was enacted in sec. 156 of the FY 2001 Interior Appropriations Act. Pub. L. 106–291, sec. 156, 114 Stat. 922, 962–63 (Oct. 11, 2000).

Following issuance of the revised 3809 rules, four lawsuits were filed challenging the rules, three in the U.S. District Court for the District of Columbia (brought by the National Mining Association (NMA), the Newmont Mining Corporation, and the Mineral Policy Center and two other environmental groups), and one in the U.S. District Court for Nevada (brought by the State of Nevada). These cases include *National Mining Association* v. *Babbitt,* No. 00CV–2998 (D.D.C. filed December 15, 2000); *Newmont Mining Corporation* v. *Babbitt*, No. 01CV–23 (D.D.C. filed January 5, 2001); *Mineral Policy Center* v. *Babbitt*, No. 01CV–73 (D.D.C. filed January 16, 2001); and *State of Nevada* v. *DOI*, No. CV–N01–0040–ECR–VPC (D. NV filed January 19, 2001).

The industry plaintiffs and the State of Nevada assert that BLM improperly issued the revised 3809 rules, and violated numerous statutes, including: the specific congressional provisions cited above applicable to promulgation of the revised 3809 rules; the notice and comment provisions of the Administrative Procedure Act, particularly with regard to the ''substantial irreparable harm'' standard of the final regulatory definition of the term ''unnecessary or undue degradation;'' the National Environmental Policy Act; the Regulatory Flexibility Act; the Federal Land Policy and Management Act; and the General Mining Law. The environmental plaintiffs assert that the 3809 rules are not sufficiently stringent and improperly allow mining operations on lands without valid mining claims or mill sites.

On January 19, 2001, the judge in the National Mining Association suit denied NMA's motion for a preliminary injunction to stay the effective date of the final rules, holding that the plaintiff did not successfully meet its burden of showing that the revised 3809 rules becoming effective would cause irreparable harm. As to the merits of the plaintiff's claims, the federal district court concluded that, although such claims may or may not have merit, it was unclear at the preliminary injunction stage of the proceeding that the NMA would eventually prevail.

The revised 3809 rules became effective on January 20, 2001.

On February 2, 2001, the Nevada Governor sent an urgent request to the Secretary of the Interior requesting postponement of the effective date and the implementation of the revised 3809 rules, based on legal deficiencies associated with promulgation of the new rules and the assertion that the revised 3809 rules were unnecessary. In his February 2, 2001, letter, the Governor expressed concern that:

> These new regulations will, if not overturned, impose significant new and unnecessary regulatory burdens on Western States and will preclude mining companies from engaging in operations they might otherwise pursue, thereby leading to a dramatic decrease in employment and revenue in the mining sector and a corresponding decrease in tax revenue and other economic benefits to Western states. BLM's own Final Environmental Impact statement concludes that the new rules will result in a loss of up to 6,050 jobs, up to $396 million in total income and up to $877 million in total industry output.

The Governor was particularly concerned because the greatest impact of the revised 3809 rules would be borne by Nevada.

The U.S. District Court for the District of Columbia concluded that the plaintiff was not entitled to a preliminary injunction. Nevertheless, BLM recognizes that the plaintiff raised serious concerns regarding the revised 3809 rules. Also, BLM recognizes the concerns expressed by the Nevada Governor. Therefore, BLM believes that undertaking implementation of a complex new regulatory program applicable to hardrock mining on public lands before additional examination of

the legal, economic, and environmental concerns that plaintiffs and the Nevada Governor raise could prove unnecessarily disruptive and confusing to the mining industry and the States that, together with BLM, regulate the mining industry. If BLM were to implement the new regulations, and then be required to change back again if the new rules are found deficient, the impact on both large and small miners is of substantial concern. Many of the latter, particularly, may not be sophisticated in dealing with changing regulatory requirements. On a larger scale, implementation of the revised 3809 rules could create an uncertain economic environment. Although this disruption and atmosphere of uncertainty may not rise to the standard of immediate irreparable harm, BLM believes that it has a responsibility to the mining industry, the affected States, and the public to ensure that the new regulatory regime it is imposing is sound, both legally and from a policy view. Suspending implementation of the revised 3809 rules will allow this examination to occur while maintaining the previous status quo, and eliminate the possibility of disruptive effects if the industry must switch to new rules and then back again if the new rules are found to be deficient.

If a final decision is reached to suspend the revised rules, BLM would reinstate the previous rules verbatim as a final rule to avoid a regulatory vacuum while judicial and administrative review of the revised 3809 rules proceed. The final rule would thus include provisions identifying the suspended provisions and regulatory text identical to the previous 3809 rules. BLM would also reinstate sections of 43 CFR subparts 2091, 2201, 2711, 2741, and 9263 that were revised by the November 2000 final rules.

To avoid confusion for the readers of the Code of Federal Regulations if the suspension continues on October 1, 2001, the previous regulations that were in effect on October 1, 2000, would appear in the next published version of the CFR as subpart 3809. The suspended regulations also would appear in the CFR and would be designated as ''subpart 3809a'' for clarity of citation purposes and because two distinct regulations cannot use the same regulation number. The suspended regulations would be printed in small type.

Although BLM cannot predict the outcome of its review of the issues that have been raised or the outcome of the legal challenges to the revised 3809 rules, at some point either the suspension will be lifted or BLM may engage in further rulemaking.

As a final matter, we specifically solicit comments as to whether some provisions of the revised 3809 rules should not be suspended while BLM conducts its review of the issues. For example, rather than suspending all of the revised 3809 rules, BLM could leave in place some or all of the new revisions that address the specific regulatory gaps identified by the National Research Council (as identified in Alternative 5, the ''NRC Alternative,'' in BLM's final environmental impact statement), which most commenters agreed are warranted. BLM requests comments on this approach or others, e.g., whether all of the revised rules should be suspended until either BLM completes further rulemaking or until the litigation is resolved.

III. Procedural Matters

For purposes of suspending the revised 3809 rules and reinstating the previous rules, BLM relies on the supporting documents and analyses prepared for the November 2000, final rules. Although the sufficiency of some of these documents has been questioned, these documents are sufficient for the purpose of restoring the status quo as it existed on January 19, 2001 or, if selected, for one of the other alternatives included in BLM's final EIS.

List of Subjects

43 CFR Part 2090

Airports, Alaska, Coal, Grazing lands, Indians-lands, Public lands, Public lands-classification, Public lands-mineral resources, Public lands-withdrawal, Seashores.

43 CFR Part 2200

Administrative practice and procedure, Antitrust, Coal, National forests, Public lands.

43 CFR Part 2710

Administrative practice and procedure, Public lands-mineral resources, Public lands-sale.

43 CFR Part 2740

Intergovernmental relations, Public lands-sale, Recreation and recreation areas, Reporting and recordkeeping requirements.

43 CFR Part 3800

Administrative practice and procedure, Environmental protection, Intergovernmental relations, Land Management Bureau, Mines, Public lands-mineral resources, Reporting and recordkeeping requirements, Surety bonds, Wilderness areas.

43 CFR Part 9260

Continental shelf, Forests and forest products, Law enforcement, Penalties, Public lands, Range management, Recreation and recreation areas, wildlife.

Dated: March 14, 2001.

Piet de Witt,

Acting Assistant Secretary, Land and Minerals Management.

Accordingly, BLM proposes to amend Title 43 of the Code of Federal Regulations parts 2090, 2200, 2710, 2740, 3800, and 9260 as set forth below:

PART 2090—SPECIAL LAWS AND RULES

1. The authority citation for part 2090 continues to read as follows:

Authority: 16 U.S.C. 3124; 30 U.S.C. 189; and 43 U.S.C. 322, 641, 1201, 1624, and 1740.

Subpart 2091—Segregation and Opening of Lands

2. In § 2091.2–2, add paragraph (b) to read as follows:

§ 2091.2–2 Opening.

* * * * *

(b) Mineral interests reserved by the United States in connection with the conveyance of public lands under the Recreation and Public Purposes Act or section 203 of the Federal Land Policy and Management Act, shall remain segregated from the mining laws pending the issuance of such regulations as the Secretary may prescribe.

3. In § 2091.3–2, redesignate paragraph (c) as paragraph (d) and add paragraph (c) as follows:

§ 2091.3–2 Opening.

* * * * *

(c) Upon conveyance of public lands under section 206 of the Federal Land Policy and Management Act, mineral interests reserved by the United States shall not be open to the operation of the mining laws pending the issuance of such regulations as the Secretary may prescribe.

* * * * *

PART 2200—EXCHANGES: GENERAL PROCEDURES

4. The authority citation for part 2200 continues to read as follows:

Authority: 43 U.S.C. 1716 and 1740.

Subpart 2201—Exchanges—Specific Requirements

5. In § 2201.1–2, redesignate paragraph (d) as paragraph (e), and add paragraph (d) as follows:

§ 2201.1–2 Segregative effect.

* * * * *

(d) Upon conveyance of public lands under section 206 of the Federal Land Policy and Management Act, mineral interests reserved by the United States, together with the right to prospect for, mine and remove the minerals, shall be removed from the operation of the mining laws pending the issuance of such regulations as the Secretary may prescribe.

* * * * *

PART 2710—SALES: FEDERAL LAND POLICY AND MANAGEMENT ACT

6. The authority citation for part 2710 continues to read as follows:

Authority: 43 U.S.C. 1713 and 1740.

Subpart 2711—Sales: Procedures

7. Add § 2711.5–1 as follows:

§ 2711.5–1 Mineral reservation.

Patents and other conveyance documents issued under this part shall contain a reservation to the United States of all minerals. Such minerals shall be subject to the right to explore, prospect for, mine, and remove under applicable law and such regulations as the Secretary may prescribe. However, upon the filing of an application as provided in part 2720 of this title, the Secretary may convey the mineral interest if all requirements of the law are met. Where such application has been filed and meets the requirements for conveyance, the authorized officer may withhold issuance of a patent or other document of conveyance on lands sold under this part until processing of the mineral conveyance application is completed, at which time a single patent or document of conveyance for the entire estate or interest of the United States may be issued.

PART 2740—RECREATION AND PUBLIC PURPOSES ACT

8. The authority citation for part 2740 continues to read as follows:

Authority: 43 U.S.C. 869 *et seq.*, 43 U.S.C. 1701 *et seq.*, and 31 U.S.C. 9701.

Subpart 2741—Recreation and Public Purposes Act: Requirements

§ 2741.7 [Amended]

9. In § 2741.7, add paragraph (d) as follows:

* * * * *

(d) All leases and patents issued under the act shall reserve to the United States all minerals together with the right to mine and remove the same under applicable laws and regulations to be established by the Secretary of the Interior. Where such reserved minerals are subject to disposition under the provisions of the Mineral Leasing Act of 1920, as amended, and supplemented (30 U.S.C. 181 *et seq.*), the Materials Act of July 31, 1947, as amended (30 U.S.C. 601 *et seq.*) and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 *et seq.*), the regulations contained in Subchapter C of this title shall be utilized.

PART 3800—MINING CLAIMS UNDER THE GENERAL MINING LAWS

10. The authority citation for Part 3800 continues to read as follows:

Authority: 5 U.S.C. 552; 16 U.S.C. 1131–1136; 1271–1287, 1901; 25 U.S.C. 463; 30 U.S.C. 21 *et seq.*, 21a, 22 *et seq*, 36, 621 *et seq.*, 1601; 43 U.S.C. 2, 154, 299, 687b–4, 1068 *et seq.*, 1201, 1701 *et seq.*, 62 Stat. 162.

10a. Amend part 3800 by redesignating subpart 3809 as subpart 3809a and suspending newly designated subpart 3809a.

11. Amend part 3800 by adding subpart 3809 to read as follows:

Subpart 3809—Surface Management

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Subpart 3809—Surface Management

Note: The information collection requirements contained in this subpart have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0104. This information is needed to permit the authorized officer to determine if a plan of operation is needed to protect the public lands and their resources and to determine if the plan of operations, if one is required, is adequate. The obligation to respond is required to obtain a benefit.

General

§ 3809.0–1 Purpose.

The purpose of this subpart is to establish procedures to prevent unnecessary or undue degradation of Federal lands which may result from operations authorized by the mining laws.

§ 3809.0–2 Objectives.

The objectives of this regulation are to:

(a) Provide for mineral entry, exploration, location, operations, and purchase pursuant to the mining laws in a manner that will not unduly hinder such activities but will assure that these activities are conducted in a manner that will prevent unnecessary or undue degradation and provide protection of nonmineral resources of the Federal lands;

(b) Provide for reclamation of disturbed areas; and

(c) Coordinate, to the greatest extent possible, with appropriate State agencies, procedures for prevention of unnecessary or undue degradation with respect to mineral operations.

§ 3809.0–3 Authority.

(a) Section 2319 of the Revised Statutes (30 U.S.C. 22 *et seq.*) provides that exploration, location and purchase of valuable mineral deposits, under the mining laws, on Federal lands shall be ''under regulations prescribed by law,'' and section 2478 of the Revised Statutes, as amended (43 U.S.C. 1201), provides that those regulations shall be issued by the Secretary.

(b) Sections 302, 303, 601, and 603 of the Federal and Policy and Management

Act of 1976 (43 U.S.C. 1701 *et seq.*) require the Secretary to take any action, by regulation or otherwise, to prevent unnecessary or undue degradation of the Federal lands, provide for enforcement of those regulations, and direct the Secretary to manage the California Desert Conservation Area under reasonable regulations which will protect the scenic, scientific, and environmental values against undue impairment, and to assure against pollution of streams and waters.

(c) The Act of July 23, 1955 (30 U.S.C. 612), provides that rights under mining claims located after July 23, 1955, shall prior to issuance of patent therefor, be subject to the right of the United States to manage and dispose of the vegetative surface resources and to manage other surface resources. The Act also provides that ''Any mining claim hereafter located under the mining laws of the United States shall not be used, prior to issuance to patent therefor, for any purposes other than prospecting, mining or processing operations and uses reasonably incident thereto.''

(d) Section 9 of the Wild and Scenic Rivers Act (16 U.S.C. 1280) provides that regulations issued shall, among other things, provide safeguards against pollution of the rivers involved and unnecessary impairment of the scenery within the area designated for potential addition to, or an actual component of the national wild and scenic rivers system.

(e) The Act of October 21, 1970 (16 U.S.C. 460y *et seq.*), as amended by Section 602 of the Federal Land Policy and Management Act of 1976 (16 U.S.C. 460y–8), established the King Range Conservation Area in California. The Secretary is required under these Acts to manage activities in this conservation area under the General Mining Law of 1872 in such a manner as to protect the scenic, scientific, and environmental values against undue impairment, and ensure against pollution of streams and waters.

§ 3809.0–5 Definitions.

As used in this subpart, the term:

(a) Authorized officer means any employee of the Bureau of Land Management to whom authority has been delegated to perform the duties described in this subpart.

(b) Casual Use means activities ordinarily resulting in only negligible disturbance of the Federal lands and resources. For example, activities are generally considered casual use if they do not involve the use of mechanized earth moving equipment or explosives or do not involve the use of motorized vehicles in areas designated as closed to off-road vehicles as defined in subpart 8340 of this title.

(c) Federal lands means lands subject to the mining laws including, but not limited to, the certain public lands defined in section 103 of the Federal Land Policy and Management Act of 1976. Federal lands does not include lands in the National Park System, National Forest System, and the National Wildlife Refuge System, nor does it include acquired lands, Stockraising Homestead lands or lands where only the mineral interest is reserved to the United States or lands under Wilderness Review and administered by the Bureau of Land Management (these lands are subject to the 43 CFR part 3802 regulations).

(d) Mining claim means any unpatented mining claim, millsite, or tunnel site located under the mining laws and those patented mining claims and millsites located in the California Desert Conservation Area which have been patented subsequent to the enactment of the Federal Land Policy and Management Act of October 21, 1976.

(e) Mining laws means the Lode Law of July 26, 1866, as amended (14 Stat. 251); the Placer Law of July 9, 1870, as amended (16 Stat. 217); and the Mining Law of May 10, 1872, as amended (17 Stat. 91); and all laws supplementing and amending those laws, including among others the Building Stone Act of August 4, 1892, as amended (27 Stat. 348); and the Saline Placer Act of January 31, 1901 (31 Stat. 745).

(f) Operations means all functions, work, facilities, and activities in connection with prospecting, discovery and assessment work, development, extraction, and processing of mineral deposits locatable under the mining laws and all other uses reasonably incident thereto, whether on a mining claim or not, including but not limited to the construction of roads, transmission lines, pipelines, and other means of access for support facilities across Federal lands subject to these regulations.

(g) Operator means a person conducting or proposing to conduct operations.

(h) Person means any citizen of the United States or person who has declared the intention to become such and includes any individual, partnership, corporation, association, or other legal entity.

(i) Project area means a single tract of land upon which an operator is, or will be, conducting operations. It may include one mining claim or a group of mining claims under one ownership on which operations are or will be conducted, as well as Federal lands on which an operator is exploring or prospecting prior to locating a mining claim.

(j) Reclamation means taking such reasonable measures as will prevent unnecessary or undue degradation of the Federal lands, including reshaping land disturbed by operations to an appropriate contour and, where necessary, revegetating disturbed areas so as to provide a diverse vegetative cover. Reclamation may not be required where the retention of a stable highwall or other mine workings is needed to preserve evidence of mineralization.

(k) Unnecessary or undue degradation means surface disturbance greater than what would normally result when an activity is being accomplished by a prudent operator in usual, customary, and proficient operations of similar character and taking into consideration the effects of operations on other resources and land uses, including those resources and uses outside the area of operations. Failure to initiate and complete reasonable mitigation measures, including reclamation of disturbed areas or creation of a nuisance may constitute unnecessary or undue degradation. Failure to comply with applicable environmental protection statutes and regulations thereunder will constitute unnecessary or undue degradation. Where specific statutory authority requires the attainment of a stated level of protection or reclamation, such as in the California Desert Conservation Area, Wild and Scenic Rivers, areas designated as part of the National Wilderness System administered by the Bureau of Land Management and other such areas, that level of protection shall be met.

(l) King Range Conservation Area means the area designated pursuant to the Act of October 21, 1970 (16 U.S.C. 460y *et seq.*), as amended by Section 602 of the Federal Land Policy and Management Act of 1976 (16 U.S.C. 460y–8).

§ 3809.0–6 Policy.

Consistent with section 2 of the Mining and Mineral Policy Act of 1970 and section 102(a) (7), (8), and (12) of the Federal Land Policy and Management Act, it is the policy of the Department of the Interior to encourage the development of Federal mineral resources and reclamation of disturbed lands. Under the mining laws a person has a statutory right, consistent with Departmental regulations, to go upon the open (unappropriated and unreserved) Federal lands for the purpose of mineral prospecting, exploration, development, extraction

and other uses reasonably incident thereto. This statutory right carries with it the responsibility to assure that operations include adequate and responsible measures to prevent unnecessary or undue degradation of the Federal lands and to provide for reasonable reclamation.

§ 3809.0–9 Information collection.

(a) The collections of information contained in subpart 3809 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1004–0176. BLM will use the information in regulating and monitoring mining and exploration operations on public lands. Response to requests for information is mandatory in accordance with 43 U.S.C. 1701 *et seq.* The information collection approval expires December 31, 1999.

(b) Public reporting burden for this information is estimated to average 16 hours per response for notices and 32 hours per response for plans of operations, including the 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 this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer (783), Bureau of Land Management, Washington, DC 20240, and the Office of Management and Budget, Attention Desk Officer for the Interior Department, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, referring to information collection clearance number 1004–0176.

§ 3809.1 Operations.

§ 3809.1–1 Reclamation.

All operations, whether casual, under a notice, or by a plan of operations, shall be reclaimed as required in this title.

§ 3809.1–2 Casual use: Negligible disturbance.

No notification to or approval by the authorized officer is required for casual use operations. However, casual use operations are subject to monitoring by the authorized officer to ensure that unnecessary or undue degradation of Federal lands will not occur.

§ 3809.1–3 Notice: Disturbance of 5 acres or less.

(a) All operators on project areas whose operations, including access across Federal lands to the project area, cause a cumulative surface disturbance of 5 acres or less during any calendar year shall notify the authorized officer in the District office of the Bureau of Land Management having jurisdiction over the land in which the claim(s) or project area is located. Prior to conducting additional operations under a subsequent notice covering substantially the same ground, the operator shall have completed reclamation of operations which were conducted under any previous notice. Notification of such activities, by the operator, shall be made at least 15 calendar days before commencing operations under this subpart by a written notice or letter.

(b) Approval of a notice, by the authorized officer, is not required. Consultation with the authorized officer may be required under paragraph (c)(3) of this section when the construction of access routes are involved. Notices properly filed under this section constitute authorization under part 8340 of this title (Off-Road Vehicles).

(c) The notice or letter shall include:

(1) Name and mailing address of the mining claimant and operator, if other than the claimant. Any change of operator or in the mailing address of the mining claimant or operator shall be reported promptly to the authorized officer;

(2) When applicable, the name of the mining claim(s), and serial number(s) assigned to the mining claim(s) recorded pursuant to subpart 3833 of this title on which disturbance will likely take place as a result of the operations;

(3) A statement describing the activities proposed and their location in sufficient detail to locate the activities on the ground, and giving the approximate date when operations will start. The statement shall include a description and location of access routes to be constructed and the type of equipment to be used in their construction. Access routes shall be planned for only the minimum width needed for operations and shall follow natural contours, where practicable, to minimize cut and fill. When the construction of access routes involves slopes which require cuts on the inside edge in excess of 3 feet, the operator may be required to consult with the authorized officer concerning the most appropriate location of the access route prior to commencing operations;

(4) A statement that reclamation of all areas disturbed will be completed to the standard described in § 3809.1–3(d) of this title and that reasonable measures will be taken to prevent unnecessary or undue degradation of the Federal lands during operations.

(d) The following standards govern activities conducted under a notice:

(1) Access routes shall be planned for only the minimum width needed for operations and shall follow natural contours, where practicable to minimize cut and fill.

(2) All tailings, dumps, deleterious materials or substances, and other waste produced by the operations shall be disposed of so as to prevent unnecessary or undue degradation and in accordance with applicable Federal and State Laws.

(3) At the earliest feasible time, the operator shall reclaim the area disturbed, except to the extent necessary to preserve evidence of mineralization, by taking reasonable measures to prevent or control on-site and off-site damage of the Federal lands.

(4) Reclamation shall include, but shall not be limited to:

(i) Saving of topsoil for final application after reshaping of disturbed areas have been completed;

(ii) Measures to control erosion, landslides, and water runoff;

(iii) Measures to isolate, remove, or control toxic materials;

(iv) Reshaping the area disturbed, application of the topsoil, and revegetation of disturbed areas, where reasonably practicable; and

(v) Rehabilitation of fisheries and wildlife habitat.

(5) When reclamation of the disturbed area has been completed, except to the extent necessary to preserve evidence of mineralization, the authorized officer shall be notified so that an inspection of the area can be made.

(e) Operations conducted pursuant to this subpart are subject to monitoring by the authorized officer to ensure that operators are conducting operations in a manner which will not cause unnecessary or undue degradation.

(f) Failure of the operator to prevent undue or unnecessary degradation or to complete reclamation to the standards described in this subpart may cause the operator to be subject to a notice of noncompliance as described in § 3809.3–2 of this title.

§ 3809.1–4 Plan of operations: when required.

An approved plan of operations is required prior to commencing:

(a) Operations which exceed the disturbance level (5 acres) described in § 3809.1–3 of this title.

(b) Any operation, except casual use, in the following designated areas:

(1) Lands in the California Desert Conservation Area designated as controlled or limited use areas by the California Desert Conservation Area plan;

(2) Areas designated for potential addition to, or an actual component of the national wild and scenic rivers system,

(3) Designated Areas of Critical Environmental Concern;

(4) Areas designated as part of the National Wilderness Preservation System and administered by the Bureau of Land Management;

(5) Areas designated as closed to off-road vehicle use as defined in subpart 8340 of this title.

(6) The area designated as the King Range Conservation Area pursuant to 16 U.S.C. 460y *et seq.*, as amended by section 602 of the Federal Land Policy and Management Act of 1976.

(c) Plans properly filed and approved under this section constitute authorization under part 8340 of this title (Off-Road Vehicles).

§ 3809.1–5 Filing and contents of plan of operations.

(a) A plan of operations must be filed in the District Office of the Bureau of Land Management having jurisdiction over the Federal lands in which the claim(s) or project area is located.

(b) No special form is required for filing a plan.

(c) The plan shall include:

(1) The name and mailing address of the operator (and claimant if not the operator). Any change of operator or change in the mailing address shall be promptly reported to the authorized officer;

(2) A map, preferably a topographic map, or sketch showing existing and/or proposed routes of access, aircraft landing areas, or other means of access, and size of each area where surface disturbance will occur;

(3) When applicable, the name of the mining claim(s) and mining claim serial numbers assigned to the mining claim(s) recorded pursuant to subpart 3833 of this title.

(4) Information sufficient to describe or identify the type of operations proposed, how they will be conducted and the period during which the proposed activity will take place;

(5) Measures to be taken to prevent unnecessary or undue degradation and measures to reclaim disturbed areas resulting from the proposed operations, including the standards listed in § 3809.1–3(d) of this title. Where an operator advises the authorized officer that he/she does not have the necessary technical resources to develop such measures the authorized officer will assist the operator in developing such measures. If an operator submits reclamation measures, the authorized officer will ensure that the operator's plan is sufficient to prevent unnecessary or undue degradation. All reclamation measures developed by the operator, or by the authorized officer in conjunction with the operator, shall become a part of the plan of operations.

(6) Measures to be taken during extended periods of nonoperation to maintain the area in a safe and clean manner and to reclaim the land to avoid erosion and other adverse impacts. If not filed at the time of plan submittal, this information shall be filed with the authorized officer whenever the operator anticipates a period of nonoperation.

§ 3809.1–6 Plan approval.

(a) A proposed plan of operations shall be submitted to the authorized officer, who shall promptly acknowledge receipt thereof to the operator. The authorized officer shall, within 30 days of such receipt, analyze the proposal in the context of the requirement to prevent unnecessary or undue degradation and provide for reasonable reclamation, and shall notify the operator:

(1) That the plan is approved; or

(2) Of any changes in or additions to the plan necessary to meet the requirements of these regulations; or

(3) That the plan is being reviewed, but that a specified amount of time, not to exceed an additional 60 days, is necessary to complete the review, setting forth the circumstances which justify additional time for review. However, days during which the area of operations is inaccessible for inspection shall not be counted when computing the 60 day period; or

(4) That the plan cannot be approved until 30 days after a final environmental statement has been prepared and filed with the Environmental Protection Agency; or

(5) That the plan cannot be approved until the authorized officer has complied with section 106 of the National Historic Preservation Act or section 7 of the Endangered Species Act.

(b) The authorized officer shall consult with the appropriate official of the bureau or agency having surface management responsibilities where such responsibility is not exercised by the Bureau of Land Management. Prior to plan approval the authorized officer shall obtain the concurrence of such appropriate official to the terms and conditions that may be needed to prevent unnecessary or undue degradation.

(c) The authorized officer shall undertake an appropriate level of cultural resource inventory of the area to be disturbed. The inventory shall be completed within the time allowed by these regulations for approval of the plan (30 days). The operator is not required to do the inventory but may hire an archaeologist approved by the Bureau of Land Management in order to complete the inventory more expeditiously. The responsibility for and cost of salvage of cultural resources discovered during the inventory shall be the Federal Government's. The responsibility of avoiding adverse impacts on those cultural resources discovered during the inventory shall be the operator's.

(d) Pending final approval of the plan, the authorized officer shall approve any operations that may be necessary for timely compliance with requirements of Federal and State laws, subject to any terms and conditions that may be needed to prevent unnecessary or undue degradation.

(e) In the event of a change of operators involving an approved plan of operations, the new operator shall satisfy the requirements of § 3809.1–9 of this title as it relates to bonding.

§ 3809.1–7 Modification of plan.

(a) At any time during operations under an approved plan, the operator on his/her own initiative may modify the plan or the authorized officer may request the operator to do so.

(b) A significant modification of an approved plan must be reviewed and approved by the authorized officer in the same manner as the initial plan.

(c)(1) If, when requested to do so by the authorized officer, the operator does not furnish a proposed modification within a reasonable time, usually 30 days, the authorized officer may recommend to the State Director that the operator be required to submit a proposed modification of the plan. The recommendation of the authorized officer shall be accompanied by a statement setting forth the facts and the reasons for the recommendations.

(2) In acting upon such recommendations the State Director shall determine, within 30 days, whether:

(i) All reasonable measures were taken by the authorized officer at the time the plan was approved to ensure that the proposed operations would not cause unnecessary or undue degradation of the Federal land;

(ii) The disturbance from the operations of the plan as approved or from unforeseen circumstances is or may become of such significance that modification of the plan is essential in order to prevent unnecessary or undue degradation; and

(iii) The disturbance can be minimized using reasonable means.

(3) Once the matter has been sent to the State Director, an operator is not required to submit a proposed modification of an approved plan until a determination is made by the State Director. Where the State Director determines that a plan shall be modified, the operator shall timely submit a modified plan to the authorized officer for review and approval.

(4) Operations may continue in accordance with the approved plan until a modified plan is approved, unless the State Director determines that the operations are causing unnecessary or undue degradation to the land. The State Director shall advise the operator of those reasonable measures needed to avoid such degradation and the operator shall immediately take all necessary steps to implement those measures within a reasonable period established by the State Director.

§ 3809.1—8 Existing operations.

(a) Persons conducting operations on January 1, 1981, who would be required to submit a notice under § 3809.1–3 or a plan of operations under § 3809.1–4 of this title may continue operations but shall, within:

(1) 30 days submit a notice with required information outlined in § 3809.1–3 of this title for operations where 5 acres or less will be disturbed during a calendar year; or

(2) 120 days submit a plan in those areas identified in § 3809.1–4 of this title. Upon a showing of good cause, the authorized officer may grant an extension of time, not to exceed an additional 180 days, to submit a plan.

(b) Operations may continue according to the submitted plan during its review. If the authorized officer determines that operations are causing unnecessary or undue degradation of the Federal lands involved, the authorized officer shall advise the operator of those reasonable measures needed to avoid such degradation, and the operator shall take all necessary steps to implement those measures within a reasonable time recommended by the authorized officer. During the period of an appeal, if any, operations may continue without change, subject to other applicable Federal and State laws.

(c) Upon approval of a plan by the authorized officer, operations shall be conducted in accordance with the approval plan.

§ 3809.1–9 Bonding requirements.

(a) No bond shall be required for operations that constitute casual use (§ 3809.1–2) or that are conducted under a notice (§ 3809.1–3 of this title).

(b) Any operator who conducts operations under an approved plan of operations as described in § 3809.1–5 of this title may, at the discretion of the authorized officer, be required to furnish a bond in an amount specified by the authorized officer. The authorized officer may determine not to require a bond in circumstances where operations would cause only minimal disturbance to the land. In determining the amount of the bond, the authorized officer shall consider the estimated cost of reasonable stabilization and reclamation of areas disturbed. In lieu of the submission of a separate bond, the authorized officer may accept evidence of an existing bond pursuant to State law or regulations for the same area covered by the plan of operations, upon a determination that the coverage would be equivalent to that provided in this section.

(c) In lieu of a bond, the operator may deposit and maintain in a Federal depository account of the United States Treasury, as directed by the authorized officer, cash in an amount equal to the required dollar amount of the bond or negotiable securities of the United States having a market value at the time of deposit of not less than the required dollar amount of the bond.

(d) In place of the individual bond on each separate operation, a blanket bond covering statewide or nationwide operations may be furnished at the option of the operator, if the terms and conditions, as determined by the authorized officer, are sufficient to comply with these regulations.

(e) In the event that an approved plan is modified in accordance with § 3809.1–7 of this title, the authorized officer shall review the initial bond for adequacy and, if necessary, adjust the amount of the bond to conform to the plan as modified.

(f) When all or any portion of the reclamation has been completed in accordance with the approved plan, the operator may notify the authorized officer that such reclamation has occurred and that she/he seeks a reduction in bond or Bureau approval of the adequacy of the reclamation, or both. Upon any such notification, the authorized officer shall promptly inspect the reclaimed area with the operator. The authorized officer shall then notify the operator, in writing, whether the reclamation is acceptable. When the authorized officer has accepted as completed any portion of the reclamation, the authorized officer shall authorize that the bond be reduced proportionally to cover the remaining reclamation to be accomplished.

(g) When a mining claim is patented, the authorized officer shall release the operator from that portion of the performance bond which applies to operations within the boundaries of the patented land. The authorized officer shall release the operator from the remainder of the performance bond, including the portion covering approved means of access outside the boundaries of the mining claim, when the operator has completed acceptable reclamation. However, existing access to patented mining claims, if across Federal lands shall continue to be regulated under the approved plan. The provisions of this subsection do not apply to patents. Issued on mining claims within the boundaries of the California Desert Conservation Area (see § 3809.6 of this title).

§ 3809.2 Prevention of unnecessary or undue degradation.

§ 3809.2–1 Environmental assessment.

(a) When an operator files a plan of operations or a significant modification which encompasses land not previously covered by an approved plan, the authorized officer shall make an environmental assessment or a supplement thereto to identify the impacts of the proposed operations on the lands and to determine whether an environmental impact statement is required.

(b) In conjunction with the operator, the authorized officer shall use the environmental assessment to determine the adequacy of mitigating measures and reclamation procedures included in the plan to insure the prevention of unnecessary or undue degradation of the land. If an operator advises the authorized officer that he/she is unable to prepare mitigating measures, the authorized officer, in conjunction with the operator, shall use the environmental assessment as a basis for assisting the operator in developing such measures.

(c) If, as a result of the environmental assessment, the authorized officer determines that there is *substantial public interest* in the plan, the authorized officer shall notify the operator, in writing, that an additional period of time, not to exceed the additional 60 days provided for approval of a plan in § 3809.1–6 of this title, is required to consider public comments on the environmental assessment.

§ 3809.2–2 Other requirements for environmental protection.

All operations, including casual use and operations under either a notice (§ 3809.1–3) or a plan of operations (§ 3809.1–4 of this title), shall be conducted to prevent unnecessary or undue degradation of the Federal lands and shall comply with all pertinent Federal and State laws, including but not limited to the following:

(a) Air quality. All operators shall comply with applicable Federal and State air quality standards, including the Clean Air Act (42 U.S.C. 1857 *et seq.*).

(b) Water quality. All operators shall comply with applicable Federal and State water quality standards, including the Federal Water Pollution Control Act, as amended (30 U.S.C. 1151 *et seq.*).

(c) Solid wastes. All operators shall comply with applicable Federal and State standards for the disposal and treatment of solid wastes, including regulations issued pursuant to the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*). All garbage, refuse or waste shall either be removed from the affected lands or disposed of or treated to minimize, so far as is practicable, its impact on the lands.

(d) Fisheries, wildlife and plant habitat. The operator shall take such action as may be needed to prevent adverse impacts to threatened or endangered species, and their habitat which may be affected by operations.

(e) Cultural and paleontological resources. (1) Operators shall not knowingly disturb, alter, injure, or destroy any scientifically important paleontological remains or any historical or archaeological site, structure, building or object on Federal lands.

(2) Operators shall immediately bring to the attention of the authorized officer any cultural and/or paleontological resources that might be altered or destroyed on Federal lands by his/her operations, and shall leave such discovery intact until told to proceed by the authorized officer. The authorized officer shall evaluate the discoveries brought to his/her attention, take action to protect or remove the resource, and allow operations to proceed within 10 working days after notification to the authorized officer of such discovery.

(3) The Federal Government shall have the responsibility and bear the cost of investigations and salvage of cultural and paleontology values discovered after a plan of operations has been approved, or where a plan is not involved.

(f) Protection of survey monuments. To the extent practicable, all operators shall protect all survey monuments, witness corners, reference monuments, bearing trees and line trees against unnecessary or undue destruction, obliteration or damage. If, in the course of operations, any monuments, corners, or accessories are destroyed, obliterated or damaged by such operations, the operator shall immediately report the matter to the authorized officer. The authorized officer shall prescribe, in writing, the requirements for the restoration or reestablishment of monuments, corners, bearing and line trees.

§ 3809.3 General provisions.

§ 3809.3–1 Applicability of State law.

(a) Nothing in this subpart shall be construed to effect a preemption of State laws and regulations relating to the conduct of operations or reclamation on Federal lands under the mining laws.

(b) After November 26, 1980 the Director, Bureau of Land Management, shall conduct a review of State laws and regulations in effect or due to come into effect, relating to unnecessary or undue degradation of lands disturbed by exploration for, or mining of, minerals locatable under the mining laws.

(c) The Director may consult with appropriate representatives of each State to formulate and enter into agreements to provide for a joint Federal-State program for administration and enforcement. The purpose of such agreements is to prevent unnecessary or undue degradation of the Federal lands from operations which are conducted under the mining laws, to prevent unnecessary administrative delay and to avoid duplication of administration and enforcement of laws. Such agreements may, whenever possible, provide for State administration and enforcement of such programs.

§ 3809.3–2 Noncompliance.

(a) Failure of an operator to file a notice under § 3809.1–3 of this title or a plan of operations under § 3809.1–4 of this title will subject the operator, at the discretion of the authorized officer, to being served a notice of non-compliance or enjoined from the continuation of such operations by a court order until such time as a notice or plan is filed with the authorized officer. The operator shall also be responsible to reclaim operations conducted without an approved plan of operations or prior to the filing of a required notice.

(b) Failure to reclaim areas disturbed by operations under § 3809.1–3 of this title is a violation of these regulations.

(1) Where an operator is conducting operations covered by 3809.1–3 (notice) of this title and fails to comply with the provisions of that section or properly conduct reclamation according to standards set forth in 3809.1–3(d) of this title, a notice of noncompliance shall be served by delivery in person to the operator or his/her authorized agent, or by certified mail addressed to his/her address of record.

(2) Operators conducting operations under an approved plan of operations who fails to follow the approved plan of operations may be subject to a notice of noncompliance. A notice of noncompliance shall be served in the same manner as described in § 3809.3–2(b)(1) of this section.

(c) All operators who conduct operations under a notice pursuant to § 3809.1–3 and a plan pursuant to § 3809.1–4 on Federal lands without taking the actions specified in a notice of noncompliance within the time specified therein may be enjoined by an appropriate court order from continuing such operations and be liable for damages for such unlawful acts.

(d) A notice of noncompliance shall specify in what respects the operator is failing or has failed to comply with the requirements of applicable regulations, and shall specify the actions which are in violation of the regulations and the actions which shall be taken to correct the noncompliance and the time, not to exceed 30 days, within which corrective action shall be started.

(e) Failure of an operator to take necessary actions on a notice of noncompliance, may constitute justification for requiring the submission of a plan of operations under § 3809.1–5 and mandatory bonding for subsequent operations which would otherwise be conducted pursuant to a notice under § 3809.1–3 of this title.

§ 3809.3–3 Access.

(a) An operator is entitled to access to his operations consistent with provisions of the mining laws.

(b) Where a notice or a plan of operations is required, it shall specify the location of access routes for operations and other conditions necessary to prevent unnecessary or undue degradation. The authorized officer may require the operator to use existing roads to minimize the number of access routes, and, if practicable, to construct access roads within a designated transportation or utility corridor. When commercial hauling is involved and the use of an existing road is required, the authorized officer may

require the operator to make appropriate arrangements for use and maintenance.

§ 3809.3–4 Fire prevention and control.

The operator shall comply with all applicable Federal and State fire laws and regulations, and shall take all reasonable measures to prevent and suppress fires in the area of operations.

§ 3809.3–5 Maintenance and public safety.

During all operations, the operator shall maintain his structures, equipment, and other facilities in a safe and orderly manner. Hazardous sites or conditions resulting from operations shall be marked by signs, fenced, or otherwise identified to alert the public in accordance with applicable Federal and State laws and regulations.

§ 3809.3–6 Inspection.

The authorized officer may periodically inspect operations to determine if the operator is complying with these regulations. The operator shall permit the authorized officer access for this purpose.

§ 3809.3–7 Periods of non-operation.

All operators shall maintain the site, structures and other facilities of the operations in a safe and clean condition during any non-operating periods. All operators may be required, after an extended period of non-operation for other than seasonal operations, to remove all structures, equipment and other facilities and reclaim the site of operations, unless he/she receives permission, in writing, from the authorized officer to do otherwise.

§ 3809.4 Appeals.

(a) Any operator adversely affected by a decision of the authorized officer made pursuant to the provisions of this subpart shall have a right of appeal to the State Director, and thereafter to the Board of Land Appeals, Office of Hearings and Appeals, pursuant to part 4 of this title, if the State Director's decision is adverse to the appellant.

(b) No appeal shall be considered unless it is filed, in writing, in the office of the authorized officer who made the decision from which an appeal is being taken, within 30 days after the date of receipt of the decision. A decision of the authorized officer from which an appeal is taken to the State Director shall be effective during the pendency of an appeal. A request for a stay may accompany the appeal.

(c) The appeal to the State Director shall contain:

(1) The name and mailing address of the appellant.

(2) When applicable, the name of the mining claim(s) and serial number(s) assigned to the mining claims recorded pursuant to subpart 3833 of this title which are subject to the appeal.

(3) A statement of the reasons for the appeal and any arguments the appellant wishes to present which would justify reversal or modification of the decision.

(d) The State Director shall promptly render a decision on the appeal. The decision shall be in writing and shall set forth the reasons for the decision. The decision shall be sent to the appellant by certified mail, return receipt requested.

(e) The decision of the State Director, when adverse to the appellant, may be appealed to the Board of Land Appeals, Office of Hearings and Appeals, pursuant to part 4 of this title.

(f) Any party, other than the operator, aggrieved by a decision of the authorized officer shall utilize the appeals procedures in part 4 of this title. The filing of such an appeal shall not stop the authorized officer's decision from being effective.

(g) Neither the decision of the authorized officer nor the State Director shall be construed as final agency action for the purpose of judicial review of that decision.

§ 3809.5 Public availability of information.

(a) Information and data submitted and specifically identified by the operator as containing trade secrets or confidential or privileged commercial or financial information shall not be available for public examination. Other information and data submitted by the operator shall be available for examination by the public at the office of the authorized officer in accordance with the provisions of the Freedom of Information Act.

(b) The determination concerning specific information which may be withheld from public examination shall be made in accordance with the rules in 43 CFR part 2.

§ 3809.6 Special provisions relating to mining claims patented within the boundaries of the California desert conservation area.

In accordance with section 601(f) of the Federal Land Policy and Management Act of October 21, 1976, all patents issued on mining claims located within the boundaries of the California Desert Conservation Area after the enactment of the Federal Land Policy and Management Act shall be subject to the regulations in this part, including the continuation of a plan of operations and of bonding with respect to the land covered by the patent.

PART 9260—LAW ENFORCEMENT—CRIMINAL

11. The authority citation for part 9260 continues to read as follows:

Authority: 16 U.S.C. 433; 16 U.S.C. 4601–6a; 16 U.S.C. 670j; 16 U.S.C. 1246(i); 16 U.S.C. 1338; 18 U.S.C. 1851–1861; 18 U.S.C. 3551 *et seq.*; 43 U.S.C. 315(a); 43 U.S.C. 1061, 1063; 43 U.S.C. 1733.

12. Amend part 9260 by suspending § 9263.1

[FR Doc. 01–7071 Filed 3–22–01; 8:45 am]

BILLING CODE 4310–84–P

Notices

Federal Register
Vol. 66, No. 57
Friday, March 23, 2001

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

Rural Housing Service

Announcement of Funding To Develop Essential Community Facilities in Rural Communities for Eligible Public Entities, Nonprofit Organizations, and Tribal Governments

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Housing Service (RHS) announces the availability of $50 million for rural community facilities described in section 381E(d)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009d). Under the Rural Community Advancement Program (RCAP) for fiscal year (FY) 2001, Congress designated $50 million to the Community Facilities loan and grant programs of which $25 million is reserved for assistance to areas in North Carolina which have been declared a disaster area because of Hurricanes Floyd, Dennis, or Irene. The purpose of the funding is to provide assistance to areas in the State of North Carolina, subject to a declaration of a major disaster under the Presidential Declared Disasters as reported by the Federal Emergency Management Agency (FEMA). The Rural Housing Service will provide the additional $25 million to other States with Presidentially or Secretarially declared disasters. We will refer to the funds set aside for disaster designated counties in North Carolina impacted by Hurricanes Floyd, Dennis, or Irene as the ''North Carolina Emergency Supplemental Program.'' We will refer to funds set aside for other declared disaster areas as ''Emergency Supplemental Program'' funds.

DATES: To compete for Emergency Supplemental Program funds, applications must be submitted to the Rural Development State Office by 4 p.m. eastern standard time on May 11, 2001, for the first window and by 4 p.m. eastern standard time on August 17, 2001, for the second window. If a major disaster occurs during this fiscal year, Agency officials may modify these deadlines.

ADDRESSES: Entities wishing to apply for assistance are encouraged to contact their local USDA Rural Development Office for further information on the application process. A listing of Rural Development State offices, their addresses, telephone numbers, and a person to contact follows:

Note: Telephone numbers listed are not toll-free.

Alabama State Office, Suite 601, Sterling Centre, 4121 Carmichael Road, Montgomery, AL 36106–3683, 334–279–3400, Chris Harmon

Alaska State Office, 800 W. Evergreen, Suite 201, Palmer, AK 99645–6539, 907–761–7705, Merlaine Kruse

Arizona State Office, Phoenix Corporate Center, 3003 North Central Avenue, Suite 900, Phoenix, AZ 85012–2906, 602–280–8700, Leonard Gradillas

Arkansas State Office, 700 W. Capitol Avenue, Room 3416, Little Rock, AR 72201–3225, 501–792–5800, Jesse G. Sharp

California State Office, 430 G Street, #4169, Davis, CA 95616–4169, 530–792–5800, Robert Longman

Colorado State Office, 655 Parfet Street, Room E100, Lakewood, CO 80215, 303–236–2801, Leroy Cruz

Delaware State Office (The Delaware State Office also administers the Maryland program), 4607 S. DuPont Highway, PO Box 400, Camden, DE 19934–9998, 302–697–4300, James E. Waters

Florida State Office (The Florida State Office also administers the Virgin Islands program), 4440 NW. 25th Place, PO Box 147010, Gainesville, FL 32614–7010, 352–338–3400, Glenn W. Walden

Georgia State Office, Stephens Federal Building, 355 E. Hancock Avenue, Athens, GA 30601–2768, 706–546–2162, Jerry Thomas

Hawaii State Office, Room 311, Federal Building, 154 Waianuenue Avenue, Hilo, HI 96720, 808–933–8380, Thao Khamoui

Idaho State Office, 9173 W. Barnes Drive, Suite A1, Boise, ID 83709, 208–378–5600, Dan Fraser

Illinois State Office, Illini Plaza, Suite 103, 1817 South Neil Street, Champaign, IL 61820, 217–398–5235, Gerald Townsend

Indiana State Office, 5975 Lakeside Boulevard, Indianapolis, IN 46278, 317–290–3100, Gregg Delp

Iowa State Office, 873 Federal Building, 210 Walnut Street, Des Moines, IA 50309, 515–284–4663, Dorman A. Otte

Kansas State Office, 1200 SW Executive Drive, P.O. Box 4653, Topeka, KS 66604, 785–271–2700, Gary Smith

Kentucky State Office, Suite 200, 771 Corporate Drive, Lexington, KY 40503, 859–224–7300, Vernon C. Brown

Louisiana State Office, 3727 Government Street, Alexandria, LA 71302, 318–473–7920, Danny Magee

Maine State Office, 967 Illinois Avenue, Suite 4, PO Box 405, Bangor, ME 04402–0405, 207–990–9106, Alan Daigle

Massachusetts State Office (The Massachusetts State Office also administers the Rhode Island and Connecticut programs), 967 Illinois Ave., Suite 4, 451 West Street, Amherst, MA 01002, 413–253–4300, Daniel Beaudette

Michigan State Office, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, 517–324–5100, Philip H. Wolak

Minnesota State Office, 410 AgriBank Building, 375 Jackson Street, St. Paul, MN 55101–1853, 651–602–7800, James Maras

Mississippi State Office, Federal Building, Suite 831, 100 W. Capitol, Jackson, MS 39269, 601–965–4316, Darnella Smith-Murray

Missouri State Office, 601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, 573–876–0990, Randall Griffith

Montana State Office, Unit 1, Suite B, P.O. Box 850, 900 Technology Boulevard, Bozeman, MT 59715, 406–585–2580, Mary Lou Affleck

Nebraska State Office, Federal Building, Room 152, 100 Centennial Mall N, Lincoln, NE 68508, 402–437–5551, Denise Brosius-Meeks

Nevada State Office, 1390 South Curry Street, Carson City, NV 89703–9910, 775–887–1222, Mike E. Holm

New Hampshire State Office, 10 Ferry Street, Concord Center, P.O. Box 317, Concord, New Hampshire 03301, 603–223–6045, William Konrad

New Jersey State Office, Tarnsfield Plaza, Suite 22, 790 WoodLane Road,

Mt. Holly, NJ 08060, 609–265–3600, Michael P. Kelsey
New Mexico State Office, 6200 Jefferson Street NE, Room 255, Albuquerque, NM 87109, 505–761–4950, Clyde Hudson
New York State Office, The Galleries of Syracuse, 441 S. Salina Street, Suite 357, Syracuse, NY 13202–2541, 315–477–6400, Gail Giannotta
North Carolina State Office, 4405 Bland Road, Suite 260, Raleigh, NC 27609, 919–873–2000, Phyllis Godbold
North Dakota State Office, Federal Building, Room 208, 220 East Rosser, P.O. Box 1737, Bismarck, ND 58502–1737, 701–530–2037, Don Warren
Ohio State Office, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215–2418, 614–255–2400, David Douglas
Oklahoma State Office, 100 USDA, Suite 108, Stillwater, OK 74074–2654, 405–742–1000, Rock W. Davis
Oregon State Office, 101 SW Main, Suite 1410, Portland, OR 97204–3222, 503–414–3300, Bill Daniels
Pennsylvania State Office, One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, 717–237–2299, Gary Rothrock
Puerto Rico State Office, IBM Building, Suite 601, 654 Munos Rivera Avenue, Hato Rey, PR 00918–6106, 787–766–5095, Pedro Gomez
South Carolina State Office, Strom Thurmond Federal Bldg., 1835 Assembly Street, Room 1007, Columbia, SC 29102, 803–765–5163, Larry Floyd
South Dakota State Office, Federal Building, Room 210, 200 Fourth Street SW., Huron, SD 57350, 605–352–1100, Dwight Wullweber
Tennessee State Office, Suite 300, 3322 West End Avenue, Nashville, TN 37203–1084, 615–783–1300, Keith Head
Texas State Office, Federal Building, Suite 102, 101 South Main, Temple, TX 76501, 254–742–9700, Mike Meehan
Utah State Office, Wallace F. Bennett, Federal Building, 125 S. State Street, Rm. 4311, P.O. Box 11350, Salt Lake City, UT 84147–0350, 801–524–4320, Jack Cox
Vermont State Office, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, 802–828–6000, Ronda Shippee
Virginia State Office, Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229, 804–287–1550, Carrie Schmidt
Washington State Office, 1835 Black Lake Blvd. SW., Suite B, Olympia, WA 98512–5715, 360–704–7740, Jack Gleason
West Virginia State Office, Federal Building, 75 High Street, Room 320, Morgantown, WV 26505–7500, 304–284–4860, Dianne Crysler
Wisconsin State Office, 4949 Kirschling Court, Stevens Point, WI 54481, 715–345–7600, Mark Brodziski
Wyoming State Office, 100 East B, Federal Building, Room 1005, P.O. Box 820, Casper, WY 82602, 307–261–6300, John Cochran

FOR FURTHER INFORMATION CONTACT: Sharon Douglas, Community Programs, RHS, USDA, STOP 0787, 1400 Independence Ave. SW., Washington, DC 20250–0787, Telephone (202) 720–1506, Facsimile (202) 690–0471, E-mail: sdouglas@rdmail.rural.usda.gov. Information may also be obtained from the Community Facilities program website at: *www.rurdev.usda.gov.*

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The reporting requirements contained in this notice have been approved by the Office, of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control number 0575–0173, 0575–0120, and 0575–0015 in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Authorizing Legislation and Regulations

This program is authorized under section 306(a) of the Consolidated Farm and Rural Development Act. Program administration, eligibility, processing, and servicing requirements, which govern the Community Facilities direct loan and grant programs, may be found under 7 CFR part 1942, subparts A and C, and 7 CFR part 3570, subpart B.

Background

In the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001, $50 million was appropriated to the Community Facilities grant and loan programs in addition to the program's regular allocation of loan and grant funds. The Community Facilities direct loan program authorized by Congress is used to provide financial assistance in the form of direct loans to public bodies, not-for-profit organizations, or Indian tribes on Federal or State reservations. Direct loan funds are used to develop essential community facilities in rural areas.

The Community Facilities grant program, authorized by Congress in 1996, is used in conjunction with the existing direct and guaranteed loan programs for the development of essential community facilities in rural areas for public use. Funding is intended to complement rather than compete with other credit sources. Grants are made available to public entities, such as municipalities, counties, and special-service districts, as well as to eligible nonprofit corporations and tribal governments. Grants are targeted to communities with the smallest populations and lowest incomes. Communities with lower populations and income levels receive a greater percentage of the Federal contribution, between 15 to 75 percent of the cost of developing the facility.

Additional Eligibility Requirements

In addition to those requirements identified in 7 CFR part 1942, subparts A and C, and 7 CFR part 3570, subpart B, applicants interested in competing for Emergency Supplemental Program funds for FY 2001 must meet the following additional eligibility criterion:

The essential community facility must be located in a county with a disaster declared on or after September 1, 1999. You may access a list of these counties at FEMA's web site: *http://www.fema.gov.* Please contact the person listed previously as the **FURTHER INFORMATION CONTACT** for a listing of Secretarially declared disaster counties.

In addition to those requirements identified in 7 CFR part 1942, subparts A and C, and 7 CFR part 3570, subpart B, applicants interested in competing for North Carolina Emergency Supplemental Program funds for FY 2001 must meet the following eligibility criterion:

The essential community facility must be located in a county with a presidential disaster declaration resulting from Hurricanes Floyd, Dennis, or Irene.

Allocation of Funds

Twenty-five million dollars will be allocated to the State of North Carolina to assist in recovery efforts. The North Carolina Emergency Supplemental Program funds will be allocated: $10 million in budget authority for direct loan funds and $15 million in grant funds. In addition, $25 million of Emergency Supplemental Program funds will be held in a National Office reserve account to fund applications for assistance. The $25 million will be allocated in the following manner: $10 million in budget authority for direct loan funds and $15 million in grant funds.

Intake and Processing of Grant Proposals

The designated Rural Development field or State office processes the intake of all preapplications and applications.

Applicants and their governing boards should meet with Agency officials before a preapplication is filed to discuss eligibility requirements and processing procedures. Documentation submitted along with a reapplication will vary depending on the nature, scope, and complexity of the project and the various stages of application and project development. Applicants for assistance from the State of North Carolina will compete for funding on a month-to-month basis until funds are exhausted. Loan and grant funds from the Emergency Supplemental Program funds will be held in a National Office reserve. Applications will be prioritized, and funds will be obligated to eligible entities twice during the fiscal year.

Selection Process

Once a determination has been made that an applicant is eligible, the preapplication is evaluated competitively and points awarded as specified in the project selection priorities contained in 7 CFR part 1942, subparts A and C, and 7 CFR part 3570, subpart B. For Emergency Supplemental Program funds, the State Director or designee will forward the request to the National Office to compete for funding consideration. Projects will then be rated, ranked, and selections made in order of priority. For North Carolina Emergency Supplemental Program funds, the North Carolina State Director will approve funding based on the project's priority points.

Notice of Invitation To Submit Complete Application

All preapplications selected for funding consideration will be notified by the State or field office by issuing Form AD–622, ''Notice of Preapplication Review Action.'' At that time, the proposed recipient will be invited to submit a complete application, along with instructions related to the agreed upon award amount, and asked to schedule an application conference to discuss items needed for formal application and to further clarify issues related to the project.

Final Approval and Funding Process

Final approval is subject to the availability of funds; the submission by the applicant of a formal, complete application and related materials that meet the program requirements and responsibilities of the applicant (contained in 7 CFR part 1942, subparts A and C, and 7 CFR part 3570, subpart B); the letter of conditions; and the grant agreement.

Those preapplications that do not have sufficient priority necessary to receive funding consideration will be notified, in writing, by the State or designated field office when funds are no longer available.

Dated: March 15, 2001.

James C. Alsop,

Acting Administrator, Rural Housing Service.

[FR Doc. 01–7167 Filed 3–22–01; 8:45 am]

BILLING CODE 3410–XV–U

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletion from procurement list.

SUMMARY: The Committee is proposing to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete a service previously furnished by such agencies.

Comments Must Be Received on or Before: April 23, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Patrick T. Mooney (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will result in authorizing small entities to furnish the commodities and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information. The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Hat, Fleece 5.7 oz., Black
8415–00–NSH–0441
NPA: Peckham Vocational Industries, Inc. Lansing, Michigan

Rag, Wiping
7920–00–148–9666
7920–00–205–1711
7920–00–205–3570
NPA: Bestwork Industries for the Blind, Inc., Runnemede, New Jersey

Services

Base Operating Services

Parks Reserve Forces Training Area, Dublin, California
NPA: Calidad Industries, Inc., Oakland, California

Hospital Housekeeping Services

Great Lakes Naval Hospital, Building 200H, Great Lakes, Illinois
NPA: Development Resources, Inc., San Antonio, Texas

Janitorial/Custodial, Federal Facilities Building, Cleveland-Hopkins International Airport, Cleveland, Ohio
NPA: Murray Ridge Production Center, Inc., Elyria, Ohio

Janitorial/Custodial, Naval Air Reserve Center, Minneapolis, Minnesota
NPA: AccessAbility, Inc., Minneapolis, Minnesota

Janitorial/Grounds Maintenance, Chet Holifield Federal Building, Laguna Niguel, CA
NPA: Goodwill Industries of Orange County, Santa Ana, California

Litigation Support Services

U.S. Department of Agriculture

The Animal and Plant Health Inspection Services

Agriculture Marketing Service

Minneapolis, Minnesota
NPA: Federal Dispute Resolution Center, Alexandria, Virginia

Deletion

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action will result in authorizing small entities to furnish the commodities and services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for deletion from the Procurement List.

The following service has been proposed for deletion from the Procurement List:

Service

Janitorial/Custodial, Marine Corps Air Station Commissary, El Toro, California

G. John Heyer,

General Counsel.

[FR Doc. 01–7307 Filed 3–22–01; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the procurement list.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: April 23, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Patrick T. Mooney (703) 603–7740.

SUPPLEMENTARY INFORMATION: On January 5, January 22 and February 2, 2001 the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (66 F.R. 1076, 6573 and 8776) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.
2. The action will not have a severe economic impact on current contractors for the services.
3. The action will result in authorizing small entities to furnish the services to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Services

Administrative Services

Internal Revenue Service, Oxon Hill, Maryland

Janitorial/Custodial

Volpe National Transportation Systems Center, 55 Broadway, Cambridge, Massachusetts

Janitorial/Custodial

Little Rock Air Force Base, Arkansas

Janitorial/Custodial

VA Outpatient Clinic, Allentown, Pennsylvania

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

G. John Heyer,

General Counsel.

[FR Doc. 01–7308 Filed 3–22–01; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–856, A–580–846, A–469–810]

Notice of Final Determinations of Sales at Less Than Fair Value: Stainless Steel Angle From Japan, Korea, and Spain

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determinations.

EFFECTIVE DATE: March 23, 2001.

FOR FURTHER INFORMATION CONTACT: Jarrod Goldfeder (Japan) at (202) 482–0189, Brian Smith (Korea) at (202) 482–1766, Minoo Hatten (Spain) at (202) 482–1690, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Final Determinations

We determine that stainless steel angles (''SSA'') from Japan, Korea, and Spain are being, or are likely to be, sold in the United States at less-than-fair-value (''LTFV'') prices, as provided in section 735 of the Tariff Act of 1930, as amended (''the Act''). The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department's'') regulations refer to 19 CFR part 351 (2000).

Case History

The preliminary determinations in these investigations were issued on January 8, 2001. *See Notice of Preliminary Determinations of Sales at Less Than Fair Value: Stainless Steel Angle from Japan, Korea, and Spain*, 66 FR 2880 (January 12, 2001) (''*Preliminary Determinations*''). No briefs were filed in these investigations commenting on the *Preliminary Determinations.*

Scope of Investigations

For purposes of these investigations, the term ''stainless steel angles'' includes hot-rolled, whether or not annealed or descaled, stainless steel products of equal leg length angled at 90 degrees, that are not otherwise advanced. The stainless steel angle subject to these investigations is currently classifiable under subheadings 7222.40.30.20 and 7222.40.30.60 of the *Harmonized Tariff Schedules of the United States* (''HTSUS''). Specifically excluded from the scope of these investigations is stainless steel angle of unequal leg length. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive.

Period of Investigation

The period of these investigations (''POI'') is August 1, 1999, through July 31, 2000.

Facts Available

In the *Preliminary Determinations*, the Department based the dumping margins for the exporters in the three SSA cases (*i.e.*, companies to which the Department issued the antidumping questionnaire) on facts otherwise available, pursuant to section 776(a)(2) of the Act. These following exporters received company-specific rates: Daido Steel Co., Ltd. (''Daido''), Aichi Steel Corporation (''Aichi''), and Sumitomo Metal Industries, Ltd., (''Sumitomo'') (respondents in the SSA case from Japan); Bae Myung Metal Co., Ltd. (''Bae Myung'') and SK Global Co., Ltd. (''SK Global'') (respondents in the SSA case from Korea); Roldan, S.A. (''Roldan'') (respondent in the SSA case from Spain).

The use of facts otherwise available was required because the record for each SSA case did not contain company-specific information, given the respondents' failure in each SSA case to respond to the Department's antidumping questionnaire. *See Preliminary Determinations,* 64 FR at 2883. For purposes of the *Preliminary Determinations,* the Department also found that, in each SSA case, each of the respondents failed to cooperate by not acting to the best of its ability to comply with the Department's request for information within the meaning of section 776(b) of the Act. Accordingly, the Department determined to use an adverse inference in selecting from among the facts otherwise available. *See id.* Specifically, the Department assigned to the respondents in these cases the highest margins alleged in the petition or as recalculated by the Department, which were corroborated as required by section 776(c) of the Act (*see id.*). Following the *Preliminary Determinations,* interested parties did not file any comments and have not objected either to the Department's decision to use adverse facts available for the respondents in these investigations or to the Department's choice of facts available. Accordingly, for the reasons discussed in the *Preliminary Determinations,* for these final determinations the Department is continuing to apply adverse facts available to each of the respondents in each case and to use the highest margins alleged in the petition or as recalculated by the Department for the respondents in these cases. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Expandable Polystyrene Resins from Indonesia,* 65 FR 69285 (November 16, 2000). In addition, the Department has left unchanged from the *Preliminary Determinations* the ''All Others Rate'' in each SSA case, which is the average of all the rates provided in the petition or in amendments to the petition.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend all entries of SSA from Japan, Korea, and Spain that are entered, or withdrawn from warehouse, for consumption on or after January 12, 2001, the date of publication of our *Preliminary Determinations.* The Customs Service shall require a cash deposit or the posting of a bond equal to the dumping margins, as indicated in the chart below. These instructions will remain in effect until further notice. The dumping margins for each LTFV proceeding are as follows:

	Weighted-average margin percentage
Exporter/Manufacturer (Japan):	
Daido	114.51
Aichi	114.51
Sumitomo	114.51
All Others	70.48
Exporter/Manufacturer (Korea):	
Bae Myung	99.56
SK Global	99.56
All Others	40.21
Exporter/Manufacturer (Spain):	
Roldan	61.45
All Others	24.32

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our final determinations. As our final determinations are affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that such injury does exist, the Department will issue antidumping duty orders directing the Customs Service to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These determinations are published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: March 16, 2001.

Timothy J. Hauser,

Acting Under Secretary for International Trade.

[FR Doc. 01–7315 Filed 3–22–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 970424097–1069–06]

RIN: 0625–ZA05

Market Development Cooperator Program

AGENCY: International Trade Administration (ITA), Commerce.

ACTION: Notice.

SUMMARY: The ITA of the U.S. Department of Commerce (the Department) requests that eligible organizations submit proposals (applications) for the fiscal year (FY) 2001 Market Development Cooperator Program (MDCP) competition. The ITA creates economic opportunity for U.S. workers and firms by promoting international trade, opening foreign markets, ensuring compliance with U.S. trade laws and agreements, and supporting U.S. interests at home and abroad. The Department administers the MDCP to build public/private export marketing partnerships. The MDCP is a competitive matching grants program that provides Federal assistance to export multipliers such as state trade departments, trade associations, chambers of commerce, World Trade Centers and other non-profit industry organizations that are particularly effective in reaching small-and medium-size enterprises (SMEs).

MDCP awards help to underwrite the start-up costs of new export marketing ventures which these groups are often reluctant to undertake without Federal Government support. The MDCP aims to:

- Challenge the private sector to think strategically about foreign markets;
- Be the catalyst that spurs private-sector innovation and investment in export marketing; and

• Increase the number of American companies, particularly SMEs, taking decisive export actions.

Partnerships enable the Federal Government to pool expertise and funds with non-Federal sources so that each maximizes its market development resources. They can also sharpen the focus on long-term export market development better than traditional trade promotion activities. These partnerships are also a mechanism for improving government-industry relations.

While the Department sponsors, guides and partially funds MDCP projects, it expects applicants to develop, initiate and provide matching funding to carry out market development project activities. As an active partner, the Department will, as appropriate, provide assistance that the applicant identifies as essential to the achievement of project goals and objectives.

Examples of activities that might be included in an applicant's project proposal are described below under ''I. Program Description''. The Department encourages applicants to propose activities that (1) would be most appropriate to the market development needs of their industry or industries; and (2) display the imagination and innovation of the applicants working in partnership with the government to obtain the maximum market development impact.

DATES: *Public Meeting:* The Department will hold a public meeting to discuss MDCP proposal preparation, procedures, and selection process on Wednesday, April 18, 2001. The meeting will begin at 10 a.m. in Room 3407, at the Herbert Clark Hoover Building, 14th and Constitution Avenue, NW., Washington, DC. No discussion of specific proposals will occur at this meeting. Attendance at this public meeting by potential applicants is not required.

Applications: Complete applications must be received no later than 5 p.m. Eastern Daylight Time, May 18, 2001. Late applications will not be accepted. They will be returned to the sender.

As set forth under *III.B.2. Number of Copies*, ITA is requesting one original application, plus seven (7) copies. Applicants for whom this is a financial hardship should submit an original and two copies. Send the application to the address listed below under ''For Further Information Contact.''

FOR FURTHER INFORMATION CONTACT: Mr. Brad Hess, Manager, Market Development Cooperator Program, Trade Development, ITA, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Room 3215, Washington, D.C. 20230, (202) 482–2969. The e-mail address is *Brad_Hess@ita.doc.gov.* The fax number is (202) 482–4462.

Information Online: Information on the Internet is available at *http://www.export.gov/mdcp.*

Application Kit: A kit with all forms necessary to participate in the MDCP application process is available at the Internet address identified above. This application kit also may be obtained via first-class mail by sending a legible mailing address to the ''Contact'' address listed above. The address as received will serve as the label for mailing a reply.

Pre-Application Counseling: Applicants with questions should contact the Department as soon as possible, while continuing to prepare their proposals. The Department will not extend the deadline for submitting applications.

Once the annual announcement is published in the **Federal Register**, the Department does not provide applicants or potential applicants with guidance regarding the merits of their applications or potential applications. Between the date of the announcement and the deadline for submitting applications, the Department may respond to potential applicants's questions regarding eligibility, technical issues, procedures, general information and referral. For example, the Department may refer a potential applicant to sources for market research on a foreign market identified by the potential applicant. However, to continue the example, the Department may not comment on the merits of including that market in its proposal, or suggest an alternative market.

SUPPLEMENTARY INFORMATION: *Authority:* The Omnibus Trade and Competitiveness Act of 1988, Public Law 100–418, Title II, sec. 2303, 102 Stat. 1342, 15 U.S.C. 4723.[1]

Catalog of Federal Domestic Assistance (CFDA): No. 11.112, Market Development Cooperator Program.

I. Program Description

The goal of the MDCP as set out in authorizing legislation is to develop, maintain, and expand foreign markets for nonagricultural goods and services produced in the United States.[2] For purposes of this program, nonagricultural goods and service means goods and services other than agricultural products as defined in 7 U.S.C. 451.[3]

A. Examples of Successful Proposals

Applicants should propose activities that would be most appropriate to the market development needs of the relevant U.S. industry. Examples of activities which applicants from prior years have found appropriate are set forth below. These are provided only for illustration. Applicants are not required to propose any of these activities.

1. Participating in overseas trade exhibitions and trade missions to promote U.S. exports, and/or hosting reverse trade missions;

2. Developing a website to connect international customers to U.S. companies through a ''virtual trade show.''

3. Conducting U.S. product demonstrations abroad;

4. Conducting export seminars in the United States or market penetration seminars in the market(s) to be developed;

5. Establishing technical trade servicing that helps foreign buyers choose the right U.S. goods or services and to use them efficiently;

6. Conducting joint promotions of U.S. goods or services with foreign partners;

7. Opening an overseas office to perform development services for companies who agree to participate. Such an office should not duplicate the programs or services of the U.S. and Foreign Commercial Service (US&FCS) post(s) in the region, but could include co-location with a US&FCS Commercial Center;

8. Detailing a private-sector representative to a US&FCS post in accordance with 15 U.S.C. 4723(c);

9. Training foreign nationals to perform after-sales service or to act as distributors for U.S. goods or services;

10. Improving market access for U.S. goods or services by working with organizations in the foreign marketplace responsible for setting standards and product testing;

[1] Unless otherwise noted, all legal authorities cited in this notice may be accessed via the Internet at *http://www.access.gpo.gov/* or at *http://wwwsecure.law.cornell.edu/federal/.*

[2] ''Produced in the United States'' means having substantial inputs of materials and labor originating in the United States, such inputs constituting at least 50 percent of the value of the good or service to exported. The intended beneficiaries of the program are U.S. producers of non-agricultural goods or services that seek to export such goods or services. *See* ''Trade Mission Application Form'' ITA Form 4008P–1 (Rev. 8/97).

[3] This definition includes ''agricultural, horticultural, viticultural, and dairy products, livestock and the products thereof, the products of poultry and bee raising, the edible products of forestry, and any and all products raised or produced on farms and processed manufactured products thereof * * *''

11. Publishing an export resource guide or an export product directory for the U.S. industry or industries in question, if no comparable one exists; and

12. Establishing an electronic business information system to identify overseas trade leads and facilitate matches with foreign partners for U.S. businesses.

B. Funding

1. Type of Funding Instrument: Because the Department will be substantially involved in the implementation of each project for which an award is made, the funding instrument for this program will be a cooperative agreement.

2. Funding Availability: For FY 2001, the total funds expected to be available for this program are $2.0 million. The Department expects to conclude a minimum of five (5) cooperative agreements with eligible entities for this competition. No award will exceed $400,000, regardless of the duration of the cooperative agreement.

3. Matching Requirements: To receive MDCP funding, the applicant must contribute at least two dollars for each Federal dollar provided. So, for each Federal dollar of MDCP funding, the applicant must make at least one dollar of new cash outlays expressly for the project. The balance of the applicant's support may consist of in-kind contributions (goods and services).[4]

a. Minimum Match: An example of the minimum match is set forth below. An applicant requesting $200,000 of Federal funds must supply, at a minimum, $200,000 of new cash outlays expressly for the project. As illustrated below, the remaining $200,000 of the required match, can be made up of additional new cash outlays or in-kind contributions.

Item	Federal share	Applicant match
Cash	200,000	200,000
Cash or In-kind	.....	200,000
Total	200,000	400,000

This example would establish a cost-share ratio of two-to-one, two applicant dollars for each dollar of Federal funds. The applicant assumes ⅔ of the total cost. In other words, 67 percent of the funding is provided by the applicant and 33 percent by the Federal Government. This means that the applicant will receive one dollar for every three dollars in project expenditures.

b. Additional Match: Applicants may propose projects for which the matching funding exceeds two applicant dollars to each Federal dollar. However, as set forth below, this will increase the cost-share ratio.

Item	Federal share	Applicant match
Cash	200,000	200,000
Cash or In-kind	.....	400,000
Total	200,000	600,000

This example would establish a cost-share ratio of three-to-one, three applicant dollars for each dollar of Federal funds. The applicant assumes ¾ of the total cost. In other words, 75 percent of the funding is provided by the recipient and 25 percent by the Federal Government. This means that the applicant will receive one dollar for every four dollars in project expenditures.

4. In-Kind Contributions: In the proposed budget, all in-kind contributions used to meet the applicant's share of costs are listed in a separate column from cash contributions. Applicants must describe these in-kind contributions separately in the application and in sufficient detail to determine that the requirements of 15 CFR part 14.23(a), or 15 CFR part 24.24 (a) and (b) are met.

5. Third Party Contributions: In order for an award recipient to outlay cash contributed by a third party, the third party must transfer the funds to the recipient. Otherwise, expenditures for goods and services contributed by a third party are considered to be in-kind contributions.

6. Indirect Costs: Federal funds may be used for a portion of the direct costs of each project, but not for indirect costs. Generally, direct costs result from activity specifically associated with an award, and usually include expenses such as personnel, fringe benefits, travel, equipment, supplies and contractual obligations relating directly to program activity. By contrast, indirect costs are generally those costs that are incurred regardless of whether there is activity associated with an award. These are often referred to as ''overhead'' and usually include expenses such as rent, electricity, and gas.

Federal funds may be used only to cover direct costs. The applicant must incur and pay direct costs that equal or exceed the amount of Federal funds. However, any portion of the balance of applicant's match that does not exceed the levels set forth below in *I.B.7. Indirect Cost Rate*, may be used to cover indirect costs. For example, an applicant that requests $200,000 of Federal funds, must structure its match to include at least $200,000 of direct costs. The balance of the match up to the level of direct costs, in this case $200,000, may be comprised entirely or partially of indirect expenses, as explained in greater detail below, under ''Indirect Cost Rate.''

Costs	Federal share	Applicant match
Direct	200,000	200,000
Indirect or Direct	.....	200,000
Total	200,000	400,000

The Department will determine allowable costs on the basis of the applicable cost principles and definitions in OMB Circulars A–21, A–87, and A–122; in 45 CFR Part 74, Appendix E; and in 48 CFR Part 31.[5]

7. Indirect Cost Rate: The Department funds cannot be used to pay indirect costs. The total dollar amount of the indirect costs proposed in an application under this program (using recipient funds) must not exceed the amount calculated using the indirect cost rate and negotiated and approved by a cognizant Federal agency[6] prior to the proposed effective date of the award or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less.[7]

8. *Fee Income:* Applicants may charge companies in the industry or other industry organizations reasonable fees to take part in or avail themselves of services provided as part of applicants' project. Applicants should describe in detail any plans to charge fees. Fees generated under the award are program income and must be used for project-related purposes during the award period. Fee income may be used as cash match.

9. *Approved Pre-Award-Period Expenditure:* As a general matter, award recipients can request reimbursements only for costs incurred during the award

[4] Recipient cash contributions are defined in 15 CFR Part 14, Sec. 14.2(g) as the award ''recipient's cash outlay, including the outlay of money contributed to the recipient by third parties.''

[5] Access OMB circulars and forms at *http://www.whitehouse.gov/omb/grants/index.html*. Appendix E referred to on this OMB site is not listed separately. It is found at the end of 45 CFR 74.91, which may be accessed directly at *http://www.access.gpo.gov/nara/cfr/waisidx_99/45cfr74_99.html*.

[6] If the applicant does not have a current approved indirect cost rate from another Federal agency, and the Department of Commerce will be the largest funding Federal agency, the Department will work with a winning applicant to establish an indirect cost rate.

[7] Information on calculating an indirect cost rate is available at *http://www2.dol.gov/dol/oasam/public/programs/guide.htm*.

period. However, if proposed in the application, award recipients can expend funds to attend an award-recipient orientation meeting even if it precedes the beginning of the award period. This orientation is usually held in Washington, D.C. soon after the awards are announced. It is usually the first opportunity for award recipients to meet members of the Department's team. This expenditure of funds prior to the beginning of the award period is limited to allowable expenses (e.g., air fare and lodging) associated with attending the orientation.

10. Fees for Some Government Services: By winning an MDCP award, an applicant enters into a special relationship with ITA. (*See I.C.1. Project Team* below.) To fulfill its part of the partnership, ITA will provide, where possible, its resources to support project activities included in annual operating plans. (*See I.C.3. Annual Operating Plan* below.) However, ITA's ability to provide assistance free of charge is limited. For some services such as market research studies and Gold Key services, ITA is required to charge fees that recover costs. Applicants requiring ITA services that could involve charges should make provision in their budgets for such charges.

Information relating to charges for services provided in specific overseas markets can be obtained by contacting the Senior Commercial Officer (SCO) at each overseas post. Information relating to charges for services provided by Export Assistance Centers (EACs) throughout the United States can be obtained by contacting the relevant EAC director. The names of SCOs and EAC directors, and often the specific fees, can be found on the Internet at *http://www.usatrade.gov.*

C. Administration of Award Activity

1. *Project Team:* To administer each cooperative agreement, a project team is established including key personnel from the award-winning organization and officials from the Department who can help the award-winner achieve MDCP project objectives. If representatives from other Federal agencies can make a meaningful contribution to the achievement of project objectives, they are invited to participate on the project team.

Each project team acts as a ''board of directors'' establishing direction for the project, recommending changes in the direction of the project, when necessary, and determining the mode of project operations and other management processes, coupled with close monitoring or operational involvement during the performance of project activities.

2. Award Period: Funds may be expended over the period of time required to complete the scope of work, but not to exceed three years from the start date of the award.

3. Annual Operating Plan: At the beginning of each year of the award period, the project team negotiates an annual operating plan, which is based on the work plan submitted in the application. The work plan sets forth a timetable for specific activities. In addition to this timetable, the annual operating plan includes team responsibilities for accomplishing each activity, and the budgeted cost of each activity. Annual operating plans are not part of the application. They are developed only after receipt of an award and designation of an ITA project team.

II. Eligibility

A. Definition of Eligible Entity

U.S. trade associations, non-profit industry organizations, state departments of trade and their regional associations are eligible to apply for an MDCP cooperative agreement. In cases where no entity described above represents the industry, private industry firms or groups of firms, may be eligible to apply for an MDCP cooperative agreement. Such private industry firms or groups of firms must provide in their application documentation demonstrating that no entity in the first three categories listed below represents their industry.

1. Trade Association: For the purpose of this program, a ''trade association'' is defined as a fee-based organization consisting of member firms in the same industry, or in related industries, or which share common commercial concerns. The purpose of the trade association is to further the commercial interests of its members through the exchange of information, legislative activities, and the like.

2. Non-Profit Industry Organization: For the purpose of this program, a ''non-profit industry organization'' is:

a. A non-profit small business development center operating under agreement with the Small Business Administration; or

b. A non-profit World Trade Center chartered or recognized by the non-profit World Trade Centers Association [8]; or

c. An organization that has been granted status as a non-profit organization under Title 26 U.S.C. Section 501(c) (3), (4), (5), or (6) and operates as one of the following:

(1) A local, state, regional, or national chamber of commerce,

(2) A local, state, regional, or national board of trade,

(3) A local, state, regional, or national business, export or trade council/interest group,

(4) A local, state, regional, or national visitors bureau or tourism promotion group,

(5) A local, state, regional, or national economic development group,

(6) A small business development center, or

(7) A port authority.

3. State Departments of Trade and Their Regional Associations: For the purpose of this program, ''state departments of trade and their regional associations'' include:

a. A department of a state government tasked with promoting trade; or

b. Associations of the departments of trade of two or more states; or

c. Entities within a state or within a region of a state that are associated with a state department of trade including non-profit, non-private, non-commercial entities which are at least partially funded by, directed by, or tasked by a state government to promote trade.

4. Special Note Regarding Educational Institutions: Educational institutions such as schools, colleges, and universities, are generally not eligible. However, organizations that are part of an educational institution for administrative, financial, legal, or logistical reasons, but not independent legal entities—for example, an organization which is not incorporated—which otherwise may be classified above under *1. Trade Association*, 2. *Non-Profit Industry Association*, or 3. *State Departments of Trade and Their Regional Associations*, above are eligible.

In such a case, the eligible entity should include in its application a signed letter stating that the MDCP funds would be used only by the eligible entity for the purposes outlined in its application, and that no such funds would be used by or retained by the educational institution, even though the funds may need to go through the educational institution because of the eligible entity's lack of a separate accounting system or lack of status as a separate legal entity.

B. Eligibility of Previous Award Recipients

The program aims to increase the sum of Federal and non-Federal export market development activities by using program funds to encourage new

[8] A description of the World Trade Centers Association is available on the Internet at *http://www.worldtradecenter.org.*

initiatives. MDCP funds are not intended to replace funds from other sources, nor are these funds intended to replace MDCP funding from a previous award.

Eligible organizations that have previously received an MDCP award may propose a new project or expansion of an existing project. *See IV.A.4. Creativity and Capacity* below.

C. Determination of Eligibility

1. Request for Determination: Prospective applicants should resolve questions regarding eligibility by requesting an eligibility determination. Requests should be made in writing accompanied by the most current version of all of the following documents that apply:

a. Articles of incorporation;
b. Charter;
c. Bylaws;
d. Information on types of members and membership fees;
e. Internal Revenue Service acknowledgment of non-profit status;
f. Annual report;
g. Audited financial statements;and
h. Documentation of ties to state trade departments or their regional associations.

Prospective applicants should submit eligibility determination requests as soon as possible if they wish to have determinations prior to the application submission deadline. This deadline will not be extended, and applicants should continue to work on applications while awaiting the Department's eligibility determination.

2. Joint Ventures: Entities may join together to submit an application as a joint venture and to share costs. For joint venture applicants, one organization meeting the above eligibility criteria must be designated as the prospective MDCP award recipient organization for administrative purposes. For example, two trade associations representing different segments of a single industry or related industries may pool their resources and submit one application. Foreign businesses and private groups also may join with eligible U.S. organizations to submit applications and to share the costs of proposed projects.

3. Benefit to All Companies: The Department will accept applications from eligible entities representing any industry, subsector of an industry or related industries. Each applicant must permit all companies in the industry targeted in its proposal to participate in all activities that are scheduled as part of a proposed project whether or not the company is a member or constituent of the eligible organization.

III. Applications

A. Format

The basic elements of the application are set forth below. Additional instructions and required forms are provided in the Application Kit. *See* the ''For Further Information Contact'' section for instructions on getting the Application Kit.

1. Executive Summary: The first element of the application is a one-page summary of the proposal. In accordance with *IV.B.2. Staff Review* above, the Department will distribute the executive summaries to its experts to solicit comments on applications. This summary may take the form of straight text, another visual information display (such as a table), or a mixture of both. Regardless of how the applicant chooses to structure the summary, it should communicate the essence of the application proposal including the following:

a. Applicant's name and location of headquarters;
b. Name of partnership organizations joining applicant in its application;
c. Federal offices with which an applicant envisions working;
d. Amount of Federal funds requested;
e. Total project budget;
f. Proposed term of the project;
g. Foreign markets targeted;
h. U.S. industry or industry clusters to be promoted; and
i. Brief description of the proposed activities and methods.

2. Background Research: Developing a project plan requires solid background research. Applications should reflect the findings of the applicant's study of the following:

a. The market potential of the U.S. good(s) or service(s) to be promoted in a particular market(s);
b. The competition from host-country and third-country suppliers; and
c. The economic situation and prospects that bear upon the ability of a country to import the U.S. good(s) or service(s).

Applicants should present an assessment of industry resources that can be brought to bear on developing a market; the industry's ability to meet potential market demand expeditiously; and the industry's after-sales service capability in a particular foreign market(s).

3. Project Description: After describing their completed basic research, applicants should develop marketing plans that set forth the overall objectives of the projects and the specific activities applicants will undertake as part of these projects.

a. Work Plan: The project description should include a list of specific activities planned, including: (1) the different phases of the project, identifying each milestone and activity in chronological order; (2) the location where activities will take place; and (3) the ways the applicant intends to involve the Department of Commerce and/or other Federal agencies as partners in project activities.

Applicants should also explain any fees to be charged to entities which benefit from or participate in project activities and services.

b. Performance Measures: (1) Applicant-Designed Performance Measures: In order to demonstrate the success of their projects, applicants are encouraged to develop and utilize performance measures which would reasonably gauge the success of the project. Each recipient of an award should be prepared to record and report the results achieved from project activities.

(2) Government Performance and Results Act Measures: On August 3, 1993, the Government Performance and Results Act (GPRA) was enacted into law (Public Law 103–62). GPRA requires each Federal agency to submit a strategic plan for program activities to OMB. Among other things, each strategic plan must include ''performance indicators to be used in measuring or assessing the relevant outputs, service levels and outcomes of each program activity.'' While not abandoning outputs (units of products, including services, of an activity) as a measure of achievement, OMB directed agencies to focus more on outcomes (the resulting effect of the use or application of an output) as the primary indicator of the success of programs and activities.

The Department reports results using the GPRA measures defined for its programs and activities. Many of these measures apply only to the programs and activities of the Department and have little relevance to the activities of MDCP award winners. Other measures may have applicability to MDCP projects. ITA is in the process of revising its GPRA performance measures. GPRA performance measures, against which MDCP award winners will be required to measure their projects, will be provided to new award winners prior to their commencing award activities.

(3) Performance Measure Reporting Requirements: Award recipients will be expected to use any applicant-designed measures as well as the GPRA performance measures in their quarterly reports.

(4) Performance Measure Recording and Reporting System: Each applicant should describe its recording and reporting system in its proposal. Ultimately, it is the success of individual companies that determines the project's export success. Therefore, applicants should demonstrate how they plan to ensure that participant companies, and any other sources of export success information, will provide performance information to the applicant.

c. Partnership: Applications should display the imagination and innovation of the private sector working in partnership with the government to obtain the maximum market development impact. As noted under *C.1. Project Team* above, each applicant that wins an award will work with an ITA team leader and other team members from the Department. Team members from other Federal agencies also may be invited to participate. Applicants must describe in detail all assistance expected from the Department or other Federal agencies to implement project activities successfully.

d. Project Funding Priorities: Project proposals must be compatible with U.S. trade and commercial policy. In addition, applicants are encouraged to address the priorities set forth below when developing their applications. An application does not need to focus on a specific number of these priorities to qualify for an award. It is conceivable that an applicant could do a superb job focusing on only one of the priorities and receive an award.

The international trade priorities listed below are the priorities referred to in *IV.A.3. Priorities and Partnership.* The Department is interested in receiving proposals which include projects that:

(1) Increase trade opportunities by opening markets through the development of new trade agreements, the support of World Trade Organization negotiations, the removal of non-tariff barriers, or the development of commercial infrastructure in emerging economies;

(2) Broaden and deepen participation of the private sector in exporting by increasing overall export awareness and awareness of ITA programs and services among U.S. companies, by making small and medium size enterprises (SMEs) export-ready or by facilitating deal-making;

(3) Ensure fair competition by combating dumping and subsidy of imports or by ensuring compliance with trade agreements;

(4) Support the Administration's broader foreign policy objectives through trade-related initiatives;

(5) Promote the use of e-commerce, in particular projects that make SMEs aware of the unique advantages e-commerce presents as a low-cost, low-risk tool to overcome SME reluctance to pursue marketing opportunities in and profit from foreign markets;

(6) Increase ''hands-on'' export education designed for SMEs through:

(a) Developing educational tools such as curricula and media, and/or

(b) Providing company-specific assistance such as export business plan development, market research, customs counseling, competitive position assessment, trade event preparation, foreign distribution alliances, and securing financing; and

(7) Develop non-traditional approaches to creating demand for the products/services developed from new U.S. technologies.

4. Credentials: Applicants must demonstrate the ability to provide an established, competent, experienced staff and other resources to assure adequate development, supervision, and execution of the proposed project activities. Each applicant must provide a description of the membership/qualifications, structure and composition of the eligible entity, the degree to which the entity represents the industry or industries in question, and the role, if any, foreign membership plays in the affairs of the eligible entity. Applicants should summarize both the recent history of their industry's or industries' competitiveness in the international marketplace and the export promotion history of the eligible entity and its partners that intend to work on the project. This should include a resume for the project director and principal staff and a projection of the amount of time each professional will devote to the project.

5. Finance and Budget: In addition to Form 424A ''Budget Information—Non-Construction Programs'', applicants will provide a detailed budget for the project award period, supporting worksheets and explanations, a discussion of financial systems and projections, a history of financial programs, financial and organizational documents, and any additional evidence of financial responsibility.

Applicants must provide their most recent audited financial statements. If the applicant is a sub-unit of an audited entity, in addition to the financial statements of the audited entity, the applicant should provide financial statements at the most specific level available, whether or not these are audited. If the applicant's most recent financial statements are not audited, it should submit the most recent unaudited financial statements and a statement indicating whether it currently has an auditor and when it plans to issue audited financial statements.

6. Forms: The Application Kit includes the following forms which must be completed and included in an application: forms SF–424 Application for Federal Assistance, SF–424A Budget Information—Non-Construction Programs, SF–424B Assurances—Non-Construction Programs, CD–346 Applicant for Funding Assistance; and forms SF–LLL, CD–511, and CD–512, which are described below under *V.A. Other Requirements.*

7. Appendices: Appendices should be tabbed or otherwise marked for easy reference. Applicants should include in their appendices, whatever material they deem helpful. For ease of reference, the Department recommends that the types of documents listed below be included as appendices rather than in the main body of the application.

a. The portion of the application defined above in *III.A.5. Finance and Budget.*

b. The forms noted above in III.A.6. Forms.

c. The determination of eligibility that an applicant has received from the Department. If the applicant has not received such a determination, it must include in the appendices the documents requested in *II.C.1. Determination of Eligibility* above.

d. Letters of support for the project. Including these as appendices may make it easier for all reviewers to find such letters in the same place in the application. The Department's standard practice for letters of support submitted separately is to make them available to reviewers.

e. News media contacts. When the Department announces awards, it informs the news media through a press release, usually from the Secretary of Commerce. Including news media contacts as an application appendix is not required, but doing so will help the Department publicize the success of the award winners. The most useful information to include in the appendix is the fax number and email address of the news media contacts of interest to the applicant. These would include such information dissemination outlets as local newspapers, trade publications, local broadcast stations, and industry websites.

f. Comparison between the proposed project and all current or past projects for which the applicant receives or has

received MDCP funding. As set forth in *IV.A.4. Creativity and Capacity*, only applicants that are current or past MDCP award recipients must include this comparison in their application.

B. Submission of Applications

1. Number of Pages: The main body of the application is limited to 50 pages. There is no limit on the number of pages for appendices. The main body of the application should include the substance of the applicant's proposal as identified in *III.A.1.* through *III.A.4.* above.

Each page of the main body should be numbered. Tabbing and numbering of pages included as appendices facilitates application review.

2. Number of Copies: Each applicant must submit a signed original application plus two copies. The Department encourages applicants to submit five additional copies as well for a total of seven (7) copies. Several copies will be needed in order for the Department to complete its evaluation. (As noted below under *IV.B. Evaluation and Selection Procedures*, four Selection Panel members and several Department staff will review each application.) However, if submitting seven (7) copies creates a financial hardship, applicants may submit the minimum of two copies plus the original.

If an applicant submits an original and two copies or any other number of copies greater than two and less than seven (7), the Department will make additional copies to allow all reviewers to read each application. However, the Department cannot guarantee that the copies will include features that are not easily reproduced on standard photocopy machines. For example, tabs might not be inserted, color pages might be reproduced in black and white, fold-out pages might not fold out, unusually sized (not 8.5″ x 11″) pages might be broken up, and the copies might be bound with staples or clips instead of the binding used for applicant-submitted material.

3. Distinguish Between Copies and Original: The Department needs to distinguish between the original application and copies. In order to facilitate processing of submitted applications, the Department recommends that applicants write or stamp ''original'' on the cover page of the original.

C. Retention of Applications

1. Award Winners: For each award winner, the Department of Commerce will retain the application for seven years after the award file is closed out. Copies of winning applications are distributed to project team members for their use in managing projects.

2. Unsuccessful and Ineligible Applicants: For each eligible application which does not win an award, and for each application determined to be ineligible, the Department of Commerce will retain the signed original of the application for seven years and will destroy the copies.

3. Late Applications Returned to Sender: Late applications are not accepted or retained. They are returned to the sender. However, the Department will retain a copy of the cover page or transmittal letter for seven years.

IV. Evaluation and Selection

A. Evaluation Criteria

The Department is interested in projects that demonstrate the possibility of both significant results during the project period and lasting benefits extending beyond the project period. To that end, consideration for financial assistance under the MDCP will be based upon the following evaluation criteria:

1. Export Success Potential: Potential of the project to generate export success stories and/or export initiatives in both the short-term and medium-term. For purposes of this program, an export initiative is defined as a significant expenditure of resources (time, people, or money) by the Chief Executive Officer (CEO) of a company in the active pursuit of export sales. Examples of export initiatives include, but are not limited to, the following:

a. Participating in an overseas trade promotion event;

b. Hiring an export manager;

c. Establishing an export department;

d. Exploring a new market through an overseas trip by the chief executive officer;

e. Developing an export marketing/business plan;

f. Translating product literature into a foreign language;

g. Making product modifications to comply with foreign market requirements;

h. Commissioning an in-depth market research study;

i. Promoting the adoption of U.S. standards;

j. Advertising in a foreign business publication;

k. Undertaking an overseas direct-mail campaign to create product awareness;

l. Signing an agent/distributor;

m. Getting introduced to a potential foreign buyer;

n. Signing an export contract/filling an export order;

o. Entering into a strategic alliance [9] with a foreign firm; or

p. Co-locating with a US&FCS Commercial Center.

Applicants should provide detailed explanations of projected results of the project.

2. Performance Measures: Projected increase (multiplier effect) in the number of U.S. companies operating in the market(s) selected, particularly SMEs, and the degree to which the project will help the industry in question increase or maintain market share in the market(s) selected. Applicants should provide quantifiable estimates of projected increases and explain how they are derived.

3. Priorities and Partnership: The degree to which the proposal furthers or is compatible with the Department's priorities stated under *III.A.3.d.* Partnership above and the degree to which the proposal initiates or enhances partnership with the Department.

4. Creativity and Capacity: Creativity, innovation, and realism displayed by the work plan as well as the institutional capacity of the applicant to carry out the work plan.

a. Creativity and innovation can be displayed in a variety of ways. Applicants might propose projects that include ideas not previously tried to promote a particular industry's goods or services in a particular market. Creativity can be demonstrated by the manner in which techniques are customized to meet the specific needs of certain client groups. A proposal can be creative in the way it brings together the strengths and resources of partners participating in project activities. Further, projects that focus on market development are inherently more creative than projects that focus only on export promotion. Market development is the process of identifying or creating emerging markets or market niches and modifying products to penetrate those markets. Market development is demand driven and designed to create long-term export capacity. In addition to promoting current sales of existing products, market development promotes future sales and future products.

b. MDCP awards are designed to help underwrite the start-up costs of new export marketing ventures which applicants might not be able to undertake without an MDCP award.

[9] A collaboration of one company with another company that can provide resources to achieve corporate, economic and strategic goals. One benefit of strategic alliances is reciprocal access to more than one market. For example, firms in two different markets can agree to market each other's non-competing products in their respective ''home'' markets.

Accordingly, in determining an applicant's creativity and innovation, the Selection Panel will consider that applicant's current or past MDCP-funded projects. Current or past MDCP award recipients can be in a position to earn the maximum number of points under this criterion only if they propose projects that are entirely new.

In order for the Selection Panel to determine whether the project proposed by a current or past MDCP recipient is entirely new, the current or past winner must provide as a separate appendix a comparison between the elements of the proposed project and the elements of the applicant's current or past MDCP-funded projects. Current or past MDCP award recipients that propose projects that are not entirely new will receive fewer points under this criterion than they would receive otherwise.

In determining the number of points under this criterion, the Selection Panel will consider the level to which a particular applicant has incorporated elements of its previously funded MDCP projects. To do this, applicants that are current or past MDCP award recipients will indicate the approximate amount of resources devoted to each project element. These resources should be reported as a percentage of the total project in the comparison chart described above under this criterion. For example, if an applicant received an MDCP award in 1995 and spent approximately $400,000 of a total $1,000,000 project budget on opening an office in Beijing, it could report that 40 percent of the resources of its 1995 project went to opening its Beijing office.

c. Institutional capacity will be measured by what each applicant puts in its proposal. A current or past MDCP recipient is under the same obligation as a new applicant to demonstrate its ability to achieve the levels of performance set forth in its application. As with all evaluation criteria, the Department will evaluate institutional capacity using its standard evaluation procedures, including *IV.B.2 Staff Review.* The Department will also consider information available to it as it relates to *V.A.2. Past Performance* below. However, a current or past MDCP award recipient should not assume that success with a prior MDCP award will automatically be taken into account by the Department when reviewing its application. Each applicant must document its institutional capacity in its application.

5. Budget and Sustainability: Reasonableness of the itemized budget for project activities, the amount of the cash match that is readily available at the beginning of the project, and the probability that the project can be continued on a self-sustained basis after the completion of the award.

Current or past MDCP recipients who propose an expansion of an existing project must show how the expansion will achieve self-sustainability independent of current or past projects funded under the MDCP.

Each of the above criteria is worth a maximum of 20 points. The five criteria together constitute the application score. At 20 points per criterion, the total possible score is 100.

B. Evaluation and Selection Procedures

Office of Planning Coordination and Resource Management (OPCRM) staff will review each application for completeness as soon as practicable after the application is received. The applicant is responsible for submitting a complete application in a timely manner.

Prior to selection, each complete application receives a thorough evaluation. The steps of the evaluation and selection process are set forth below.

1. Eligibility Determination: OPCRM staff, in consultation with the Department's Office of General Counsel, reviews all applications to determine the eligibility of each applicant. If an applicant's eligibility is in question, the applicant is contacted to supply additional information or clarification.

2. Staff Review: The OPCRM Director invites comments on applications from relevant offices within the Department (e.g,. Trade Development (TD), Market Access & Compliance (MAC), and US&FCS). This review allows the Department experts in the industry sector or geographical region to assess the claims made in the applications. The Department staff comments provide insights into both the potential benefits and the potential difficulties associated with the applications.

3. OPCRM Review: At least three representatives of OPCRM review and comment on all applications using the evaluation criteria identified above. The MDCP Manager prepares for the Selection Panel a review packet including the applications, a summary of OPCRM staff comments, and comments by the Department staff. The OPCRM and Department staff comments afford the Selection Panel the insights and breadth of experience of Department professionals. However, they have no official weight, and the Selection Panel is free to consider or disregard them as it sees fit.

4. Selection Panel Composition: The MDCP Manager forwards all of the eligible applications, along with all related materials, to the Selection Panel of senior managers at the Department. This panel is chaired by the OPCRM Director and typically includes three other members, one each from the Department's TD, MAC, and US&FCS units. Panel members are Office Directors or higher.

5. Selection Panel Scoring: Each Selection Panel member reviews each eligible application and assigns a score for each of the five criteria stated above. The scores of each Selection Panel Member for each application reviewed are maintained in the files for seven years. The individual criteria scores are averaged to determine the total score for each application.

6. Ranked Recommendation: Based on the scores assigned by Selection Panel members and deliberations by the Selection Panel, the Selection Panel forwards the applications with the ten highest total scores to the Assistant Secretary for Trade Development and recommends which of the ten proposals should receive funding. The Selection Panel's recommendation will not deviate from the rank order. This means, for example, that the Selection Panel cannot recommend funding for the application ranked seventh without recommending funding for applicants ranked first through sixth.

The Selection Panel recommendation includes the Panel's written assessment of the strengths and weaknesses of the top ten applications.

7. Selection of Applications for Funding: From the top ten applications forwarded by the Selection Panel, the Assistant Secretary for Trade Development selects those applications which will receive funding. In addition to the criteria in *IV.A. Evaluation Criteria* above, the Assistant Secretary for Trade Development may consider the following in making decisions:

a. The scores of individual Selection Panel members and the Selection Panel's written assessments;

b. The degree to which applications satisfy the Department priorities as established under *III.A.3.d. Project Funding Priorities* above;

c. The geographic distribution of the proposed awards;

d. The diversity of industry sectors and overseas markets covered by the proposed awards;

e. The diversity of project activities represented by the proposed awards;

f. Avoidance of redundancy and conflicts with the initiatives of other Federal agencies; and

g. The availability of funds.

C. Announcement of Award Decisions

Award winners will be notified by letter. Once award winners formally accept their awards, the Department will issue a press release and list the award winners at the MDCP Internet address.

Within ten days of the announcement of the issuance of the press release, unsuccessful applicants will be notified in writing and invited to receive a debriefing from MDCP officers.

V. Other Requirements and Classification

A. Other Requirements

1. Federal Policies and Procedures: Recipients and subrecipients are subject to all Federal laws and Federal and Department of Commerce policies, regulations, and procedures applicable to Federal financial assistance awards.

2. Past Performance: Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

3. Pre-Award Activities: Except at noted above in *I.B.9. Approved Pre-Award-Period Expenditure*, if applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the government. Notwithstanding any verbal or written assurance that they may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

4. No Obligation for Future Funding: If an application is selected for funding, the Department of Commerce has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department of Commerce.

5. Delinquent Federal Debts: No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

a. The delinquent account is paid in full;

b. A negotiated repayment schedule is established and at least one payment is received; or

c. Other arrangements satisfactory to the Department are made.

6. Name Check Review: All applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity. The name check review process is based on information applicants provide in Form CD–346 ''Applicant for Funding Assistance''.

7. Primary Applicant Certifications: All primary applicants must submit a completed Form CD–511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug Free Workplace Requirements and Lobbying''. Explanations are provided below.

a. Non-Procurement Debarment and Suspension: Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies;

b. Drug-Free Workplace: Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, subpart F, ''Government wide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies;

c. Anti-Lobbying: Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitations on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

d. Anti-Lobbying Disclosures: Any applicant that has paid or will pay for lobbying using any funds must submit Form SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR part 28, Appendix B.

8. Lower Tier Certifications: Recipients shall require applicants/bidders for sub-grants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure Form SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to the Department. SF–LLL submitted by any tier recipient or sub-recipients should be submitted to the Department in accordance with the instructions contained in the award document.

9. False Statements: A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

10. Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

11. Buy American-Made Equipment and Products: Applicants are hereby notified that they will be encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this program.

12. Fly America Act: All award recipients must comply with the provisions of the Fly America Act, 49 U.S.C. 40118.

B. Classification

This notice has been determined to be not significant for purposes of Executive Order 12866. The standard forms referenced in this notice are cleared under OMB Control No. 0348–0043, 0348–0044, 0348–0040, and 0348–0046 pursuant to the Paperwork Reduction Act. Notwithstanding any other provision of law, no person is required to respond nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number.

Dated: March 20, 2001.

Jerome S. Morse,

Director, Resource Management and Planning Staff, Office of Planning, Coordination and Resource Management, Trade Development, International Trade Administration, Department of Commerce.

[FR Doc. 01–7272 Filed 3–22–01; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF DEFENSE

[OMB Control Number 0704–0248]

Information Collection Requirements; Defense Federal Acquisition Regulation Supplement; Material Inspection and Receiving Report

AGENCY: Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of a approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions

thereof. DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection requirement for use through August 31, 2001. DoD proposes that OMB extend its approval for use through August 31, 2004.

DATES: DoD will consider all comments received by May 22, 2001.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* As an alternative, respondents may e-mail comments to: *dfars@acq.osd.mil*. Please cite OMB Control Number 0704–0248 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Mr. Rick Layser, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite OMB Control Number 0704–0248.

At the end of the comment period, interested parties may view public comments on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Mr. Rick Layser, (703) 602–0293. The information collection requirements addressed in this notice are available electronically on the World Wide Web at: *http://www.acq.osd.mil/dp/dars/dfars.html.* Paper copies are available from Mr. Rick Layser, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

SUPPLEMENTARY INFORMATION:

Title, Associated Forms, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Appendix F, Material Inspection and Receiving Report; DD Form 250, DD Form 250c, DD Form 250–1; OMB Control Number 0704–0248.

Needs and Uses: The collection of this information is necessary to process the shipping and receipt of materials and payment to contractors under DoD contracts.

Affected Public: Business or other for-profit and not-for-profit institutions.

Annual Burden Hours: 988,000.

Number of Respondents: 7,800,000.

Responses Per Respondent: 1.

Annual Responses: 7,800,000.

Average Burden Per Response: 8 minutes.

Frequency: On occasion.

Summary of Information Collection

This information collection includes the requirements of DFARS Appendix F, Material Inspection and Receiving Report; the related clause at DFAS 252.246–7000, Material Inspection and Receiving Report; and DD Forms 250, 250c, and 250–1. The clause at DFARS 252.246–7000 is used in contracts that require separate and distinct deliverables. The clause requires the contractor to prepare and furnish to the Government a material inspection and receiving report (DD Form 250) in a manner and to the extent required by DFARS appendix F. The report is required for material inspection and acceptance, shipping, and payment.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council

[FR Doc. 01–7313 Filed 3–22–01; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

[OMB Control Number 0704–0336]

Information Collection Requirements; Defense Federal Acquisition Regulation Supplement; Drug-Free Work Force

AGENCY: Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection requirement for use through September 30, 2001. DoD proposes that OMB extend its approval for use through September 30, 2004.

DATES: DoD will consider all comments received by May 22, 2001.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* As an alternative, respondents may e-mail comments to: *dfars@acq.osd.mil*. Please cite OMB Control Number 0704–0336 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Sandra Haberlin, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite OMB Control Number 0704–0336.

At the end of the comment period, interested parties may view public comments on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Haberlin, (703) 602–0289. The information collection requirements addressed in this notice are available electronically on the World Wide Web at: *http://www.acq.osd.mil/dp/dars/dfars.html*. Paper copies re available from Ms. Sandra Haberlin, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Section 223.570, Drug-free work force, and the associated clause at DFARS 252.223–7004; OMB Control Number 0704–0336.

Needs and Uses: This information collection requires DoD contractors to maintain records regarding drug-free work force programs provided to contractor employees. The information is used to ensure reasonable efforts to eliminate the unlawful use of controlled substances by contractor employees.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden House: 804,878.

Number of Respondents: 14,850.

Responses Per Respondent: 0.

Annual Responses: 0.

Average Burden Per Response: 0 hours.

Frequency: This is a requirement for recordkeeping only.

Summary of Information Collection

DFARS Section 223.570, Drug-free work force, and the associated clause at DFARS 252.223–7004, Drug-Free Work Force, require that DoD contractors institute and maintain programs for achieving the objective of a drug-free work force, but do not require contractors to submit information to the Government. This information collection requirement reflects the public burden of maintaining records related to a drug-free work force program.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 01–7314 Filed 3–22–01; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

FAR Part 31 Streamlining

AGENCY: Department of Defense (DoD).

ACTION: Correction to notice.

SUMMARY: DoD is issuing a correction to the notice published at 66 FR 13712 on March 7, 2001, that announced a public meeting to be held on April 19, 2001. The subject heading in the notice is corrected to read ''FAR Part 31 Streamlining'' instead of ''Cost Accounting Standards Administration.''

FOR FURTHER INFORMATION CONTACT: Mr. David Capitano, Office of Cost, Pricing, and Finance, by telephone at (703) 695–7249, by FAX at (703) 693–9616, or by e-mail at *dcapitano@osd.mil.*

Correction

In this issue of Wednesday, March 7, 2001, on page 13712, in the second column, the heading of notice document 01–5581 is corrected to read as set forth above.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 01–7312 Filed 3–22–01; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Notice of Public Scoping Meetings on the Programmatic Environmental Impact Statement for the Long Term Management of the National Defense Stockpile Inventory of Excess Mercury

AGENCY: Defense National Stockpile Center (DNSC), DoD.

ACTION: Notice of public scoping meetings.

SUMMARY: In the February 5, 2001 **Federal Register** (pages 8947–8949), DNSC announced in a Notice of Intent (NOI) that it will prepare an environmental impact statement (EIS) that will evaluate alternative strategies for managing the Department of Defense stockpile of excess mercury, and hold public scoping meetings. The Notice of Intent (NOI) did not include the specific details of the public scoping meetings. This notice announces the locations, dates, times and format of the scoping meetings. This notice is provided in accordance with the Council on Environmental Quality's regulations (40 CFR parts 1500–1508) and the Defense Logistic Agency's (DLA) regulations (DLAR 1000.22) implementing the National Environmental Policy Act (NEPA). Because some of the excess mercury to be considered in the Mercury Management EIS is currently stored at the Department of Energy's (DOE's) Y–12 National Security Complex in Oak Ridge, Tennessee, DOE is a cooperating agency for the preparation of this EIS.

DATES: Public scoping meetings are scheduled to be held as follows: April 19, 2001 in Niles, OH; April 24 in New Haven, IN; May 1 in Washington, DC; May 8 in Oak Ridge, TN; and May 22 in Hillsborough, NJ. The times and locations of the meetings are provided in the Supplementary Information section. The scoping period ends on June 30, 2001. Comments on the scope of the Mercury Management EIS must be postmarked, e-mailed, or otherwise submitted no later than this date.

ADDRESSES: Written comments should be sent to: Project Manager, Mercury Management EIS; DNSC–E; Defense Logistics Agency; Defense National Stockpile Center, 8725 John J. Kingman Road, Suite 4616, Fort Belvoir, VA. 22060–6223.

FOR FURTHER INFORMATION CONTACT: Requests for information can be made by: leaving a voice message at 1–888–306–6682; faxing a message to 1–888–306–8818; emailing a request to *information@mercuryeis.com*; or accessing the Mercury Management EIS web-site at *www.mercuryeis.com.*

For information concerning DOE's NEPA process, contact Ms. Carol Borgstrom, Director, Office of NEPA Policy and Compliance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington DC, 20585. Telephone 202–586–4610, leaving a message at 1–800–472–2756, or access tis.eh.doe.gov/NEPA.

SUPPLEMENTARY INFORMATION:

Background

In the February 5, 2001 **Federal Register** (pages 8947–8949), DNSC, part of the DLA within the U.S. Department of Defense, announced that it will prepare an EIS that assesses alternative ways of managing the National Defense Stockpile inventory of excess mercury. Because the mercury has been declared excess to national defense needs, DNSC must decide on a strategy for managing the excess mercury. DNSC is responsible for the safe, secure, and environmentally sound stewardship for all commodities in the National Defense Stockpile inventory, including the inventory of excess mercury. The inventory of approximately 4,890 tons (4,440 metric tons) of excess mercury is currently stored in enclosed warehouses at four locations. Most of the excess inventory, about 2,882 tons (75,980 flasks), is stored at the Somerville Depot near Somerville, NJ; Approximately 770 tons (20,276 flasks) are stored at the DOE Y–12 National Security Complex in Oak Ridge, TN; and 621 tons (16,355 flasks) are stored at the Warren Depot near Warren, OH. The remainder, approximately 614 tons (16,151 flasks), is stored at the Casad Depot near New Haven, IN. DNSC will use the EIS process to involve the public and to ensure that the public has an opportunity to comment on what should be done regarding the management of this mercury.

Scoping

DNSC invites Federal agencies, state, local and tribal governments, the general public, and the international community to comment on both the scope of environmental and socioeconomic issues and the management alternatives that should be addressed in the EIS. The public scoping period began with the publication of the Notice of Intent in the **Federal Register** on February 5, 2001 and will continue until June 30, 2001. DNSC will consider all comments received or postmarked by the end of the comment period in defining the

scope of this EIS. Comments received after that date will be considered to the extent practicable.

As part of the scoping process, DNSC has scheduled public meetings at the following locations:

April 19, 2001, 5:30 to 9 pm
McMenamy's Multipurpose Complex
325 Youngstown-Warren Road
Niles, Ohio

April 24, 2001, 5:30 to 9 pm
Park Hill Learning Center
1000 Prospect Avenue
New Haven, Indiana

May 1, 2001, 1:30 to 5 pm
Marriott Metro Center
775 12th Street, NW
Washington, DC

May 8, 2001, 5:30 to 9 pm
Garden Plaza Hotel
215 S. Illinois Avenue
Oak Ridge, Tennessee

May 22, 2001, 5:30 to 9 pm
Hillsborough High School
466 Raider Boulevard
Hillsborough, New Jersey

The registration desk and the exhibit area will open at 5:30 pm (1:30 pm for the Washington, DC meeting) and remain open for three and one-half hours. The exhibit area will be staffed by DNSC officials and others who can answer questions about the scope and content of the Mercury Management EIS.

At 7 pm (3 pm for the Washington, DC meeting), DNSC will provide a short presentation on the EIS process and the anticipated scope of the Mercury Management EIS. Following the DNSC presentation, elected or appointed officials, organizations, and individuals will be invited to offer their verbal comments. Speakers will be allotted five minutes each. The meetings will be managed by a facilitator who will help keep the meetings focused on obtaining public input on the scope and content of the EIS.

Advance registration for the public meetings is requested but not required. Requests to speak at the scoping meetings may be made by writing to the Mercury Management EIS project manager (see **ADDRESSES**, above), by calling the toll free phone number (1–888–306–6682) by 4 pm EST the day before the meeting, or in person at the meeting. If you call to pre-register, please leave your name, the organization you represent, and the location of the meeting you plan to attend. Speakers will be heard on a first-come, first-served basis as time permits. Speakers do not have to pre-register, but are encouraged to do so to ensure that they are allotted a time to speak. Comments will be recorded by a court reporter and will become a part of the meeting record. Speakers are encouraged to provide written versions of their spoken comments. The facilitator and DNSC staff may ask questions to clarify the speaker's comments.

Written comments will be accepted at the meetings and comment forms will be provided for this purpose. Written and spoken comments will be given equal weight in the scoping process. For those individuals who prefer to make verbal comments prior to or after the formal presentation, a court reporter will be available in the exhibit area.

All meeting facilities are handicapped accessible. Persons that are hearing impaired or have other special requirements should contact the Project Manager in advance so that arrangements may be made to accommodate their needs.

Input from the scoping meetings along with comments received by other means (i.e., mail, phone, fax, email, and web-site) will be used by DNSC in refining the scope of the EIS. Issues raised at the scoping meetings will be documented in the Scope of Statement for the Mercury Management EIS. The objective of this report is to summarize the essence of the comments received in a clear, concise manner, and accurately portray the planned scope of the EIS. The Scope of Statement will be distributed to information repositories near the scoping meeting locations, accessible via the EIS web site, and mailed out upon request. The repository locations are listed below and are also provided on the Mercury Management EIS web site at *www.mercuryeis.com*.

Allen County Public Library
435 Ann Street
New Haven, Indiana 46774

Bridgewater Branch Library
N. Bridge Street and Vogt Drive
Bridgewater, New Jersey 08807

Fairfax County Public Library
12000 Government Center Parkway, Suite 324
Fairfax, VA 22035

Martin Luther King Jr. Library
901 G Street NW
Washington, DC 20001

Oak Ridge Public Library
1401 Oak Ridge Turnpike
Oak Ridge, TN 37830

Raritan Valley Community College
Evelyn S. Field Library, North Branch
Route 28 and Lamington Road
Somerville, New Jersey 08876

Somerville Public Library
35 West End Avenue
Somerville, New Jersey 08876

Warren-Trumbull County Public Library
444 Mahoning Avenue, NW
Warren, Ohio 44483

West End Branch Library
1101 24th and L Street, NW
Washington, DC 20037

Issued in Fort Belvoir, VA, on this 16th day of March 2001.

Richard J. Connelly,
Administrator, Defense National Stockpile Center.

[FR Doc. 01–7234 Filed 3–22–01; 8:45 am]
BILLING CODE 3620–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Armed Forces Epidemiological Board (AFEB)

AGENCY: Office of The Surgeon General, DoD.

ACTION: Notice of partially-closed meeting.

SUMMARY: In accordance with section 10(a)(2) of Public Law 92–463, The Federal Advisory Committee Act, this announces the forthcoming AFEB meeting. This Board will meet from 0730–1630 on Tuesday, 22 May 2001, and 0730–1300 on Wednesday, 23 May 2001. The purpose of the meeting is to address pending and new Board issues, provide briefings for Board members on topics related to ongoing and new Board issues, conduct subcommittee meetings, and conduct an executive working session and to have a classified AFEB update on the DoD Immunization Program for Biological Warfare Defense in accordance with DoD Directive 6205.3. The meeting location will be at the U.S. Army Medical Research Institute of Infectious Diseases (USAMRIID). This meeting will be open to the public on 22 May, but limited by space accommodations. The meeting will be closed to the public on 23 May in accordance with section 552b(c) of Title 5, U.S.C. specifically subparagraph (1) thereof and Title 5, U.S.C., appendix 1, subsection 10(d). Any interested person may attend, appear before or file statements with the committee at the time and in the manner permitted by the committee.

FOR FURTHER INFORMATION CONTACT: COL Benjamin Withers, Acting Executive Secretary, Armed Forces Epidemiological Board, Skyline Six, 5109 Leesburg Pike, Room 682, Falls Church, Virginia 22041–3258, (703) 681–8012/3.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,
Army Federal Register Liaison Officer.
[FR Doc. 01–7259 Filed 3–22–01; 8:45 am]
BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Patent Application for Exclusive License

AGENCY: U.S. Army, DoD.
ACTION: Notice.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive, or nonexclusive licenses under the following patents that are listed in the **SUPPLEMENTARY INFORMATION** paragraph.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Rosenkrans at U.S. Army Soldier and Biological Chemical Command, Kansas Street, Natick, MA 01760; Phone: (508) 233–4928 or E-mail: Robert.Rosenkrans@natick.army.mil.

SUPPLEMENTARY INFORMATION: Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR part 404. The following Patent Application Number, Title and Filing date is provided:

Patent Application Number: 09/334,981.
Title: Harness for Human Wear.
Filing Date: June 17, 1999.
Australian Patent Application Number: 199672359.
Title: Interlock Attaching Strap System.
Filing Date: September 5, 1996.

Gregory D. Showalter,
Army Federal Register Liaison Officer.
[FR Doc. 01–7258 Filed 3–22–01; 8:45 am]
BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Concerning Topical Protectants

AGENCY: U.S. Army Medical Research and Materiel Command, DOD.
ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent Serial No. 5,607,979 entitled ''Topical Skin Protectants'' issued March 4, 1997. This patent application has been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664. Both telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: Creams formed from about 35% to about 50% fine particulates of certain poly (tetrafluoroethylene) resins dispersed in perfluorinated polyether oils having viscosities from about 20 cSt to about 350 cSt afford good protection against chemical warfare agents such as sulfur mustard (HD), lewisite (L), sulfur mustard/Lewisite mixtures (HL), pinacolyl methylphosphonofluroidate (soman or GD), thickened soman (TGD) and O-ethyl S-2-diisopropylaminoethyl methylphosphonothiolate (vx).

Gregory D. Showalter,
Army Federal Register Liaison Officer.
[FR Doc. 01–7261 Filed 3–22–01; 8:45 am]
BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusvie, Exclusive, or Partially Exclusvie Licensing of U.S. Patent Application Concerning Use of Antibodies to Sialidase as Anti-Infectious Agents and Anti-Inflammatory Agents

AGENCY: U.S. Army Medical Research and Materiel Command, DoD.
ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent No. 6,066,323 entitled ''Use of Antibodies to Sialidase as Anti-infectious Agents and Anti-Inflammatory Agents'' issued May 23, 2000. This patent application has been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, Maryland 21702–5012

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664. Both telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: Sialic acids have the ability to prevent hyposialylation of cells as competitive inhibitors of endogenous sialidse. It is now also possible to develop antibodies to mammalian sialidase that significantly reduce influx of neutrophils into inflammatory sites.

Gregory D. Showalter,
Army Federal Register Liaison Officer.
[FR Doc. 01–7262 Filed 3–22–01; 8:45 am]
BILLING CODE 3770–08–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 amend systems of records.

SUMMARY: The Department of the Air Force is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on April 23, 2001, unless comments are received which 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 systems of records notices 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 specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: March 16, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F044 AF SG R

SYSTEM NAME:

Reporting of Medical Conditions of Public Health and Military Significance (June 11, 1997, 62 FR 31793).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete from entry 'and both completed and attempted suicides'.

* * * * *

F044 AF SG R

SYSTEM NAME:

Reporting of Medical Conditions of Public Health and Military Significance.

SYSTEM LOCATION:

Epidemiology Services Branch, Epidemiologic Research Division, Armstrong Laboratory, 2601 West Gate Road, Suite 114, Brooks Air Force Base, TX 78235–5241, medical centers, hospitals and clinics, medical aid stations, Air National Guard activities, and Air Force Reserve units. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty Air Force members and their dependents, civilian Air Force employees, retired Air Force members and their dependents, Air Force Reserve and Air National Guard personnel and foreign national Air Force employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, home address, home phone, date of birth, and records relating to communicable diseases, occupational illnesses, animal bites.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 55, Medical and Dental Care; 10 U.S.C. 8013, Secretary of the Air Force; 28 CFR 1960, Occupational Illness/Injury Reporting Guidelines for Federal Agencies; Air Force Instruction 48–105, Surveillance, Prevention, and Control of Diseases and Conditions of Public Health or Military Significance; and E.O. 9397 (SSN).

PURPOSE(S):

Records from this system of records will be used for ongoing public health surveillance, which is the systematic collection, analysis, and interpretation of outcome-specific data for use in the planning, implementation, and evaluation of public health practice within the Air Force.

Primary users include appropriate Air Force activity/installation preventive medicine and public health personnel and their major command and Air Force counterparts. Records are used and reviewed by health care personnel in the performance of their duties.

Health care personnel include military and civilian personnel assigned to the Air Force facility where the records are maintained. Students participating in an USAF training program may also use and review records as part of their training program.

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:

To the officials and employees of the National Research Council and the Department of Veterans Affairs in cooperative studies of the natural history of disease and epidemiology. Each study in which the records of members and former members of the Air Force are used must be approved by the Surgeon General of the Air Force.

To officials and employees of local and state governments in the performance of their official duties pursuant to the laws and regulations governing local control of communicable diseases, preventive medicine and safety programs, and other public health and welfare programs.

The DoD ''Blanket Routine Uses'' published at the beginning of the Air Force's compilation of record system notices apply to this system, except as stipulated in ''Note'' below.

Note: Records of identity, diagnosis, prognosis or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol/drug abuse treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided herein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–2. This statute takes precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The DoD ''Blanket Routine Uses'' do not apply to these types of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in machine readable form.

RETRIEVABILITY:

Records are retrieved by name, Social Security Number, reportable event, location, or any combination of these.

SAFEGUARDS:

Records are accessed by custodians of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened. Except when under direct physical control by authorized individuals, records will be electronically stored in computer storage devices protected by computer system software. Computer terminals are located in supervised areas with terminal access controlled by password or other use code systems.

RETENTION AND DISPOSAL:

Local retention may vary, but will be no less than 5 years after the fiscal year to which the records relate. After that time, records may be destroyed by erasing, deleting, or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Epidemiology Services Branch, Epidemiologic Research Division, Armstrong Laboratory (AL/AOES), 2601 West Gate Road, Suite 114, Brooks Air Force Base, TX 78235–5241, or comparable official of the Public Health Office serving the Air Force activity/installation. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to Chief, Epidemiology Services Branch, Epidemiologic Research Division, Armstrong Laboratory (AL/AOES), 2601 West Gate Road, Suite 114, Brooks Air Force Base, TX 78235–5241, or comparable official of the Public Health Office serving the Air Force activity/installation. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

Written requests should contain the full name and signature of the requester.

Requests in person must be made during normal office duty hours Monday through Friday, excluding national and/or local holidays.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address written requests to the Chief, Epidemiology Services Branch, Epidemiologic Research Division, Armstrong Laboratory (AL/AOES), 2601 West Gate Road, Suite 114, Brooks Air Force Base, TX 78235–5241, or comparable official of the Public Health Office serving the Air Force activity/installation. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

Written requests should contain the full name and signature of the requester.

Requests in person must be made during normal office duty hours Monday through Friday, excluding national and/or local holidays.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting and appealing initial agency determinations are published in Air Force Instruction 37–132; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Records in this system are obtained from DOD and Air Force employees involved in the surveillance, prevention, control, and reporting of diseases and conditions of public health or military significance.

Database is compiled using information from personnel, medical, and casualty records, investigative reports, and environmental sampling data.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01–7168 Filed 3–22–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (EIS) for the Calcasieu Lock, LA, Feasibility Study

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The Calcasieu Lock is located on the Gulf Intracoastal Waterway (GIWW) in southwest Louisiana. A feasibility study is being conducted to investigate alternatives to reduce navigation delays associated with the lock. A draft EIS is being prepared to accompany the feasibility report.

FOR FURTHER INFORMATION CONTACT: Questions concerning the EIS should be addressed to Mr. Richard Boe at (504) 862–1505. Mr. Boe may also be reached at fax number (504) 862–2572 or by E-mail at richard.e.boe@mnv02.usace.army.mil. Mr. Boe's address is U.S. Army Corps of Engineers, PM–RS, P.O. Box 60267, New Orleans, Louisiana 70160–0267.

SUPPLEMENTARY INFORMATION:

1. *Authority.* The feasibility study is authorized by identical resolutions passed by the Senate and the House of Representatives in 1972 requesting the Board of Engineers for Rivers and Harbors ''to review the reports on the Gulf Intracoastal Waterway (Louisiana-Texas Section, including the Morgan City-Port Allen Route) * * * with a view to determining the advisability of modifying the existing project in any way * * *.''

2. *Proposed Action.* The proposed action, if determined economically feasible and environmentally acceptable, is the construction of a new lock to replace the existing Calcasieu Lock.

3. *Alternatives.* a. Three potential alignments for a replacement lock have been identified. The first alternative is to align a new lock immediately north of the existing lock. The second alternative consists of a new lock immediately south of the existing lock. The third alternative is a new lock in the center of an existing bypass channel about one-half mile south of the existing lock.

b. The first alignment alternative could probably be implemented without the replacement of the Highway 384 bridge across the GIWW. The other two alignment alternatives would require replacement of the Highway 384 bridge. For each of the alignment alternatives, at least two lock widths will be evaluated—90 and 110 feet. The length of any new lock would be 1,200 feet, to make it compatible with other locks on the GIWW. For any of the lock replacement alternatives, the existing lock may be decommissioned; may be kept operational on a standby basis; or may be used as a water control structure.

c. In addition to the lock replacement alternatives, a water control structure alternative will be evaluated. This alternative would consist of a water control structure to relieve the existing lock of its water control function. The existing Calcasieu Lock is used to pass water from the Mermentau River Basin into the tidal waters of the Calcasieu River and Lake after significant rainfall events in the Mermentau River Basin. During these times of open flow through the lock, navigation traffic is usually stopped and significant delays develop. A water control structure would reduce navigation delays during such occasions.

d. A bridge-only alternative will also be investigated. The existing Highway 384 bridge is a floating, pontoon bridge. Due to the close proximity of the bridge to the lock, vessels entering the lock from the east are considered to be in the lock approach zone as they approach the bridge. To assure the safety of personnel and property, no vessels may be in the lock or entering the lock from the west while a vessel is in the east approach zone. This situation causes delays that may be remedied by the replacement of the bridge with a mid-level or high-level bridge.

4. *Scoping.* a. Scoping is the process for determining the scope of alternatives and significant issues to be addressed in the EIS. For this study, a scoping letter combined with a notice of study initiation will be sent to all parties believed to have an interest in the study. The letter will request input on alternatives and issues to be evaluated and notify interested parties and the local and regional news media of a public scoping meeting that will be held in the local area.

b. Public Meeting. A public scoping meeting will be held in the Calcasieu Parish Police Jury Administrative Building located at 1025 Pithon Street, Lake Charles, Louisiana, at 7 pm, April 3, 2001. All interested parties are invited to comment at this time, and anyone interested in this study should request to be included in the study mailing list.

5. *Significant Issues.* The tentative list of resources and issues to be evaluated in the EIS includes tidal wetlands, aquatic resources, wildlife resources, essential fish habitat, water quality, air quality, threatened and endangered species, recreation resources, and cultural resources. Socioeconomic items to be evaluated in the EIS include navigation, flood protection, business and industrial activity, employment, land use, property values, public/community facilities and services, tax revenues, population, community and regional growth, vehicular transportation, housing, community cohesion, and noise.

6. *Environmental Consultation and Review.* The U.S. Fish and Wildlife Service (USFWS) will be assisting in the documentation of existing conditions and assessment of effects of project alternatives through Fish and Wildlife

Coordination Act consultation procedures. Consultation will also be accomplished with the USFWS and the National Marine Fisheries Service concerning threatened and endangered species. All other necessary environmental compliance will be obtained before a Record of Decision on the EIS is signed. Other compliance requirements include a Clean Water Act Section 404(b)(1) evaluation, a Louisiana Coastal Resources Program Consistency Determination, and a State Water Quality Certification. The draft EIS or a notice of its availability will be distributed to all interested agencies, organizations, and individuals.

7. *Estimated Date of Availability.* The draft EIS is expected to be available in mid-2003.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 01–7260 Filed 3–22–01; 8:45 am]

BILLING CODE 3710–84–U

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Feasibility Study of Navigation Improvements at Port Everglades, Broward County, FL

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers intends to prepare a Draft Environmental Impact Statement (DEIS) for the Feasibility Study of Navigation Improvements, Port Everglades Harbor, Broward County, Florida. The study is a cooperative effort between the U.S. Army Corps of Engineers and the Broward County Department of Port Everglades.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action can be directed to Rea Boothby at (904) 232–3453, Environmental Branch, Planning Division, P.O. Box 4970, Jacksonville, Florida 32232–0019.

SUPPLEMENTARY INFORMATION:

1. *Project Background and Authorization.* Port Everglades was originally constructed by local interests between 1925–1928, and was authorized for Federal maintenance by the River and Harbor Act of 1930 and subsequent Acts.

2. *Need or Purpose.* Improvements, including channel deepening and widening, are required to accommodate future commercial fleet and to more effectively transit the existing fleet.

3. *Proposed Solution and Forecast Completion Date.* Widen and deepen every major Federal channel and basin within the project and develop (widen and deepen) the Dania Cutoff Canal. Construction is forecast to begin around March 2003.

4. *Prior Environmental Assessments (EAs) EISs.* An EA was prepared in 1990 to accommodate dredging in the Southport access channel and Turning Notch.

5. *Alternatives.* Alternatives currently considered include no action, and 9 structural alternatives.

6. *Issues.* The EIS will consider impacts on seagrasses (including Johnson Seagrass, a threatened species), mangrove and hardbottom communities, other protected species, shore protection, health and safety, water quality, aesthetics and recreation, fish and wildlife resources, cultural resources, energy conservation, socio-economic resources, and other impacts identified through scoping, public involvement, and interagency coordination.

7. *Scoping Process.*

a. A scoping letter was sent to interested parties in June 1997. In addition, all parties are invited to participate in the scoping process by identifying any additional concerns on issues, studies needed, alternatives, procedures, and other matters related to the scoping process.

b. Public Meeting. A public scoping meeting will be held on March 28, 2001 at 7 P.M. in the Broward County Commission Chambers located at 115 South Andrews Avenue, Ft. Lauderdale, FL. An agency scoping meeting will be held on March 29, 2001 at Port Everglades.

8. *Public Involvement:* We invite the participation of affected Federal, state and local agencies, affected Indian tribes, and other interested private organizations and parties.

9. *Coordination.* The proposed action is being coordinated with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) under Section 7 of the Endangered Species Act, with the FWS under the Fish and Wildlife Coordination Act, with the NMFS concerning Essential Fish Habitat and the State Historic Preservation Officer.

10. *Other Environmental Review and Consultation.* The proposed action would involve evaluation for compliance with guidelines pursuant to Section 404 (b) of the Clean Water Act; application (to the State of Florida) for Water Quality Certification pursuant to Section 401 of the Clean Water Act; certification of state lands, easements, and rights of way; and determination of the Coastal Zone Management Act consistency.

11. *Agency Role.* The Corps and the non-Federal sponsor, Broward County Department of Port Everglades, will provide extensive information and assistance on the resources to be impacted, mitigation measures, and alternatives.

12. *DEIS Preparation.* It is estimated that the DEIS will be available to the public on or about September 2001.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 01–7257 Filed 3–22–01; 8:45 am]

BILLING CODE 3710–AJ–U

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May, 22, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or

Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 19, 2001.

John Tressler,

Leader Regulatory Information Management, Office of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: Revision.

Title: Free Application for Federal Student Aid (FAFSA).

Frequency: Annually.

Affected Public: Individuals or households.

Reporting and Recordkeeping Hour Burden:

Responses: 10,979,031; Burden Hours: 6,670,932.

Abstract: Collects identifying and financial information from students applying for Federal student aid for postsecondary education. Used to calculate Expected Family Contribution and determine eligibility for grants and loans, under Title IV of the Higher Education Act (HEA).

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe_Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–7229 Filed 3–22–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.299A]

Indian Education Discretionary Grant Programs—Demonstration Grants for Indian Children

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2001.

SUMMARY: *Purpose of Program:* The purpose of this program is to provide financial assistance to projects to develop, test, and demonstrate the effectiveness of services and programs to improve the educational opportunities and achievement of preschool, elementary, and secondary students, through activities such as:

(a) Innovative programs related to the educational needs of educationally deprived children;

(b) Educational services that are not available to such children in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in one or more of the core academic subjects of English, mathematics, science, foreign languages, art, history, and geography;

(c) Bilingual and bicultural programs and projects;

(d) Special health and nutrition services, and other related activities, that address the special health, social, and psychological problems of Indian children;

(e) Special compensatory and other programs and projects to assist and encourage Indian children to enter, remain in, or reenter school, and to increase the rate of secondary school graduation;

(f) Comprehensive guidance, counseling, and testing services;

(g) Early childhood and kindergarten programs, including family-based preschool programs that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

(h) Partnership projects between local educational agencies (LEAs) and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to aid these students in the transition from secondary school to postsecondary education;

(i) Partnership projects between schools and local businesses for school-to-work transition programs designed to provide Indian youth with the knowledge and skills they need to make an effective transition from school to a first job in a high-skill, high-wage career;

(j) Programs designed to encourage and assist Indian students to work toward, and gain entrance into, an institution of higher education; or

(k) Other services that meet the purpose of this program.

Eligible Applicants: Eligible applicants for this program include a State educational agency; LEA; Indian tribe; Indian organization; federally supported elementary and secondary school for Indian students; Indian institution, including an Indian institution of higher education; or a consortium of such institutions that meet the requirements of 34 CFR 75.127 through 75.129.

An application from a consortium of eligible entities must meet the requirements of 34 CFR 75.127 through 75.129. The written agreement must be submitted with the application. The agreement must be signed or the applicant must submit other evidence that all the members of the consortium agree to the contents of the agreement. Letters of support do not meet the consortium requirements. The Secretary rejects and does not consider an application that does not meet these requirements.

Deadline for Transmittal of Applications: May 25, 2001.

Deadline for Intergovernmental Review: July 27, 2001.

Applications Available: April 4, 2001.

Available Funds: $4,350,000.

Estimated Range of Awards: $150,000 to $400,000.

Estimated Average Size of Awards: $310,000.

Estimated Number of Awards: 14.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months. It is the expectation of the Department that all project periods will begin August 1, 2001 with program services beginning with the Fall 2001 academic term.

Budget Requirement: Projects funded under this competition must budget for a one and one-half day Project Directors' meeting in Washington, DC during each year of the budget.

Maximum Annual Award Amount: In no case does the Secretary make an award greater than $400,000 for a single budget period. The Secretary rejects and does not consider an application that proposes a budget exceeding these maximum amounts.

Page Limit: The application narrative is where an applicant addresses the selection criteria that are used by reviewers in evaluating the application. An applicant must limit the narrative to the equivalent of no more than 75 double-spaced pages, using the

following standards: (1) A ''page'' is 8 ½″ x 11″ (one side only) with one-inch margins (top, bottom and sides).

(2) All text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs, must be double-spaced (no more than three lines per vertical inch).

If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch.

The page limit does not apply to the cover sheet; the budget section (including the narrative budget justification); the assurances and certifications; or the one-page abstract, appendices, resumes, bibliography, and letters of support. However, all of the application narrative addressing the selection criteria must be included in the narrative section. If, in order to meet the page limit, you use print size, spacing, or margins smaller than the standards specified in this notice, your application will not be reviewed or considered for funding.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 97, 98, and 99.

Priorities

Invitational Priorities

While applicants may propose any project within the scope of section 9121 of Title IX of the Elementary and Secondary Act of 1965, as amended (the Act), the Secretary is particularly interested in applications that meet the following invitational priorities. However, an application that meets one or more of the invitational priorities does not receive competitive or absolute preference over other applications.

Invitational Priority 1—School readiness projects that provide age appropriate educational programs and language skills to three- and four-year old Indian students to prepare them for successful entry into school at the kindergarten school level.

Invitational Priority 2—Early childhood and kindergarten programs, including family-based preschool programs, that emphasize school readiness and parental skills.

Competitive Preference

(1) In making multiyear grants under this program, the Secretary will award five (5) additional points to applications that present a plan for combining two or more of the activities described in Section 9121(c) of the Act over a period of more than one year.

Authority: Section 9121 of the Act; 20 U.S.C. 7831(d)(1)(B).

(2) In making grants under this program, the Secretary will award five (5) additional points to applications submitted by Indian tribes, Indian organizations, and Indian institutions of higher education, including a consortium of any of these entities with other eligible entities. An application from a consortium of eligible entities that meet the requirements of 34 CFR 75.127 through 75.129 and includes an Indian tribe, Indian organization, or Indian institution of higher education shall be considered eligible to receive the five (5) additional priority points. The written consortium agreement must be submitted with the application. The agreement must be signed or the applicant must submit other evidence that all the members of the consortium agree to the contents of the agreement. Letters of support do *not* meet the consortium requirements. The Secretary rejects and does not consider an application that does not meet these requirements.

Authority: Section 9153 of the Act; 20 U.S.C. 7873.

Selection Criteria

The selection criteria are included in full in the application package for this competition. These selection criteria were established based on the regulations for evaluating discretionary grants found in 34 CFR 75.200 through 75.210.

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX (301) 470–1244. If you use a telecommunication device for the deaf (TDD), you may call (toll free): 1–877–576–7734. You may also contact ED Pubs via its Web site (http://www.ed.gov/edpubs.html) or its E-mail address (edpubs@inet.ed.gov). If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.299A.

Individuals with disabilities may obtain this document in an alternative format by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 205–8351. Individuals who use a telecommunications device for the deaf (TDD), may call the Federal Information Relay Services (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. However, the Department is not able to reproduce in an alternative format the standards forms included in the application package.

FOR FURTHER INFORMATION CONTACT: Cathie Martin, Office of Indian Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3W115, Washington, DC 20202–6335. Telephone: (202) 260–1683. Internet address: Cathie_Martin@ed.gov.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

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To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office toll free at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

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Program Authority: 20 U.S.C. 7831.

Dated: March 19, 2001.

Thomas M. Corwin,

Acting Deputy Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 01–7291 Filed 3–2–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

[CFDA 84.060A]

Indian Education Formula Grants to Local Educational Agencies

AGENCY: Office of Elementary and Secondary Education, Office of Indian Education.

ACTION: Notice inviting applications for new and continuation awards for fiscal year (FY) 2001, Indian Education Formula Grants to Local Educational Agencies.

SUMMARY:

Purpose: The Indian Education Formula Grant program provides grants to support local educational agencies in their efforts to reform elementary and secondary school programs that serve Indian students. The programs funded are to be based on challenging State content standards and State student performance standards used for all students, and be designed to assist Indian students to meet those standards.

Eligible Applicants: Local educational agencies (LEAs) and certain schools funded by the Bureau of Indian Affairs, and Indian tribes under certain conditions.

Deadline for Transmittal of Applications: May 21, 2001.

Applications not meeting the deadline will not be considered for funding in the initial allocation of awards. However, if funds become available after the initial allocation of funds, applications not meeting the deadline *may* be considered for funding if the Secretary determines under section 9117(d) of the Elementary and Secondary Education Act of 1965, as amended, that reallocation of those funds to late applicants would best assist in advancing the purposes of the program. However, the amount and date of an individual award, if any is made under this provision, *may* be less that the applicant would have received had the application been submitted on time.

Application Procedures

Note: Some of the procedures in these instructions for transmitting applications differ from those in the Education Department General Administrative Regulations (EDGAR) (34 CFR 75.102). Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these amendments make procedural changes only and do not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), the Secretary has determined that proposed rulemaking is not required.

Pilot Project for Electronic Submission of Applications

The U.S. Department of Education is expanding its pilot project of electronic submission of applications to include certain formula grant programs, as well as additional discretionary grant competitions. The Indian Education Formula Grants to Local Educational Agencies, CFDA 84.060A, is one of the programs included in the pilot project. If you are an applicant under the Indian Education Formula Grants to Educational Agencies, you may submit your application to us in either electronic or paper format.

Note: Due to the Department's process for making awards to the Bureau of Indian Affairs (BIA), e-APPLICATION is not able to accept applications from schools directly operated by the BIA at this time. The Department hopes that in the future the software will be enhanced to accommodate BIA-operated schools. For more information on application procedures for BIA-operated schools, please contact the Office of Indian Education at 202–260–3774.

The pilot project involves the use of the Electronic Grant Application System (e-APPLICATION, formerly e-GAPS) portion of the Grant Administration and Payment System (GAPS). We request your participation in this pilot project. We shall continue to evaluate its success and solicit suggestions for improvement.

If you participate in this e-APPLICATION pilot, please note the following:

- Your participation is voluntary.
- You will not receive any additional point value or penalty because you submit a grant application in electronic or paper format.
- You can submit all documents electronically, including the Application for Federal Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- Fax a signed copy of the Application for Federal Assistance (ED 424), a completed Indian Student Count—LEA Total form, and a signed Parent Committee Approval form after following these steps:

1. Print the ED 424, Indian Student Count—LEA Total form, and Parent Committee Approval form from the e-APPLICATION system.
2. Make sure that the institution's Authorizing Representative signs the ED 424 and Indian Student Count—LEA Total form.
3. Obtain the signature(s) of the Parent Committee on the Parent Committee Approval form. (Note: Schools funded by the Bureau of Indian Affairs and Tribal applicants are not required to complete the Parent Committee Approval form.)
4. Before faxing these forms, submit your electronic application via the e-APPLICATION system. You will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).
5. Place the PR/Award number in the upper right hand corner of ED 424.
6. Fax the ED 424, Indian Student Count—LEA Total form, and Parent Committee Approval form (if applicable) to Cathie Martin, Office of Indian Education at (202) 260–7779 within three working days of submitting your electronic application.

- We may request that you give us original signatures on all other forms at a later date.

You may access the electronic grant application for the Indian Education Formula Grants to Local Educational Agencies at: *http://e-grants.ed.gov.*

We have included additional information about the e-APPLICATION pilot project (see Parity Guidelines between Paper and Electronic Applications and Transmittal Instructions) in the application.

Note: Your e-APPLICATION must be submitted through the Internet using the software provided on the e-Grants Web Site (*http://e-grants.ed.gov*) by 4:30 p.m. (Washington, DC time) on the deadline date. All e-APPLICATION submissions that are attempted after that time on the closing date will not be accepted. Applicants that miss the e-APPLICATION submission time must print out their entire application (an original and two copies) and transmit hard copies of the application, following the transmittal procedures for mail or hand delivery, not later than midnight of the closing date. As no late e-APPLICATIONS are accepted, please note that the policy for possible funding of late applications (discussed elsewhere in this Notice) applies solely to hard copy applications.

Deadline for Intergovernmental Review: July 23, 2001.

Applications Available: April 4, 2001.

Available Funds: The appropriation for this program for fiscal year 2001 is $92,765,000, which should be sufficient to fund all eligible applicants.

Estimated Range of Awards: $3,000 to $1,900,000.

Estimated Average Size of Awards: $68,715.

Estimated Number of Awards: 1,275.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Budget Requirement: All projects with budgets of $125,000 or more must plan and budget for one person to attend a two day Project Directors' meeting to be held in Washington, DC in September or October 2001. Other projects not meeting the level of funding specified may attend at their discretion.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99.

For Applications or Information Contact: Cathie Martin, Office of Indian Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3W115, Washington, DC 20202–6335. Telephone: (202) 260–3774. Individuals who use a telecommunications device for the deaf (TDD) 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 of the person listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternative format, also, by contacting that person. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

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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 questions about using the PDF, call the U.S. Government Printing Office toll free at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

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Program Authority: 20 U.S.C. 7811.

Dated: March 19, 2001.

Thomas M. Corwin,

Acting Deputy Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 01–7290 Filed 3–22–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

[CFDA No.: 84.245]

Office of Vocational and Adult Education Tribally Controlled Postsecondary Vocational and Technical Institutions Program

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2001.

NOTICE OF APPLICANTS: This notice is a complete application package. Together with the statute authorizing the program and the Education Department General Administrative Regulations (EDGAR), the notice contains all of the information, application forms, and instructions needed to apply for a grant under this competition.

SUMMARY: The Secretary invites applications for new awards for FY 2001 under the Tribally Controlled Postsecondary Vocational and Technical Institutions Program (TCPVTIP or the program) authority of section 117 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (the Act or the 1998 amendments) (20 U.S.C. 2327) and announces deadline dates for the transmittal of applications for funding under the program.

PURPOSE OF PROGRAM: Section 117 of the Act authorizes the Secretary to make grants to tribally controlled postsecondary vocational and technical institutions to provide basic support for the education and training of Indian students in vocational and technical education programs.

ELIGIBLE APPLICANTS: A tribally controlled postsecondary vocational and technical institution is eligible to receive a grant under this program if it is an institution of higher education (as defined section 101 of the Higher Education Act of 1965 and in the ''DEFINITIONS'' section of this notice) that—

(a) Is formally controlled, or has been formally sanctioned or chartered, by the governing body of an Indian tribe or tribes;

(b) Offers a technical degree or certificate granting program;

(c) Is governed by a board of directors or trustees, a majority of whom are Indians;

(d) Demonstrates adherence to stated goals, a philosophy, or a plan of operation, that fosters individual Indian economic and self-sufficiency opportunity, including programs that are appropriate to stated tribal goals of developing individual entrepreneurships and self-sustaining economic infrastructures on reservations;

(e) Has been in operation for at least 3 years;

(f) Holds accreditation with or is a candidate for accreditation by a nationally recognized accrediting authority for postsecondary vocational and technical education; and

(g) Enrolls the full-time equivalent of not less than 100 students, of whom a majority are Indians.

Deadline for Transmittal of Applications

Available Funds: $5,600,000 for the first 12 months of the 36-month project period. Funding for the second and third 12-month periods of the project is subject to the availability of funds and to a grantee meeting the requirements of 34 CFR 75.253.

Estimated Range of Awards: $500,000 to $1,000,000 for the first 12 months.

Estimated Average Size of Awards: $700,000.

Estimated Number of Awards: 8.

Note: The Department is not bound by any estimates in this notice.

Project Period: 3 years.

Applicable Statute and Regulations: (a) The relevant provisions of the Carl D. Perkins Vocational and Technical Education Act of 1998, 20 U.S.C. 2301 *et seq.*, in particular sections 117(a)-(f) and (h) of the Act, 20 U.S.C. 2327(a)-(f) and (h).

(b) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants and Agreements to Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(5) 34 CFR part 82 (New Restrictions on Lobbying).

(6) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(7) 34 CFR part 86 (Drug and Alcohol Abuse Prevention).

(8) 34 CFR part 97 (Protection of Human Subjects).

(9) 34 CFR part 98 (Student Rights In Research, Experimental Programs and Testing).

(10) 34 CFR part 99 (Family Educational Rights and Privacy).

SUPPLEMENTARY INFORMATION:

General

This notice implements section 117 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (Pub. L. 105–332), enacted October 31, 1998. Section 117 authorizes the Secretary to award grants to tribally controlled postsecondary vocational and technical institutions to operate vocational and technical education programs.

The 1998 amendments to the Perkins Act changed many of the requirements applicable to the TCPVTIP. Former grant recipients under the Tribally Controlled Postsecondary Vocational Institutions Program will find that the changes brought about by the 1998 amendments are likely to have a noticeable impact on how tribal postsecondary institutions must now operate projects.

The following summary is intended to help potential applicants to become

familiar with important changes to the TCPVTIP and with the way in which these changes impact on the administration of the TCPVTIP.

Changes to the Program

(a) *Eligibility.* Under the definition of ''tribally controlled postsecondary vocational and technical institution'' in section 3(28) of the Act, institutions of higher education meeting the eligibility requirements in section 3(28)(A)–(G) of the Act are eligible to apply for and receive awards under the TCPVTIP. Prior to the 1998 amendments, tribally controlled community colleges generally were not considered eligible under this program. See 57 FR 36773–74 (August 14, 1992) (Section 410.5, definition of ''Tribally controlled postsecondary vocational institution''.) Under this notice, funding opportunities are provided for additional tribal institutions to strengthen their vocational and technical education programs.

(b) *Allowable expenses.* (1) Unlike part H of the Carl D. Perkins Vocational and Applied Technology Education Act of 1990 (20 U.S.C. 2301 *et seq.*), section 117 of the Act does not provide for grants for the operation, maintenance, expansion, or improvement of tribally controlled postsecondary vocational institutions. Instead, under section 117 of the Act, grants are to be used to fund projects that provide basic support for vocational and technical education programs for Indian students. (20 U.S.C. 2327(a), (b), and (e)). Costs that are not specifically authorized by section 117 of the Act or clearly associated with vocational and technical programs for Indians, such as the administrative expenses of the entire institution, will not be considered by the Secretary as allowable direct costs under this program.

(2) While section 117(e)(1)(B) of the Act continues to authorize the use of grant funds for capital expenditures, including operations and maintenance, and minor improvements and repair, and physical plant maintenance costs, under the Act these costs are allowable only when incurred for the conduct of programs funded under section 117 of the Act. (20 U.S.C. 2327(e)(1)(B)).

(3) Section 117(e)(1)(A) of the Act specifically authorizes student stipends, whereas the previous statute did not. Institutions may provide a stipend to a student to enable the student to participate in a vocational and technical education program under section 117 of the Act. (20 U.S.C. 2327(e)(1)(A)).

(c) *Supplanting.* In accordance with section 311(a) of the Act, funds awarded under this program must supplement, and cannot supplant, non-Federal funds used to carry out vocational and technical education activities and tech-prep activities. (20 U.S.C. 2391). Under the Department's administrative regulations, because of this new statutory prohibition against supplanting in the TCPVTIP, grantees will also be required to apply their negotiated restricted indirect cost rates to this program. (*See* 34 CFR 75.563). There was no supplanting provision applicable to this program prior to the 1998 amendments.

Definitions

Indian means a person who is a member of an Indian tribe.

Indian student count means a number equal to the total number of Indian students enrolled in a tribally controlled postsecondary vocational and technical institution determined by adding the figures for paragraphs (a) through (d) of this definition:

(a) *Full-time students.* The number of Indian students registered at the institution on October 1 of each year, who carried a full-time academic workload, as determined by the institution. This figure does not include summer school registrants, continuing education registrants, or part-time students.

(b) *Part-time students.* The full time equivalent of the number of Indian students registered at the institution on October 1 of each year who carried a part-time academic workload, as determined by the institution. This figure does not include summer school or continuing education registrants.

(c) *Summer students.* The full-time equivalent of the total number of credit or clock hours earned toward a certificate or degree at the institution by Indian students during the summer term. Credit or clock hours toward a certificate or degree earned in classes during a summer term are counted only if the tribally controlled postsecondary vocational and technical institution has established criteria for the admission of summer term students on the basis of the students' ability to benefit from the education or training offered. The institution shall be presumed to have established those criteria if the admission procedures for those studies include counseling or testing that measures the students' aptitude to successfully complete the courses in which the students have enrolled.

(d) *Continuing education students.* The full-time equivalent of the total number of credit or clock hours earned by Indian students enrolled in the institution's continuing education program. (20 U.S.C. 2327(h)(2)).

Under section 117(h)(2)(C) of the Act, the Indian student count does not include either credit earned by students for purposes of obtaining a high school degree or its equivalent, or the number of students registered in programs that provide a high school degree or its equivalent. (20 U.S.C. 2327(h)(2)(C)).

If grantees use inconsistent methods for converting credit and clock hours to a full-time equivalent, in order to arrive at a consistent calculation of the full-time equivalent for students in summer and continuing education programs using the semester, trimester, or quarter system, the Secretary will divide the number of credit hours by 12 and the number of clock hours by 24.

Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. (20 U.S.C. 2327(h)(1)); 25 U.S.C. 1801(a)(2)).

Institution of higher education, as defined in section 3(28) of the Act and in section 101 of the Higher Education Act of 1965, means—

(a) An educational institution in any State that—

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(2) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;

(3) Is a public or other nonprofit institution; and

(4) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary of the Interior for the granting of preaccreditation status, and the Secretary of the Interior has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(b) The term also includes—

(1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provisions of

paragraphs (a)(1), (3), and (4) of this definition.

(2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in paragraph (a)(1) of this definition, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(Authority: 20 U.S.C. 1001 and 2302(28))

Stipend means a subsistence allowance for a student that is necessary for the student to participate in a project funded under this program.

Tribally Controlled Community College or University means an institution of higher education which is formally controlled, or has been formally sanctioned, or chartered, by the governing body of an Indian tribe or tribes, except that no more than one such institution shall be recognized with respect to any such tribe.

(Authority: 20 U.S.C. 2302(27) and 25 U.S.C. 1801(a)(4))

Tribally Controlled Postsecondary Vocational and Technical Institution means an institution of higher education (as defined in the ''DEFINITIONS'' section of this notice) that—

(a) Is formally controlled, or has been formally sanctioned or chartered, by the governing body of an Indian tribe or tribes;

(b) Offers a technical degree or certificate granting program;

(c) Is governed by a board of directors or trustees, a majority of whom is Indians;

(d) Demonstrates adherence to stated goals, a philosophy, or a plan of operation that fosters individual Indian economic and self-sufficiency opportunity, including programs that are appropriate to stated tribal goals of developing individual entrepreneurships and self-sustaining economic infrastructures on reservations;

(e) Has been in operation for at least 3 years;

(f) Holds accreditation with or is a candidate for accreditation by a nationally recognized accrediting authority for postsecondary vocational and technical education; and

(g) Enrolls the full-time equivalent of not less than 100 students, of whom a majority is Indians.

(Authority: 20 U.S.C. 2302(28))

Vocational and technical education means organized educational activities that—

(1) Offer a sequence of courses that provides an individual with the academic and technical knowledge and skills the individual needs to prepare for further education and careers (other than careers requiring a baccalaureate, master's, or doctoral degree) in current or emerging employment sectors; and

(2) Include competency-based applied learning that contributes to an individual's academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupational-specific skills.

For the purposes of this definition, the term ''sequence of courses'' means a series of courses in which vocational and academic education are integrated, and which directly relates to, and leads to, both academic and occupational competencies.

(Authority: 20 U.S.C. 2301(2) and 2302 (29))

Note: Applicants are encouraged to review all applicable definitions in section 3 of the Act.

Eligible Programs, Services, and Activities

Under the TCPVTIP, projects may use grant funds to pay for the following—

(a) *Authorized expenses.* The Secretary awards grants to carry out projects that provide vocational and technical education programs to Indian students. Grants may be used to pay for expenses associated with—

(1) The maintenance and operation of the vocational and technical education program funded under section 117 of the Act, including development costs, costs of basic and special instruction (including special programs for individuals with disabilities and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, daycare and family support programs for students and their families (including contributions to the costs of education for dependents) and student stipends;

(2) Capital expenditures, including operations and maintenance, and minor improvements and repair, and physical plant maintenance costs, for the conduct of vocational and technical education programs funded under section 117 of the Act; and

(3) Cost associated with the repair, upkeep, replacement, and upgrading of instructional equipment used in vocational and technical education programs funded under the grant. (20 U.S.C. 2327(e)(1)).

(b) *Student stipends.* (1) A tribally controlled postsecondary vocational and technical institution may provide a stipend to a student to enable the student to participate in a vocational and technical education program under section 117 of the Act.

(2) In order to receive a stipend, the student must—

(i) Be enrolled in a vocational and technical education project funded under this program as at least a half-time student;

(ii) Be in regular attendance in a TCPVTIP project and meet the tribally controlled postsecondary institution's attendance requirement;

(iii) Maintain satisfactory progress in his or her course of study according to the tribally controlled postsecondary institution's published standards of satisfactory progress; and

(iv) Have an acute economic need that—

(A) Prevents participation in a project funded under this program; and

(B) Cannot be met through a work-study program.

(3) Acute economic need means an income, of the family of a dependent student or of an independent student, that is at or below the national poverty level according to the latest available data from the Department of Commerce or the Department of Health and Human Services Poverty Guidelines.

(4) The amount of a stipend may be the greater of either the minimum hourly wage prescribed by State or local law, or the minimum hourly wage established under the Fair Labor Standards Act.

(5) An institution may only award a stipend if the stipend combined with other resources the student receives does not exceed the student's financial need. The student's financial need is the difference between the student's cost of attendance and the financial aid or other resources that will be used to defray the costs of the student participating in the TCPVTIP.

(6) To calculate the amount of a student's stipend, a grantee would multiply the number of hours a student actually attends vocational and technical education instruction by the amount of the minimum hourly wage that is prescribed by State or local law, or by the minimum hourly wage that is established under the Fair Labor Standards Act.

Example: If a grantee uses the Fair Labor Standards Act minimum hourly wage of $6.15 and a student attends classes for 18 hours a week, the student's stipend would be $110.70 for the week during which the student attends classes ($6.15 × 18 = 110.70).

Attendance Costs Under This Program May Not Be Considered as Income

(a) The portion of any student financial assistance received under the Act that is made available for

attendance costs described in paragraph (b) of this section of the notice may not be considered as income or resources in determining eligibility for assistance under any other program funded in whole or in part with Federal funds.

(b) For purposes of this section, attendance costs are—

(1) Tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, including costs for rental or purchases of any equipment, materials, or supplies required of all students in the same course of study; and

(2) An allowance for books, supplies, transportation, dependent care, and miscellaneous personal expenses for a student attending an institution on at least a half-time basis, as determined by the institution.

(Authority: 20 U.S.C. 2415)

Eligibility for Assistance Under This Program May Not Preclude Assistance Under Other Programs

Except as specifically provided for in the Act, eligibility for assistance under this program shall not preclude any tribally controlled postsecondary vocational and technical institution from receiving Federal financial assistance under any program authorized under the Higher Education Act of 1965, or any other applicable program for the benefit of institutions of higher education or vocational and technical education.

(Authority: 20 U.S.C. 2327(f)(1))

Content of the Application

To receive a grant under the TCPVTIP, an applicant must include the following information in the application:

(a) Documentation showing that the institution is eligible according to each of the requirements in the ''ELIGIBLE APPLICANTS'' section of this notice, including meeting the definition of the term ''institution of higher education'' (*e.g.*, proof of the accreditation of the institution, resolution from an Indian tribe).

(b) For each of the past three academic years—

(i) A list of the vocational and technical education certificate and degree programs that were offered by the institution (*e.g.*, Nursing, Automotive Technology); and

(ii) For the vocational and technical education program(s), the total number of students that enrolled, dropped out, graduated, and were placed in additional training or education, military service, or employment after graduation.

(c) The institution's Indian student counts, as defined in this notice, for academic years 1998–1999 and 1999–2000.

(d) The courses of study to be supported under the TCPVTIP project.

(e) The number of students to be served in the proposed project in each course of study.

(f) Goals and objectives for the proposed project, including how the goals and objectives further the tribal economic develop plan.

(g) Long-range and short-range needs to be addressed by the project, including the institution's plans for the placement of students (*e.g.*, placement into additional training or education, military service, or employment).

(h) A detailed budget identifying the costs to be paid with a grant under this program and resources available from other Federal, State, and local sources, including any student financial aid, that will be used to achieve the goals and objectives of the proposed project.

(i) Strategies and resources for objectively evaluating the institution's progress towards, and success in, achieving the goals and objectives of the project. (20 U.S.C. 2302(28); 2327(a), (c), (d), (e), (g)(1), and (h)(2))

Competitive Priorities

Under the authority of 34 CFR 75.105(c)(2)(ii), the Secretary gives preference to applications that meet the following competitive priorities. The Secretary awards up to five points to applicants that meet the competitive priority in a particularly effective way. These priority points are in addition to any points an applicant earns under the selection criteria for the program.

Competitive Priority 1—High Interest/High Demand Areas (Up to 5 Points)

Projects that propose to introduce, expand, or refine ''high interest/high demand'' vocational and technical education programs in the applicant institution. The need for ''high interest/high demand'' programs should be based on the institution reviewing such evidence as changing trends in an occupation, documented labor market needs, or evidence of emerging jobs in the career or occupational area (*e.g.*, occupational forecast data, survey data from interested persons and business owners in the local area).

Competitive Priority 2—Professional Development (Up to 5 Points)

Projects that propose on-going professional development activities (*e.g.*, internships, teacher externships, business/education collboratives, use of technology to facilitate training activities) intended to enhance the teaching or occupational skills and competencies of the applicant's staff who serve vocational and technical education students. The training should be designed to help the staff to better meet the vocational and technical educational goals and objectives of the proposed project. To the extent possible, professional development activities should be related to training students for emerging occupations relevant to the needs of the community.

Competitive Priority 3—Student Recruitment, Retention, and Course Completion. (Up to 5 Points)

Projects that propose, as a part of their TCPVTIP projects' vocational and technical education program, to use effective techniques for increasing student recruitment, enrollment, retention, and completion. The effectiveness of the techniques must be supported by empirical data.

Selection Criteria

The Secretary uses the following criteria to evaluate an application. The maximum score for each criterion is indicated in parentheses.

(a) *Need for project.* (15 points) (1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers the following factors:

(i) The magnitude of the need for the specific services to be provided or specific activities to be carried out by the proposed project, as evidenced by data such as local labor market demand, occupational trends, advice from an advisory board for a course of study, surveys, recommendations from accrediting agencies, or tribal economic development plans.

(ii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(b) *Significance.* (10 points) (1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The likelihood that the proposed project will result in system change or improvement in the applicant's educational program.

(ii) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the vocational and

technical education needs of the target population.

(iii) The extent to which the proposed project involves the development or demonstration of promising new strategies that build on, or are alternatives to, existing strategies for providing vocational and technical education to Native Americans.

(iv) The extent to which the results of the proposed project are to be disseminated in ways that will enable vocational and technical education practitioners to use the information or strategies developed by the proposed project.

(c) *Quality of the project design.* (25 points) (1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which goals, objectives, and outcomes are clearly specified and measurable (e.g., student vocational and technical education activities; expected enrollments, completions, and student placements in jobs, military specialties, and continuing education/training opportunities in each vocational training area; the number of teachers, counselors, and administrators to be trained; identification of requirements for each course of study; description of performance outcomes; and description of the planned dissemination activities).

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(iii) The extent to which the proposed activities constitute a coherent, sustained program of training in the field and the courses of study are accredited.

(iv) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population.

(d) *Quality of project services.* (25 points) (1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services.

(ii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice.

(iii) The extent to which training or professional development services to be provided by the proposed project for the staff of its vocational and technical education program are of sufficient quality, intensity, and duration to lead to improvements in practices among the applicant's staff.

(iv) The likelihood that the services to be provided by the proposed project will lead to improvements in the achievement of students as measured against rigorous program-defined academic standards.

(v) The likelihood that services to be provided by the proposed project will lead to improvements in the skills necessary to gain employment or build capacity for independent living.

(e) *Quality of project personnel.* (15 points) (1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of the project director.

(ii) The qualifications, including relevant training and experience, of key project personnel, especially the extent to which the proposed project will use instructors who are qualified to teach in the fields in which they will provide instruction.

(iii) The qualifications, including relevant training and experience, of project consultants or subcontractors.

(f) *Adequacy of resources.* (5 points) (1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The adequacy of support, including facilities, equipment, supplies and other resources, from the applicant institution.

(ii) The relevance and demonstrated commitment (e.g., articulation agreements, memoranda of understanding, letters of support, commitments to employ project participants) of the applicant, tribal entities to be served by the project, and local employers.

(iii) The extent to which the costs are reasonable in relation to the objectives, design, services, and potential significance of the proposed project.

(iv) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits.

(v) The potential for continued support of the key project activities after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to provide such support.

(g) *Quality of the management plan.* (10 points) (1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities for carrying out each activity under the project, timelines, and the milestones and performance standards for accomplishing project tasks.

(ii) The extent to which the time commitments of the project director and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(iii) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

(iv) The adequacy of mechanisms for ensuring high-quality outcomes and services from the proposed project.

(h) *Quality of project evaluation.* (20 points)

(1) The Secretary considers the quality of the evaluation to be conducted by an independent evaluator of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation proposed by the grantee are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation include the use of

objective performance measures that are clearly related to the intended outcomes of the project and the Government Performance and Results Act (GPRA) objective and performance indicator discussed elsewhere in this notice, and will produce quantitative and qualitative data to the extent possible.

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(iv) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings.

(Approved by the Office of Management and Budget under Control No. 1830–0542)

Program Requirements

To ensure the high quality of TCPVTIP projects and the achievement of the goals and purposes of section 117(a)–(f) and (h) of the Act, the Secretary establishes the following program requirements:

(a) *Evaluation.* (1) Each grantee shall budget for and conduct an ongoing evaluation of its effectiveness. The evaluation must be conducted by an independent evaluator.

(2) The evaluation must—

(i) Be appropriate for the project and be both formative and summative in nature;

(ii) Include performance measures that are clearly related to the intended outcomes of the project and the Government Performance and Results Act (GPRA) objective and performance indicator for the TCPVTIP, which is discussed elsewhere in this notice; and

(iii) Measure the effectiveness of the project, including a comparison between the intended and observed results, and a demonstration of a clear link between the observed results and the specific treatment given to project participants.

(3) A proposed project evaluation design must be submitted to the Department for review and approval prior to the end of the first six months of the project period.

(4) As required in paragraph (b)(2) of the ''PROGRAM REQUIREMENTS'' section of this notice, the interim and final results of this evaluation must be submitted to the Secretary along with the annual performance report. (34 CFR 75.590)

(b) *Reporting.* Each grantee shall submit to the Secretary the following reports—

(1) An annual performance report, unless the Secretary requires more frequent reporting, summarizing significant project accomplishments and, if applicable, barriers impeding progress and steps taken to alleviate those barriers. A performance report must include, for the period covered by the report—

(i) A comparison of actual accomplishments in relation to the objectives established for the period and a description of any problems, delays, or adverse conditions that materially impair the ability of the project to accomplish its purposes, the reasons for such problems, delays or adverse conditions, and an explanation of any action or actions taken or contemplated to resolve the difficulties. **Note:** Grantees must request prior approval for a change in the scope or the objectives of the project or program (even if there is no associated budget revision requiring prior written approval). (34 CFR 74.25(c));

(ii) A description of any favorable developments that will permit the project to accomplish its purposes sooner, at less cost, or more effectively than projected;

(iii) The institution's Indian student counts, as defined in this notice; and

(iv) A report covering—

(A) The extent to which the project achieved its goals with respect to enrollment, completion, and placement (into additional training or education, military service, or employment) of participants for the most recently completed training cycle(s), by gender and by courses of study for which instruction was provided;

(B) The number and kind of academic, vocational and technical, and work credentials and competencies acquired and demonstrated by individuals participating in the project, especially the number of students earning certificates and degrees. Grantees should also report students' participation in programs providing training at the associate degree level that is articulated with an advanced degree option; and

(C) The number of referrals the project made to social services and related services to aid participants to benefit from the project, to prepare them for employment, or to assist them in obtaining employment.

(2) An annual evaluation report that is submitted along with the annual performance report.

(3) An annual accurate and detailed accounting of the institution's operating and maintenance expenses and such other information concerning costs as the Secretary may reasonably require. (20 U.S.C. 2327(e)(2)).

(Approved by the Office of Management and Budget under Control Number 1830–0542)

Determination of Number and Funding Level of Grants

(a) The number of grants made and the amount of each grant is determined under the provisions of 34 CFR 75.230–75.234 and section 117(e) of the Act. The formula in section 117(c) of the Act does not apply to the first year of funding under this competition.

(b) For fiscal years subsequent to the first year of funding under this competition—

(i) The Secretary will determine the number of grants and the amount of each grant based on the availability of appropriations, 34 CFR 75.253, and section 117(e) of the Act; and

(ii) If appropriations for each such subsequent fiscal year are not sufficient to fund the total amount that approved grantees are eligible to receive, the Secretary will allocate grant amounts in accordance with section 117(c) of the Act.

(Authority: 20 U.S.C. 2327(c))

Government Performance and Results Act

The Government Performance and Results Act of 1993 (GPRA) places management expectations and requirements on Federal departments and agencies by creating a framework for more effective planning, budgeting, program evaluation, and fiscal accountability for Federal programs. The intent of GPRA is to improve public confidence by holding departments and agencies accountable for achieving program results. Under GPRA, departments and agencies must clearly describe the goals and objectives of their programs, identify resources and actions needed to accomplish these goals and objectives, develop a means of measuring progress made, and regularly report on their achievement. One important source of program information on successes and ''lessons learned'' is the project evaluation conducted under individual grants. In accordance with GPRA requirements, TCPVTIP grantees are asked to include the following objective and performance indicator when evaluating the success of their projects:

The extent to which vocational students served in tribally controlled postsecondary vocational and technical institutions make successful transitions to work or continuing education. The Department's performance indicator for this objective is that by fall 2001, 27% of vocational students will receive an AA degree or certificate.

(Approved by the Office of Management and Budget under Control Number 1830–0542)

Waiver of Rulemaking

While it is generally the practice of the Secretary to offer interested parties the opportunity to comment on a regulation before it is implemented, section 437(d)(1) of the General Education Provisions Act exempts from formal rulemaking requirements, regulations governing the first grant competition under a new or substantially revised program authority (20 U.S.C. 1232(d)(1)). The program authority for what was formerly known as the Tribally Controlled Postsecondary Vocational Institutions Program was substantially revised on October 31, 1998 by section 117 of Pub. L. 105–332. In order to make awards on a timely basis, the Secretary has decided to publish this notice in final form under the authority of section 437(d)(1).

Instructions for Transmittal of Applications

Applicants are required to submit one original signed application and two copies of the application. All forms and assurances must have ink signatures. Please mark applications as ''original'' or ''copy''. To aid with the review of applications, the Department encourages applicants to submit four additional paper copies of the application. The Department will not penalize applicants who do not provide additional copies.

(a) If an applicant wants to apply for a grant under this competition, the applicant must either—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.245), Washington, DC 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.245), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (ED Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms

All forms and instructions are included in Appendix A to this notice. Questions and answers pertaining to this program are included, as Appendix B, to assist potential applicants.

To apply for an award under this program competition, your application must be organized in the following order, include the following five parts, and contain the information in the ''CONTENT OF THE APPLICATION'' section of this notice. The parts and additional materials are as follows:

(1) Application for Federal Education Assistance (ED Form 424 (Rev. 11–12–99)) and instructions.

(2) Budget Information—Non-Construction Programs (ED Form No. 524) and instructions.

(3) Budget Narrative.

(4) Program Narrative.

(5) Additional Assurances and Certifications:

a. Assurances—Non-Construction Programs (Standard Form 424B).

b. Certification regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and instructions.

c. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form 80–0014, 9/90) and instructions.

Note: ED Form 80–0014 is intended for the use of grantees and should not be transmitted to the Department.)

d. Disclosure of Lobbying Activities (Standard Form LLL), if applicable, and instructions.

e. Notice to All Applicants.

No grant or cooperative agreement may be awarded unless a completed application form has been received.

FOR FURTHER INFORMATION CONTACT: Paul Geib, Special Programs Branch, Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 4528, Mary E. Switzer Building), Washington, DC 20202–7242. Telephone (202) 205–9962. Internet address: paul_geib@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed at the beginning of this paragraph. Please note, however, that the Department is not able to reproduce in an alternate format the standard forms included in the notice.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the PDF you must have the Adobe Acrobat Reader which is available free at either of the preceding sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Program Authority: 20 U.S.C. 2327(a)–(f) and (h).

Dated: March 20, 2001.

Robert Muller,

Deputy Assistant Secretary, Office of Vocational and Adult Education.

Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 1830–0542. Expiration date: September 30, 2003. The time

required to complete this information collection is estimated to average 208 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection.

If you have any comments concerning the accuracy of the time estimates or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202–4651.

If you have comments or concerns regarding the status of your individual submission of this information collection, write directly to: Paul Geib, Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW, Room 4512, Mary E. Switzer Building, Washington, DC 20202–7242.

Appendix A

Part II—Budget Information

Instructions for Part II—Budget Information

Sections A and B—Budget Summary by Categories

1. *Personnel:* Show salaries to be paid to personnel for each budget year.
2. *Fringe Benefits:* Indicate the rate and amount of fringe benefits for each budget year.
3. *Travel:* Indicate the amount requested both local and out of State travel of Program Staff for each budget year. Include funds for the 1st and 2nd year for two people to attend the Program Director's Workshop.
4. *Equipment:* Indicate the cost of non-expendable personal property that has a cost of $5,000 or more per unit for each budget year.
5. *Supplies:* Include the cost of consumable supplies and materials to be used during the project period for each budget year.
6. *Contractual:* Show the amount to be used for: (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) subcontracts for each budget year.
7. *Construction:* Not applicable.
8. *Other:* Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants and capital expenditures for each budget year.
9. *Total Direct Cost:* Show the total for Lines 1 through 8 for each budget year.
10. *Indirect Costs:* Indicate the rate and amount of indirect costs for each budget year.
11. *Training/Stipend Cost:* Indicate cost per student and number of hours of instruction. The amount of a stipend may be the greater of the minimum hourly wage prescribed by State and local law, or the minimum hourly wage set under the Fair Labor Standards Act.
12. *Total Costs:* Show total for lines 9 through 11 for each budget year.

Instructions for Part III—Budget Narrative

The budget narrative should explain, justify, and, if needed, clarify your budget summary. For each line item (personnel, fringe benefits, travel, etc.) in your budget, explain why it is there and how you computed the costs.

Please limit this section to no more than five pages. Be sure that each page of your application is numbered consecutively.

Appendix B

Potential applicants frequently direct questions to officials of the Department regarding application notices and programmatic and administrative regulations governing various direct grant programs. To assist potential applicants, the Department has assembled the following most commonly asked questions followed by the Department's answers.

Q. Can we get an extension of the deadline?

A. No. A closing date may be changed only under extraordinary circumstances. Any change must be announced in the **Federal Register** and must apply to all applications. Waivers for individual applications cannot be granted regardless of the circumstances.

Q. How many copies of the application should I submit and must they be bound?

A. Applicants are required to submit one original and two copies of the grant application. To aid with the review of applications, the Department encourages applicants to submit four additional copies of the grant application. The Department will not penalize applicants who do not provide additional copies. The binding of applications is optional.

Q. We just missed the deadline for the XXX competition. May we submit under another competition?

A. Yes, however, the likelihood of success is not good. A properly prepared application must meet the specifications of the competition to which it is submitted.

Q. I'm not sure which competition is most appropriate for my project. What should I do?

A. We are happy to discuss any such questions with you and provide clarification on the unique elements of the various competitions.

Q. Will you help us prepare our application?

A. We are happy to provide general program information. Clearly, it would not be appropriate for staff to participate in the actual writing of an application, but we can respond to specific questions about application requirements, evaluation criteria, and the priorities. Applicants should understand, however, that prior contact with the Department is not required, nor will it in any way influence the success of an application.

Q. When will I find out if I'm going to be funded?

A. You can expect to receive notification within 3 to 4 months depending on the number of the applications received and the number of Department competitions with similar closing dates.

Q. Once my application has been reviewed by the review panel, can you tell me the outcome?

A. No. Every year we are called by a number of applicants who have a legitimate reason for needing to know the outcome of the panel review prior to official notification. Some applicants need to make job decisions, some need to notify a local school district, etc. Regardless of the reason, because final funding decisions have not been made at that point, we cannot share information about the results of the panel review with anyone.

Q. Will my application be returned if I am not funded?

A. No. We no longer return unsuccessful applications. Thus, applicants should retain at least one copy of the application.

Q. Can I obtain copies of reviewers' comments?

A. Upon written request, reviewers' comments will be mailed to unsuccessful applicants.

Q. If my application receives high scores from the reviewers, does that mean that I will receive funding?

A. Not necessarily. It is often the case that the number of applications scored highly by the reviewers exceeds the dollars available for funding projects under a particular competition. The order of selection, which is based on the scores of all the applications reviewed and other relevant factors, determines the applications that can be funded.

Q. What happens during pre-award clarification discussions?

A. During pre-award clarification discussions, technical and budget issues may be raised. These are issues that have been identified during the panel and staff reviews that require clarification. Sometimes issues are stated as ''conditions.'' These are issues that have been identified as so critical that the award cannot be made unless those conditions are met. Questions may also be raised about the proposed budget. Generally, these issues are raised because an application contains inadequate justification or explanation of a particular budget item, or because the budget item seems unimportant to the successful completion of the project. If you are asked to make changes that you feel could seriously affect the project's success, you may provide reasons for not making the changes or provide alternative suggestions. Similarly, if proposed budget reductions will, in your opinion, seriously affect the project activities, you may explain why and provide additional justification for the proposed expenses. An award cannot be made until all issues under discussion have been resolved.

Q. Where can copies of the Federal Register, Education Department General Administrative Regulations (EDGAR), and Federal statutes be obtained?

A. Copies of these materials can usually be found at your local library. If not, they can be obtained from the Government Printing Office by writing to Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Telephone: (202) 708–8228. When requesting copies of regulations or statutes, it is helpful to use the specific name of the public law, number of a statute, or part number of a regulation. The material referenced in this notice should be referred to as follows:

(1) The Carl D. Perkins Vocational and Technical Education Act of 1998, Public Law 105–332, 20 U.S.C. 2301.

(2) Education Department General Administrative Regulations, 34 CFR parts 74, 75, 77, 81, 82, 85, 86, 97, 98, and 99.

Copies of these materials may also be found on the World Wide Web at *http://www.access.gpo.gov/nara.*

BILLING CODE 4000–01–P

Application for Federal Education Assistance

Note: If available, please provide application package on diskette and specify the file format.

U.S. Department of Education

Form Approved
OMB No. 1875-0106
Exp. 06/30/2001

Applicant Information

1. Name and Address
Legal Name:
Address:
City State County ZIP Code + 4

Organizational Unit

2. Applicant's D-U-N-S Number
3. Applicant's T-I-N
4. Catalog of Federal Domestic Assistance #: 8 4
Title:
5. Project Director:
Address:
City State ZIP Code + 4
Tel. #: ( ) Fax #: ( )
E-Mail Address:

6. Is the applicant delinquent on any Federal debt? Yes No
(If "Yes," attach an explanation.)

7. Type of Applicant *(Enter appropriate letter in the box.)*

A State	H Independent School District
B County	I Public College or University
C Municipal	J Private, Non-Profit College or University
D Township	K Indian Tribe
E Interstate	L Individual
F Intermunicipal	M Private, Profit-Making Organization
G Special District	N Other *(Specify)*:

8. Novice Applicant Yes No

Application Information

9. Type of Submission:

—PreApplication	*—Application*
Construction	Construction
Non-Construction	Non-Construction

10. Is application subject to review by Executive Order 12372 process?
Yes *(Date made available to the Executive Order 12372 process for review):* ___/___/___
No *(If "No," check appropriate box below.)*
Program is not covered by E.O. 12372.
Program has not been selected by State for review.

11. Proposed Project Dates: Start Date: ___/___/___ End Date: ___/___/___

12. Are any research activities involving human subjects planned at any time during the proposed project period? Yes No
a. If "Yes," Exemption(s) #:
OR
b. Assurance of Compliance #:
c. IRB approval date:
Full IRB **or**
Expedited Review

13. Descriptive Title of Applicant's Project:

Estimated Funding

14a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

Authorized Representative Information

15. To the best of my knowledge and belief, all data in this preapplication/application 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. Tel. #: ( ) Fax #: ( )
d. E-Mail Address:
e. **Signature of Authorized Representative** Date: ___/___/___

REV. 11/12/99

ED 424

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505 or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com/dbis/aboutdb/intlduns.htm.**

3. **Tax Identification Number.** Enter the tax identification number as assigned by the Internal Revenue Service.

4. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

5. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

6. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

7. **Type of Applicant.** Enter the appropriate letter in the box provided.

8. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

9. **Type of Submission.** Self-explanatory.

10. **Executive Order 12372.** Check **"Yes"** if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). 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. Otherwise, check **"No."**

11. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

12. **Human Subjects.** Check "Yes" **or** "No". If research activities involving human subjects are **not** planned **at any time** during the proposed project period, check **"No." The remaining parts of item 12 are then not applicable.**

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, **are** planned **at any time** during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If **all** the research activities are designated to be exempt under the regulations, enter, in item 12a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"Protection of Human Subjects in Research"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 12a, are appropriate. **Provide this narrative information in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 12.**

    If **some or all** of the planned research activities involving human subjects are covered (nonexempt), skip item 12a and continue with the remaining parts of item 12, as noted below. In addition, follow the instructions in **"Protection of Human Subjects in Research"** attached to this form to prepare the six-point narrative about the nonexempt activities. **Provide this six-point narrative in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

    If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 12b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 12c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter **"Pending"** in item 12c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. **If the applicant organization does not have** on file with GPOS or OPRR **an approved Assurance of Compliance** that covers the proposed research activity, enter **"None"** in item 12b and skip 12c. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

13. **Project Title.** 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 this project.

14. **Estimated Funding.** 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 14.

15. **Certification.** 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.

    Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 15e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH (Attachment to ED 424)

I. Instructions to Applicants about the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned

If you marked item 12 on the application "Yes" and designated exemptions in 12a, **(all research activities are exempt),** provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below. The Narrative must be succinct. **Provide this information in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

If you marked "Yes" to item 12 on the face page, and designated no exemptions from the regulations **(some or all of the research activities are nonexempt),** address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an **"Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of ***exemptions*** are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov/humansub.htm.

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control Number: 1890-0004

Expiration Date: 02/28/2003

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED Form No. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED Form No. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington DC 20503.

INSTRUCTIONS FOR ED FORM 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 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 (0348-0040), 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.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE

APPLICANT ORGANIZATION	DATE SUBMITTED

Standard Form 424B (Rev. 7-97) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion — Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity: ☐ **Prime** ☐ **Subawardee** Tier _____, *if known*: **Congressional District**, *if known*:	**5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:** **Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 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 (0348-0046), Washington, DC 20503.

[FR Doc. 01–7316 Filed 3–22–01; 8:45 am]
BILLING CODE 4000–01–C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–95–000]

Nornew Energy Supply, Inc.; Notice of Application

March 19, 2001.

Take notice that on March 1, 2001, Nornew Energy Supply, Inc. (Nornew), 19 Ivy Street, Jamestown, New York 14701, filed in the above docket, pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA) as amended, 15 USC 717f(b) and 717f(c), and Part 284 of the Federal Energy Regulatory Commission's regulations for a blanket certificate of public convenience and necessity pursuant to Subpart G of Part 284 of the Commission's regulations authorizing Nornew to provide firm and interruptible transportation services on an open-access basis. In addition, Nornew requests waiver of the reporting and accounting requirements of Parts

201, 250, 260, and 284 of the Commission's regulations; and the Electronic Data Interchange, Electronic Delivery Mechanism, business practices and electronic communication requirements of the Gas Industry Standards Board. The filing may be viewed at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Any person desiring to be heard or to make any protest with reference to said application should on or before April 9, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Any questions regarding the application should be directed to Oivind Risberg, President, Nornew Energy Supply, Inc., 2500 Tanglewilde, Suite 250, Houston, Texas 77063, telephone (713) 975–1900.

Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–7278 Filed 3–22–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–103–000]

Transcontinental Gas Pipe Line Corporation; Notice of Application

March 19, 2001.

Take notice that on March 12, 2001, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 42301, in Docket No. CP01–103–000 filed an application pursuant to section 7(b) of the Natural Gas Act for permission and approval for Transco to abandon certain pipeline facilities, located largely in offshore Texas and Louisiana, which are portions of the North High Island/West Cameron Gathering System by transfer to Williams Gas Processing-Gulf Coast Company, L.P. (WGP), an affiliate of Transco, 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).

Transco proposes to abandon (1) 217.128 miles of 4-to-30-inch pipeline, (2) the Johnson Bayou Plant, consisting of Station 44 separation and dehydration facilities and 1,200 horsepower of compression, located in Cameron Parish, Louisiana, (3) Station 44 Compression, consisting of three 3,830 horsepower Solar Centaur Engines for a total of 11,490 horsepower, also located in Cameron Parish, Louisiana, and (4) minor compression owned on Shell's High Island Block 179–L, Offshore Texas. Transco advises that the facilities will be transferred at net book value, which has been calculated at $21,180,514 as of December 31, 2000.

Transco also requests authorization to abandon its Rate Schedules X–143 (service with ANR Pipeline Company) and X–249 (service with Columbia Gulf Transmission Company), as well as receipt points included on a firm transportation agreement with Motiva Enterprises, LLC. It is indicated that Transco will amend the affected service agreements and file the necessary conforming changes to its FERC Gas Tariff.

WGP has concurrently filed a petition for a declaratory order in Docket No. CP01–104–000, requesting that the Commission determine that WGP's acquisition, ownership, and operation of the facilities at issue not subject WGP or any portion of WGP's facilities, rates, or services to the jurisdiction of the Commission under the Natural Gas Act.

Any questions regarding the application should be directed to Randall R. Conklin, Vice President and General Counsel, and Gisela Cherches, Senior Attorney at (713) 215–2000, Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77251.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before April 9, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding.

Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers

the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Also, comments protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–7277 Filed 3–22–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–104–000]

Williams Gas Processing-Gulf Coast Company, L.P.; Notice of Petition for Declaratory Order

March 19, 2001.

Take notice that on March 12, 2001, Williams Gas Processing-Gulf Coast Company, L.P. (WGP), P.O. Box 1396, Houston, Texas 77251, filed a petition for declaratory order in Docket No. CP01–104–000, requesting that the Commission declare that certain pipeline, compression, dehydration and separation facilities located in Offshore Texas and Louisiana and in Cameron Parish, Louisiana to be acquired from Transcontinental Gas Pipe Line Corporation (Transco) would have the primary function of gathering of natural gas and would thereby be exempt from the Commission's jurisdiction pursuant to section 1(b) of the Natural Gas Act, all as more fully set forth in the petition 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).

WGP states that the pipeline facilities at issue consist of the North High Island/Cameron Gathering System, consisting of line segments totaling 217.128 miles of 4-to-30 inch segments of pipeline, along with compression, separation and dehydration facilities. It is stated that Transco and WGP have entered into a December 29, 1997, amendment to an existing transfer and assignment agreement, providing for the facility transfer. It is indicated that Transco has filed a companion application to abandon these facilities by transfer to WGP in Docket No. CP01–103–000.

WGP submits that the primary function of the facilities is gathering, consistent with the criteria set forth in *Farmland Industries, Inc.* (23 FERC ¶ 61,063 (1983), as modified in subsequent orders. WGP also urges the Commission to approve the firm-to-gathering rate design proposed by Transco in Docket No. RP92–137–050. WGP submits that WGP's requested gathering determination and Transco's requested firm-to-gathering rate design go hand in hand, i.e., WGP's proposal determining the demarcation line between transmission and gathering, and Transco's proposal implementing firm transmission service to the point of non-jurisdictional gathering.

Any questions concerning this application may be directed to Mari M. Ramsey at (918) 573–2611.

Any person desiring to be heard or to make protest with reference to said petition should on or before April 9, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 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.

Also, comments, protests, or interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for WGP to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 01–7276 Filed 3–22–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–51–000, et al.]

The Detroit Edison Company, et al.; Electric Rate and Corporate Regulation Filings

March 15, 2001.

Take notice that the following filings have been made with the Commission:

1. The Detroit Edison Company

[Docket No. EL01–51–000]

Take notice that on March 13, 2001, The Detroit Edison Company (Detroit Edison) filed with the Federal Energy Regulatory Commission (the Commission) an unexecuted Distribution Interconnection Agreement between Detroit Edison and Dearborn Industrial Generation, L.L.C. (the Agreement). Detroit Edison requests the Commission to disclaim jurisdiction over the Agreement. In the event the Commission determines the Agreement to be subject to the Commission's jurisdiction, Detroit Edison requests that the Commission accept the Agreement for filing effective as of March 14, 2001.

Comment date: April 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Broad River Energy LLC

[Docket No. ER00–38–002]

Take notice that on March 9, 2001, Broad River Energy LLC (Broad River Energy), tendered for filing a

Notification of Change in Status. The Notification of Change in Status is intended to inform the Commission that Broad River Energy has acquired the generation assets of its affiliate Broad River Investors LLC, consisting of Units 4 and 5, located at the Broad River Energy Center near Gaffney in Cherokee County, South Carolina. Units 4 and 5 produce a maximum electrical output of 360 MW.

Comment date: March 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. New York Independent System Operator, Inc.

[Docket No. ER01–1489–000]

Take notice that on March 9, 2001, the New York Independent System Operator, Inc. (NYISO), tendered for filing a request for an extension of its Temporary Extraordinary Procedures for Correcting Market Design Flaws and Addressing Transitional Abnormalities.

The NYISO requests an effective date of May 1, 2001 and waiver of the Commission's notice requirements.

The NYISO has served a copy of this filing upon each person designated on the official service list compiled by the Secretary in Docket No. ER00–2624–000, on those parties who have executed service agreements under the NYISO's Open Access Transmission Tariff or Market Administration Control Area Services Tariff and on the electric utility regulatory agencies in New York, New Jersey, and Pennsylvania.

Comment date: March 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Illinois Power Company

[Docket No. ER01–1491–000]

Take notice that on March 12, 2001, Illinois Power Company tendered for filing a fully executed Service Agreement for Network Integration Transmission Service and Network Operating Agreement (Service Agreement) between Tri-County Electric Cooperative, Inc., and Illinois Power Company. The unexecuted Service Agreement originally was filed in this docket. Under the Service Agreement, Illinois Power Company may provide network services to Tri-County Electric Cooperative, Inc. in accordance with Illinois Power Company's FERC Electric Tariff.

Illinois Power Company has requested that the Commission accept the fully executed Service Agreement and that the Service Agreement become effective as of March 1, 2000, as did the unexecuted Service Agreement.

Illinois Power Company has served a copy of this filing upon those parties listed on the Commission's official service list, as well as on the Illinois Commerce Commission and Tri-County Electric Cooperative, Inc.

Comment date: April 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Public Service Company of New Hampshire

[Docket No. ER01–1492–000]

Take notice that on March 12, 2001, Public Service Company of New Hampshire, tendered for filing a Notice of Cancellation of its FERC Electric Service Rate Schedules No. 133, which provided Resale Electric Service to the Town of Ashland, New Hampshire, Electric Light Department. On the same date, Public Service Company of New Hampshire (PSNH) also filed a new Interconnection and Delivery Service Agreement with the Town of Ashland. The filing represents the termination of PSNH's full requirements, wholesale for retail service to the Town of Ashland and the beginning of PSNH supplying simple delivery service to the Town of Ashland.

Copies of this filing were served upon the Office of the Attorney General for the State of New Hampshire, and the Executive Director and Secretary of the New Hampshire Public Utilities Commission and the State of New Hampshire Office of Consumer Advocate.

Comment date: April 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Illinois Power Company

[Docket No. ER01–1493–000]

Take notice that on March 12, 2001, Illinois Power Company (Illinois Power), tendered for filing a fully executed Service Agreement for Network Integration Transmission Service and Network Operating Agreement (Service Agreement) between Clinton County Electric Cooperative, Inc., and Illinois Power Company. The unexecuted Service Agreement originally was filed in this docket. Under the Service Agreement, Illinois Power Company may provide network services to Clinton County Electric Cooperative, Inc. in accordance with Illinois Power Company's FERC Electric Tariff.

Illinois Power Company has requested that the Commission accept the fully executed Service Agreement and that the Service Agreement become effective as of March 1, 2000, as did the unexecuted Service Agreement.

Illinois Power Company has served a copy of this filing upon those parties listed on the Commission's official service list, as well as on the Illinois Commerce Commission and Clinton County Electric Cooperative, Inc.

Comment date: April 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Public Service Company of New Hampshire

[Docket No. ER01–1494–000]

Take notice that on March 12, 2001, Public Service Company of New Hampshire, tendered for filing Notice of Cancellation of its FERC Electric Service Rate Schedules No. 134, which provided Resale Electric Service to the Town of New Hampton, New Hampshire, Village Precinct (New Hampton Village Precinct). On the same date, Public Service Company of New Hampshire (PSNH) also filed a new Interconnection and Delivery Service Agreement with the New Hampton Village Precinct. The filing represents the termination of PSNH's full requirements, wholesale for retail service to the New Hampton Village Precinct and the beginning of PSNH supplying simple delivery service to the New Hampton Village Precinct.

Copies of this filing were served upon the Office of the Attorney General for the State of New Hampshire, and the Executive Director and Secretary of the New Hampshire Public Utilities Commission and the State of New Hampshire Office of Consumer Advocate.

Comment date: April 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Pacific Gas and Electric Company

[Docket No. ER01–1495–000]

Take notice that on March 12, 2001, Pacific Gas and Electric Company (PG&E), tendered for filing a Generator Special Facilities Agreement (GSFA), and a Generator Interconnection Agreement (GIA) between PG&E and Wheelabrator Shasta Energy Company, Inc. (Wheelabrator) (collectively Parties).

The GSFA permits PG&E to recover the ongoing costs associated with owning, operating and maintaining the Special Facilities. As detailed in the Special Facilities Agreement, PG&E proposes to charge Wheelabrator a monthly Cost of Ownership Charge equal to the rates for transmission-level, customer-financed and distribution-level, utility-financed facilities in PG&E's currently effective Electric Rule 2, as filed with the California Public Utilities Commission (CPUC). PG&E's currently effective rates of 0.31% and

1.33%, respectively, for transmission-level, customer-financed and distribution-level, utility-financed Special Facilities are contained in the CPUC's Advice Letter 1960–G/1587–E, effective August 5, 1996, a copy of which is included as Attachment 3 of this filing.

PG&E has requested certain waivers.

Copies of this filing have been served upon Wheelabrator, the California Independent System Operator Corporation and the CPUC.

Comment date: April 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Sundance Energy

[Docket No. ER01–1496–000]

Take notice that on March 12, 2001, Sundance Energy (Sundance), petitions the Commission for acceptance of Sundance Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

Sundance intends to engage in wholesale electric power and energy purchases and sales as a marketer. Sundance is not in the business of generating or transmitting electric power. Sundance is a wholly-owned sole proprietorship of Cayse L. Cummings. Sundance has no other business interests.

Comment date: April 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Brooke Power, LLC

[Docket No. ER01–1497–000]

Take notice that on March 12, 2001, Brooke Power, LLC (Brooke), petitions the Commission for acceptance of Brooke Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

Brooke intends to engage in electric power generation and wholesale electricity sales. Brooke's general partner is Antelope Hills Partners, LP, a general partnership whose partners include Chrystal Investments, LLC, as general partner, Virginia Trust #2, limited partner, and Richard Woodall, Incorporated, limited partner. Chrystal Investments, LLC is primarily engaged in general investing. Antelope Hills, LP is primarily engaged in investing in oil and gas exploration and production.

Comment date: April 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. American Transmission Systems, Inc.

[Docket No. ER01–1498–000]

Take notice that on March 12, 2001, American Transmission Systems, Inc., tendered for filing a Service Agreement to provide Non-Firm Point-to-Point Transmission Service for Ameren Energy Marketing Company, the Transmission Customer. Services are being provided under the American Transmission Systems, Inc., Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER99–2647–000.

The proposed effective date under the Service Agreement is March 9, 2001 for the above mentioned Service Agreement in this filing.

Comment date: April 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. American Transmission Systems, Inc.

[Docket No. ER01–1499–000]

Take notice that on March 12, 2001, American Transmission Systems, Inc., tendered for filing a Service Agreement to provide Firm Point-to-Point Transmission Service for Ameren Energy Marketing Company, the Transmission Customer. Services are being provided under the American Transmission Systems, Inc., Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER99–2647–000.

The proposed effective date under the Service Agreement is March 9, 2001 for the above mentioned Service Agreement in this filing.

Comment date: April 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. The Dayton Power and Light Company

[Docket No. ER01–1500–000]

Take notice that on March 12, 2001, The Dayton Power and Light Company (Dayton), tendered for filing service agreements establishing Allegheny Energy Supply Company, LLC as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Allegheny Energy Supply Company, LLC and the Public Utilities Commission of Ohio.

Comment date: April 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Consumers Energy Company

[Docket No. ER01–1501–000]

Take notice that on March 12, 2001, Consumers Energy Company (Consumers), tendered for filing a Letter Agreement between Dynegy Engineering, Inc., as agent for Westdeutsche Landesbank Girozentrale, New York Branch [Generator] and Consumers, dated February 16, 2001, (Agreement). Under the Agreement, Consumers is to undertake certain pre-construction activities associated with providing an electrical connection between Consumers' transmission system and a generating plant to be built by Generator.

Consumers requests that the Agreements be allowed to become effective January 8, 2001.

Copies of the filing were served upon Generator and the Michigan Public Service Commission.

Comment date: April 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Northern Indiana Public Service Company

[Docket No. ER01–1502–000]

Take notice that on March 12, 2001, Northern Indiana Public Service Company tendered for filing an executed Standard Transmission Service Agreement for Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Aquila Energy Marketing Corporation (Aquila Energy).

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to Aquila Energy pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission.

Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of June 1, 2001.

Copies of this filing have been sent to Aquila Energy Marketing Corporation, the Indiana Utility Regulatory Commission, and the Indiana Office of Utility Consumer Counselor.

Comment date: April 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Northern Indiana Public Service Company

[Docket No. ER01–1503–000]

Take notice that on March 12, 2001, Northern Indiana Public Service Company tendered for filing an executed Standard Transmission Service Agreement for Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Aquila Energy Marketing Corporation (Aquila Energy).

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to Aquila Energy pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission.

Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of April 1, 2001.

Copies of this filing have been sent to Aquila Energy Marketing Corporation, the Indiana Utility Regulatory Commission, and the Indiana Office of Utility Consumer Counselor.

Comment date: April 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Xcel Energy Services Inc.

[Docket No. ER01–1504–000]

Take notice that on March 12, 2001, Xcel Energy Services Inc. (XES), on behalf of Public Service Company of Colorado (Public Service), tendered for filing a Master Power Purchase and Sale Agreement between Public Service and City of Azusa, which is an umbrella service agreement under Public Service's Rate Schedule for Market-Based Power Sales (Public Service FERC Electric Tariff, First Revised Volume No. 6).

XES requests that this agreement become effective on March 8, 2001.

Comment date: April 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Central Illinois Light Company

[Docket No. ER01–1505–000]

Take notice that on March 12, 2001, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission an Index of Customers under its Market Rate Power Sales Tariff and one service agreement with one new customer, the Village of Riverton.

CILCO requested an effective date of March 1, 2001.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

Comment date: April 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. The Dayton Power and Light Company

[Docket No. ER01–1506–000]

Take notice that on March 12, 2001, The Dayton Power and Light Company (Dayton), tendered for filing a service agreement establishing Consumers Energy, as a customer under the terms of Dayton's FERC Electric Tariff, Original Volume No. 10.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Consumers Energy and the Public Utilities Commission of Ohio.

Comment date: April 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Lumberton Power, LLC

[Docket No. ER01–1507–000]

Take notice that on March 12, 2001, Lumberton Power, LLC (Lumberton) tendered for filing an application for waivers and blanket approvals under various regulations of the Commission and for an order accepting Lumberton's FERC Electric Rate Schedule No. 1 and accompanying Code of Conduct.

Lumberton requests waiver of the 60-day prior notice requirement to permit Lumberton's Rate Schedule and Code of Conduct to be effective May 1, 2001, and requests expeditious Commission approval of this Application prior to May 1, 2001.

Lumberton intends to engage in electric power and energy transactions as a marketer. In transactions where Lumberton sells electric energy, it proposes to make such sales on rates, terms and conditions to be mutually agreed to with the purchasing party. Lumberton's proposed Rate Schedule also permits it to reassign transmission capacity.

Comment date: April 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. American Transmission Company LLC

[Docket No. ER01–1508–000]

Take notice that on March 12, 2001, American Transmission Company LLC (ATCLLC), tendered for filing a Firm Point to Point Service Agreement with Consolidated Water Power Company.

ATCLLC requests an effective date of January 1, 2001.

Comment date: April 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. Elizabethtown Power, LLC

[Docket No. ER01–1509–000]

Take notice that on March 12, 2001, Elizabethtown Power, LLC (Elizabethtown), tendered for filing an application for waivers and blanket approvals under various regulations of the Commission and for an order accepting Elizabethtown's FERC Electric Rate Schedule No. 1 and accompanying Code of Conduct.

Elizabethtown requests waiver of the 60-day prior notice requirement to permit Elizabethtown's Rate Schedule and Code of Conduct to be effective May 1, 2001, and requests expeditious Commission approval of this Application prior to that date.

Elizabethtown intends to engage in electric power and energy transactions as a marketer. In transactions where Elizabethtown sells electric energy, it proposes to make such sales on rates, terms and conditions to be mutually agreed to with the purchasing party. Elizabethtown's proposed Rate Schedule also permits it to reassign transmission capacity.

Comment date: April 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. New York Independent System Operator, Inc.

[Docket No. ER01–1517–000]

Take notice that on March 12, 2001, the New York Independent System Operator, Inc. (NYISO), acting pursuant to Section 205 of the Federal Power Act at the direction of the NYISO's independent Board of Directors (NYISO Board) with the concurrence of the Management Committee, filed a proposed amendment to the NYISO's Market Administration and Control Area Services Tariff. The proposed amendment would extend the duration of bid caps in certain NYISO-administered markets until October 31, 2002.

The NYISO requests a waiver of the Commission's notice requirements.

A copy of this filing was served upon all parties in Docket No. ER01–181–000, on all parties that have executed Service Agreements under the NYISO's Open Access Transmission Tariff or Market Administration and Control Area Services Tariff, and on the electric utility regulatory agencies in New York, New Jersey, and Pennsylvania.

Comment date: April 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

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). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–7201 Filed 3–22–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6957–3]

Agency Information Collection Activities: Proposed Collection; Comment Request; Compliance Assistance Surveys for the Marina, Metal Finishing, Construction Site, and Salvage Yard Sectors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): Compliance Assistance Surveys for the Marina, Metal Finishing, Construction Site, and Salvage Yard Sectors, [EPA ICR Number 2021.01]. This information request has no prior OMB Control Number. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before May 22, 2001.

ADDRESSES: To request a copy of the information collection request, explanatory information and related forms, contact Ms. Lynn Vendinello, at (202) 564–7066, and refer to EPA ICR No. 2021.01. Comments may be mailed to Ms. Lynn Vendinello, U.S. EPA (2222A), 401 M St. SW, Washington, D.C. 20460. Comments may also be submitted electronically to vendinello.lynn@epa.gov.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn Vendinello at (202) 564–7066, facsimile (202) 564–0031, vendinello.lynn@epa.gov.

SUPPLEMENTARY INFORMATION: Affected entities: Entities potentially affected by this action are the following:

- Marinas located in EPA Region I states: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont;
- Facilities in the Metal Finishing Sector (covered by SIC 347) located in the vicinity of Detroit, MI and Philadelphia, PA.;
- Facilities in the Construction Site Sector (covered by SIC 15–17) located nationally; and
- Facilities in the Salvage Yard Sector (covered by SIC 5015, 5093) located nationally.

Title: Compliance Assistance Surveys for the Marina, Metal Finishing, Construction Site, and Salvage Yard Sectors; EPA ICR No. 2021.01

Abstract: EPA Region I and the Office of Compliance (OC) within the Office of Enforcement and Compliance Assurance (OECA) are planning to conduct a performance baseline survey and follow-up survey for the Marina sector, and a performance snapshot for the Metal Finishing sector. In addition, OC is interested in conducting a baseline performance survey and compliance assistance needs assessment for either the Construction Site or Salvage Yard sectors and is seeking comment on which of the two sectors is in need of compliance assistance. There are three main purposes for these compliance assistance surveys:

- To collect actual cost and hour burden estimates per respondent and response rates for information collected through mailed survey instruments versus a site visit survey approach. Site visit surveys are believed to require more respondent time but should result in an excellent response rate and more accurate data when compared to a mailed survey. OC would like to test this hypothesis by conducting parallel mailed and site visit surveys to two or more industry sectors.
- To determine a baseline level of regulatory awareness and compliance from which to measure the success of the Agency's compliance outreach efforts for reporting under the Government Performance and Results Act (GPRA). For key sectors for which EPA is planning to initiate compliance assistance, a baseline level of compliance and regulatory awareness is needed from which to measure future progress.
- To identify those topical areas of poor regulatory compliance or regulatory confusion for each sector studied so that compliance outreach resources can be targeted to those issues.

EPA Region I is planning a Clean Marinas Initiative. The activities planned under this initiative are designed to provide marinas with basic regulatory information and to encourage ''beyond compliance'' behaviors through the dissemination of a wide variety of tools. EPA Region I would like to conduct a statistically valid voluntary mail survey and site-visit survey of a sample of the approximate 1,200 marinas in the Region. These surveys will be used to (1) determine what compliance outreach tools are useful and (2) get a better sense of the compliance challenges faced by this sector. The results of the survey will be used to establish a performance baseline at the start of this initiative. A follow-up survey will then be conducted to determine progress against the baseline.

EPA's Office of Enforcement and Compliance Assurance has adopted a sector approach for many of its compliance assistance activities. The metal finishing industry is an example of a sector for which EPA has focused many of its compliance assistance activities. There is considerable debate as to the extent of environmental releases, environmental impacts associated with these releases, compliance rates, the need for additional compliance assistance, and the effectiveness of compliance assistance tools developed for this industry. OECA would like to conduct a statistically valid voluntary mail survey and site-visit survey of a sample of metal finishing facilities in two geographical areas to determine a performance snapshot of this sector which reflects current facility performance with respect to key federal regulations. The surveys will be conducted as a voluntary blind sample

(i.e., the facilities' identity will be unknown to the Agency and the facilities will participate voluntarily). The results of the survey will provide OECA with information on compliance assistance topics applicable to this sector and information from which to measure the success of OECA's compliance assistance programs for Government Performance and Results Act (GPRA) reporting purposes.

OECA is evaluating the need for compliance assistance for two additional sectors: construction sites and salvage yards. OECA identified these sectors based on anecdotal information from states and EPA regions; however, sufficient data are not available in EPA's databases to evaluate the current state of compliance in these sectors. Therefore, OECA is interested in determining:

- The level of regulatory awareness in each sector;
- Areas of noncompliance and root causes of noncompliance; and
- The need for compliance assistance tools for each sector and the tools that would be most accessible and useful.

OECA is soliciting comment whether to conduct a statistically valid voluntary mail survey and site-visit survey of a sample of facilities in one of these sectors using the same approach as described above for the metal finishing and marina sectors. Since the population for construction sites and salvage yards is not known, OECA will conduct double stage cluster sampling.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submission of responses).

Burden Statement: The baseline surveys being requested are one time information collections. The public reporting burden for this collection of information is estimated to average:

- 1 hour per respondent for the mailed surveys in each sector; and
- 4 hours per respondent for the site visit surveys in each sector.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, and disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 400 Marinas in EPA Region I (200 random marinas will be sampled for the mailed survey, 100 random facilities for the site-visit survey, 100 random facilities for the follow-up survey); 300 facilities in the metal finishing sector located in the vicinity of Detroit, MI and Philadelphia, PA (200 random facilities will be sampled for the mailed survey, 100 random facilities for the site-visit survey); 300 facilities in the construction site or salvage yard sector located nationally (200 random facilities will be sampled for the mailed survey, 100 random facilities for the site-visit survey).

Estimated Number of Respondents: 300 Marinas in EPA Region I (assuming a 50% response rate to the mailed survey, a 100% response rate for the site-visit survey and a 100% response rate for the follow-up survey,where we are assuming the more conservative approach that the follow-ups will be on-site visits); 200 facilities in the metal finishing sector (assuming a 50% response rate to the mailed survey and a 100% response rate for the site-visit survey); 200 facilities in the construction site or salvage yard sector (assuming a 50% response rate to the mailed survey and a 100% response rate for the site-visit survey).

Frequency of Response: Once (although we will be surveying the same sector more than once, the random sample of facilities surveyed will be different. There is a slight chance that a facility could be in both samples but we assume that that isn't likely to occur.)

Estimated Total Annual Hour Burden: 1,900 hours.

Estimated Total Annualized Cost Burden: $131,670.

Dated: March 14, 2001.

Michael M. Stahl,

Office Director, Office of Compliance.

[FR Doc. 01–7282 Filed 3–22–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–140288; FRL–6776–2]

Access to Confidential Business Information by DynCorp

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor DynCorp Information and Engineering Technology, Incorporated (DynCorp) and its subcontractor Joyo Environmental Services (Joyo) of Reston, VA access to information which has been submitted to EPA under sections 4, 5, 6, 8, 12, and 13 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA under sections 4, 5, 6, 8, 12, and 13 of TSCA occurred as a result of an approved waiver for immediate access dated February 5, 2001.

FOR FURTHER INFORMATION CONTACT: Barbara A. Cunningham, Acting Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Notice Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to ''those persons who are or may be required to conduct testing of chemical substances under the Toxic Substances Control Act (TSCA).'' Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions

regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

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

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

III. What Action is the Agency Taking?

Under contract number 68–W–99–072, contractor DynCorp and its subcontractor Joyo, of 1171 Plaza America Drive, Reston, VA, will assist the Office of Pollution Prevention and Toxics (OPPTS) performing inspections; and collecting documentation from the residential real estate sales and rental industry, to determine compliance and enforcement actions of the Lead Disclosure Rule violations.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68–W–99–072, DynCorp and Joyo will require access to CBI submitted to EPA under sections 4, 5, 6, 8, 12, and 13 of TSCA to perform successfully the duties specified under the contract.

DynCorp and Joyo personnel will be given access to information submitted to EPA under sections 4, 5, 6, 8, 12, and 13 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, 8, 12, and 13 of TSCA that EPA may provide DynCorp and Joyo access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters and at DynCorp and Joyo's site located at 6101 Stevenson Avenue, Alexandria, VA. No access will occur at the Alexandria, VA facility until it has been approved for the storage of TSCA CBI.

DynCorp and Joyo will be authorized access to TSCA CBI at EPA Headquarters, EPA's Region III office, DynCorp, and Joyo's site located at 6101 Stevenson Avenue, Alexandria, VA, in accordance with the EPA *TSCA Confidential Business Information Security Manual*.

Clearance for access to TSCA CBI under this contract may continue until September 30, 2004.

DynCorp and Joyo personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Confidential business information.

Dated: March 8, 2001.

Allan S. Abramson,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 01–7288 Filed 3–22–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6616–6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 14, 2000 (65 FR 20157).

Draft EISs

ERP No. D–IBR–K38007–CA Rating EC2, Grassland Bypass Project (2001 Use Agreement), To Implement the New Use Agreement for the period from October 1, 2001 through December 21, 2009, San Joaquin River and Merced River, Fresno, Merced and Stanslaus Counties, CA.

Summary: EPA strongly supports improving water quality and the elimination of agricultural drainwater from 93 to 100 miles of wetland channels. Nevertheless, EPA expressed concerns regarding gaps in the information provided by the DEIS, including future treatment of the sediment accumulation in the San Luis Drain, cumulative impacts, and the formulation of alternatives.

ERP No. D–NPS–C67000–NJ Rating EC2, Maurice National Scenic and Recreational River (NS&RR) Comprehensive Management Plan, Implementation, Atlantic and Cumberland Counties, NJ.

Summary: EPA expressed environmental concerns about the timely implementation and monitoring of the management plan. More detail is needed for the recommendations to enhance and protect open space, water quality, and wildlife corridor values. The final EIS should include a water quality monitoring plan and a detailed plan for periodic evaluation of the implementation of the plan.

Final EISs

ERP No. F–FRC–E08020–00 Gulfstream Natural Gas System Project, Construction and Operation, To Provide Natural Gas Transportation Service, AL, MS and FL.

Summary: By employing alternate technology and different routes, the applicant has substantially reduced turbidity impacts to marine live bottom communities in the proposed pipeline right-of-way (ROW). Wetland losses were reduced by restricting construction ROW and proposing wetland enhancements and restoration as mitigation. Despite these efforts, EPA continues to have concerns about live bottom destruction and recommends seeding of benthic organisms and placement of habitat modules as mitigation for live bottom impacts.

ERP No. F–MMS–G39008–00 Programmatic EIS—Proposed Use of Floating Production, Storage and Offloading Systems on the Gulf of Mexico, Outer Continental Shelf, Western and Central Planning Areas, TX, LA, MS, AL and FL.

Summary: EPA has no further comments to offer on the FEIS.

ERP No. F–NPS–C61010–NJ Great Egg Harbor National Scenic and Recreation River, Comprehensive Management Plan, Implementation, Altantic Gloucester, Camden and Cape May Counties, NJ.

Summary: The final EIS adequately addressed our concerns.

Dated: March 20, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–7320 Filed 3–22–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6616–5]

Environmental Impact Statements; Notice of Availability

Responsible Agency

Office of Federal Activities, General Information (202) 564–7167 or *www.epa.gov/oeca/ofa* Weekly receipt of Environmental Impact Statements Filed March 12, 2001 Through March 16, 2001 Pursuant to 40 CFR 1506.9.

EIS No. 010082, Final EIS, NPS, AZ, Chiricahua National Monument, General Management Plan, To Protect Certain National Formations, Known as ''The Pinnacles,'' AZ , Wait Period Ends: April 23, 2001, Contact: Chris Marvel (303) 969–2840.

EIS No. 010083, Final EIS, NPS, AZ, Fort Bowie National Historic Site General Management Plan, Implementation, Cochise County, AZ, Wait Period Ends: April 23, 2001, Contact: Christine Maylath (303) 969–2851.

EIS No. 010084, Draft Supplement, FAA, MA, Logan Airside Improvements Planning Project (EOEA #10458), Construction and Operation of a new Unidirectional Runway 14/32, Centerfield Taxiway and Add'l Taxiway Improvements, New Information, Providing Clarification of the Delay Problems, Boston Logan Int'l Airport, Federal Funding, Airport Layout Plan and NPDES Permit, Boston, MA, Comment Period Ends: May 07, 2001, Contact: John Silva (781) 238–7602.

EIS No. 010085, Final EIS, AFS, MT, Clearwater Ecosystem Management and Timber Sale Project, Timber Harvesting, Burning, Weed Spraying and Road Management, Lola National Forest, Seeley Lake Ranger District, Missoula County, MT, Wait Period Ends: April 23, 2001, Contact: Sharon Klinkhammer (406) 677–3925.

EIS No. 010086, Final EIS, FHW, NC, US 17 New Bern Bypass Construction, Jones-Craven County Line to NC–1438 near Vanceboro, Funding, Section 404 and U.S. Coast Guard Bridge Permit, Craven County, NC, Wait Period Ends: April 23, 2001, Contact: Nicholas Graf (919) 856–4346.

EIS No. 010087, Final EIS, NPS, UT, Zion National Park, General Management Plan, Implementation, Washington, Iron and Kane Counties, UT, Wait Period Ends: April 23, 2001, Contact: Darla Sidles (435) 772–0211.

EIS No. 010088, Draft EIS, FHW, NB, Lincoln South and East Beltways Project, To Complete a Circumferential Transportation System linking I–80 on the north and U.S. 77 on the west, Funding, COE 404 Permit, Lancaster County, NB, Comment Period Ends: May 07, 2001, Contact: Edward Kosola (402) 437–5973.

EIS No. 010089, Draft Supplement, FAA, IN, Indianapolis International Airport Master Plan Development, Updated Information to Construct a Midfield Terminal, Midfield Interchange, and Associated Developments, Airport Layout Plan Approval, Funding and Section 404 Permit, Marion County, IN, Comment Period Ends: May 07, 2001, Contact: Prescott C. Snyder (847) 294–7538.

EIS No. 010090, Draft EIS, DOE, AZ, Sundance Energy Project, Interconnecting a 600-megawatt Natural Gas-Fired, Simple Cycle Peaking Power Plant with Western's Electric Transmission System, Construction and Operation on Private Lands, Pinal County, AZ, Comment Period Ends: May 07, 2001, Contact: John Holt (602) 352–2592.

EIS No. 010091, Draft EIS, FTA, CT, New Britain-Hartford Busway Project, Proposal to Build an Exclusive Bus Rapid Transit (BRT) Facility, Located in the Towns/Cities of New Britain, Newington, West Hartford and Hartford CT, Comment Period Ends: May 18, 2001, Contact: Richard H. Doyle (617) 494–2055.

EIS No. 010092, Draft EIS, AFS, ID, Clean Slate Ecosystem Management Project, Aquatic and Terrestrial Restoration, Nez Perce National Forest, Salmon River Ranger District, Idaho County ID, Comment Period Ends: May 07, 2001, Contact: Bill Shields (208) 839–2211.

EIS No. 010093, Final EIS, UAF, TX, Brooks City Base Project, To Improve Mission Effectiveness and Reduce Cost of Quality Installation Support, Implementation, Brooks Air Force Base, Bexar County, TX, Wait Period Ends: April 23, 2001, Contact: Roberta Preston (703) 695–4512.

Amended Notices

EIS No. 010023, Draft Supplement, NOA, AK, Groundfish Fishery Management Plan, Implementation, Bering Sea and Aleutian Islands, AK, Comment Period Ends: June 26, 2001, Contact: James W. Balsiger (907) 586–7221. Revision of FR notice published on 02/02/2001: CEQ Comment Date has been extended from 04/26/2001 to 06/25/2001.

EIS No. 000463, Draft Supplement, FHW, IL, FAP Route 340 (I–355 South Extension), Interstate Route 55 to Interstate Route 80, Additional Information for the Tollroad/Freeway Alternative, Funding, US Coast Guard Permit and COE Section 404 Permit, Cook, DuPage and Will Counties, IL, Comment Period Ends: April 30, 2001, Contact: Jon-Paul Kohler (217) 492–4988.

Published FR—12–29–00—Review Period Reestablished.

Dated: March 20, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–7321 Filed 3–22–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[PF–1000; FRL–6767–3]

Notice of Filing Pesticide Petitions to Establish Tolerances for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1000, must be received on or before April 23, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1000 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–7740; e-mail address: giles-parker.cynthia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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

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

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

2. *In person*. The Agency has established an official record for this action under docket control number PF–1000. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1000 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1000. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petitions. Additional data may be needed before EPA rules on the petitions.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 12, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

The petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions

were prepared by the petitioner and represents the view of the petitioner. EPA is publishing the petition summaries verbatim without editing them in any way. The petitioner's summaries announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Rohm and Haas Company

PP 1F3989, 1F3995, and 2F4154

EPA has received amended pesticide petitions (PP 1F3989, 1F3995, and 2F4154) from Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA 19106–2399, proposing pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by making permanent the time-limited tolerances for the combined residues of fenbuconazole (alpha-(2-(4-chlorophenyl)-ethyl)-alpha-phenyl-3-(1H-1,2,4-triazole)-1-propanenitrile) and its metabolites cis- and trans-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1H-1,2,4-triazole-1-ylmethyl)-2-3H-furanone in or on the raw agricultural commodities (RACs) stone fruits (except plums and prunes) at 2.0 parts per million (ppm), pecans at 0.1 ppm, and bananas at (0.3 ppm). EPA has determined that the request contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petitions. Additional data may be needed before EPA rules on the petition.

Background

The tolerances that are the subject of this notice will, under current regulations, expire on December 31, 2001. The notices of filing concerning receipt of PP 3989 (fenbuconazole (only) tolerances in or on stone fruits and dried prunes at 2.0 ppm) and PP 3995 (fenbuconazole (only) tolerances in or on pecans at 0.1 ppm) were published in the **Federal Register**, at 56 FR 65080 and 65081 (December 13, 1991) (FRL–4004–1). In the **Federal Register**, at 59 FR 9985 (March 2, 1994) (FRL–4760–1), the Agency announced that Rohm and Haas had amended PP 3989 and PP 3995 by proposing to amend 40 CFR part 180 by establishing tolerances for fenbuconazole (alpha-(2-(4-chlorophenyl)-ethyl)-alpha-phenyl-3-(1H-1,2,4-triazole)-1-propanenitrile) and its metabolites cis- and trans-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1H-1,2,4-triazole-1-ylmethyl)-2-3H-furanone in or on stone fruits at 2.0 ppm and pecans at 0.1 ppm. Rohm and Haas subsequently amended PP 3989 to limit the crop group to stone fruits (except plums and prunes). There were no comments received on any of these notices. The final rule that established the tolerances for stone fruits (except plums and prunes) was published in the **Federal Register**, at 60 FR 11029 (March 1, 1995) (FRL–4938–3). The tolerances were established as time-limited tolerances because of the existence of a data gap for storage stability of fenbuconazole residues in other RACs. The notice of filing concerning receipt of PP 2F4154 (tolerances of fenbuconazole and its metabolite 5-(4-chlorophenyl)-dihydro-3-phenyl-3-(methyl-1H-1,2,4-triazole-1-yl)-2-3H-furanone in or on banana (pulp) at 0.05 ppm and banana (peel) at 0.3 ppm) was published in the **Federal Register**, at 57 FR 62334 (December 30, 1992) (FRL–4177–7). In the **Federal Register**, at 59 FR 33503 (June 29, 1994) (FRL–4866–3) the Agency announced that Rohm and Haas had amended PP 4154 by proposing to amend 40 CFR part 180 by establishing tolerances for fenbuconazole (alpha-(2-(4-chlorophenyl)-ethyl)-alpha-phenyl-3-(1H-1,2,4-triazole)-1-propanenitrile) and its metabolites cis- and trans-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1H-1,2,4-triazole-1-ylmethyl)-2-3H-furanone in or on banana (whole fruit) at 0.3 ppm, of which no more than 0.05 ppm can be contained in the banana pulp. No comments were received concerning these notices. The final rule that established the banana tolerances was published in the **Federal Register**, at 60 FR 27419 (May 24, 1995) (FRL–4955–3). These tolerances were also time-limited, based on a data gap for residues of fenbuconazole in or on unbagged bananas in field trials. The expiration date of each of the above tolerances was December 31, 1998. In the **Federal Register**, at 63 FR 67476 (December 7, 1998) (FRL–5791–5), the Agency published a notice of filing concerning the receipt of amended PP 1989, PP 3995, and PP 4154 that proposed to amend 40 CFR part 180 by extending the expiration date of the tolerances for fenbuconazole and its metabolites (as appropriate to each commodity) in or on stone fruits (except plums and prunes) at 2.0 ppm, pecans at 0.1 ppm, and banana (whole fruit) at 0.3 ppm (of which the pulp can contain no more than 0.05 ppm) until December 31, 2001. Data to fill the data gaps that had caused the tolerances to be established as time-limited tolerances had since been received from the company. No comments concerning this notice of filing were received. In the **Federal Register**, at 64 FR 7794 (February 17, 1999) (FRL–6059–7), the final rule that extended the subject tolerances until December 31, 2001, was published. The reason for extension of the time-limits on these tolerances (instead of making the tolerances permanent at that time) was that there was felt to still be a data gap for storage stability of fenbuconazole residues in other RACs.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of fenbuconazole in plants (peanuts, wheat, peaches, and sugar beets) is adequately understood for the purpose of these tolerances. It was qualitatively similar in all crops investigated. Metabolism of the test compound proceeded via three pathways. Oxidation at the benzylic carbon (pathway 1) led to the ketone and the lactone as metabolites. Oxidation or nucleophilic substitution on the carbon next to the triazole ring (pathway 2) led to triazole alanine (TA) and triazole acetic acid (TAA) presumably through free triazole. Metabolic pathway 3 presumably produced the phenolic metabolite RH–4911, and led to the glucose conjugates found in all crops.

2. *Analytical method*. An adequate enforcement method is available for the established and proposed tolerances. Quantitation of fenbuconazole residues (and lactones RH–9129 and RH–9130) at an analytical sensitivity of 0.01 milligrams/kilogram (mg/kg) is accomplished by soxhlet extraction of samples in methanol, partitioning into methylene chloride, redissolving in toluene, cleanup on silica gel, and gas liquid chromatography using nitrogen specific thermionic detection.

3. *Magnitude of residues*. i. *Stone fruit—peaches*. Ten field trials were conducted on peaches. Seven to 10 applications were made at the maximum use rate of 0.1 pounds of active ingredient per acre (lb ai/acre), and fruit was harvested on the last day of application. The highest field residue value was 0.51 ppm, and the average field residue value was 0.36 ppm.

ii. *Stone fruit—cherries*. Eleven field trials were conducted on cherries. Five to 6 applications were made at the maximum use rate of 0.1 lb ai/acre, and fruit was harvested on the last day of application. The highest field residue value was 0.64 ppm, and the average field residue value was 0.44 ppm.

iii. *Stone fruit—apricots*. Two field trials were conducted on apricots. Six applications were made at the maximum use rate of 0.125 lb ai/acre, and fruit was harvested on the last day

of application. The field residue values in four samples measured were 0.17, 0.23, 0.27, and 0.28 ppm.

iv. *Pecans*. Four field trials were conducted in pecans. Eight to 10 applications were made at the maximum use rate of 0.125 lb ai/acre, and nuts were harvested 28 days after the last application. Field residue values in nutmeat for the four trials were 0.004, 0.004, <0.01, and <0.01 ppm.

v. *Bananas*. Eighteen field trials were conducted on bagged bananas, which are typically used in commerce. Eight applications (five and seven applications in two trials) were made at the maximum use rate of 0.09 lb ai/acre and bananas were harvested on the last day of application. The highest field residue value in whole fruit or in pulp and peel combined was 0.062 ppm. The average field residue value in whole fruit or in pulp and peel combined was 0.03 ppm.

The results of these studies support the proposed permanent tolerances for fenbuconazole on stone fruit, pecans, and bananas.

B. Toxicological Profile

1. *Acute toxicity*. Fenbuconazole is practically non-toxic after administration by the oral and dermal routes, and was not significantly toxic to rats after a 4 hour inhalation exposure. Fenbuconazole is classified as not irritating to skin and inconsequentially irritating to the eyes. It is not a skin sensitizer.

2. *Genotoxicity*. Fenbuconazole was negative (non-mutagenic) in an Ames assay with and without hepatic enzyme activation. Fenbuconazole was negative in a hypoxanthine guanine phosphoribosyl transferase (HGPRT) gene mutation assay using chinese hamster ovary (CHO) cells in culture when tested with and without hepatic enzyme activation. In isolated rat hepatocytes, fenbuconazole did not induce unscheduled DNA synthesis (UDS) or repair. Fenbuconazole did not produce chromosome effects in rats *in vivo*. On the basis of the results from this battery of tests, it is concluded that fenbuconazole is not mutagenic or genotoxic.

3. *Reproductive and developmental toxicity*— i. *Developmental toxicity in the rat*. In the developmental study in rats, the maternal (systemic) no observed adverse effect level (NOAEL) was 30 (mg/kg/day) based on decreases in body weight and body weight gain at the lowest observed adverse effect level (LOAEL) of 75 mg/kg/day. The developmental (fetal) NOAEL was 30 mg/kg/day based on an increase in post implantation loss and a significant decrease in the number of live fetuses per dam at the LOAEL of 75 mg/kg/day.

ii. *Developmental toxicity in the rabbit*. In the developmental study in rabbits, the maternal (systemic) NOAEL was 10 mg/kg/day based on decreased body weight gain at the LOAEL of 30 mg/kg/day. The developmental (fetal) NOAEL was 30 mg/kg/day based on increased resorptions at the LOAEL of 60 mg/kg/day.

iii. *Reproductive toxicity*. In the 2–generation reproduction toxicity study in rats, the maternal (systemic) NOAEL was 4 mg/kg/day based on decreased body weight and food consumption, increased number of dams delivering nonviable offspring, and increases in adrenal and thyroid weights at the LOAEL of 40 mg/kg/day. The reproductive (pup) NOAEL was 40 mg/kg/day, the highest dose tested.

4. *Subchronic toxicity*—i. *Rat 90–day oral study*. A subchronic feeding study in rats conducted for 13 weeks resulted in a NOAEL of 20 ppm (1.3 and 1.5 mg/kg/day in males and females, respectively). Minimal liver hypertrophy was observed in males at the LOAEL of 80 ppm. Increased liver weight, hepatic hypertrophy, thyroid hypertrophy, and decreased body weight were observed at the higher doses of 400 and 1,600 ppm.

ii. *Mouse 90–day oral study*. A subchronic feeding study in mice conducted for 13 weeks resulted in a NOAEL of 60 ppm (11.1 and 17.6 mg/kg/day in males and females, respectively). Increased liver weight, hypertrophy in the liver (males), and increases in clinical chemistry parameters (males) were observed at the LOAEL of 180 ppm. These effects were all observed in females at 540 ppm, in addition to males.

iii. *Dog 90–day oral study*. A subchronic feeding study in dogs conducted for 13 weeks resulted in a NOAEL of 100 ppm (3.3 and 3.5 mg/kg/day in males and females, respectively). At the LOAEL of 400 ppm, increased liver weight, clinical chemistry parameters, and liver hypertrophy (males) were observed.

iv. *Rat 4–week dermal study*. In a 21–day dermal toxicity in the rat study, the NOAEL was greater than 1,000 mg/kg/day, with no effects seen at this limit dose.

5. *Chronic toxicity*—i. *Dog*. A one–year feeding study in dogs resulted in a NOAEL of 15 ppm (0.62 mg/kg/day) for females and 150 ppm (5.2 mg/kg/day) for males. Decreased body weight, increased liver weight, liver hypertrophy, and pigment in the liver were observed at the LOAEL of 150 and 1,200 ppm in females and males, respectively.

ii. *Mouse*. A 78–week chronic/oncogenicity study was conducted in male and female mice at 0, 10, 200 (males only), 650, and 1,300 ppm (females only). The NOAEL was 10 ppm (1.4 mg/kg/day), and the LOAEL was 200 ppm (26.3 mg/kg/day) for males and 650 ppm (104.6 mg/kg/day) for females based on increased liver weight and histopathological effects on the liver, which were consistent with chronic enzyme induction. There was no statistically significant increase of any tumor type in males. However, there was a statistically significant increase in combined liver adenomas and carcinomas in females at the high dose only (1,300 ppm; 208.8 mg/kg/day). There were no liver tumors in the control females, and liver tumor incidences in the high-dose females just exceeded the historical control range. In ancillary mode-of-action studies in female mice, the increased tumor incidence was associated with changes in several parameters in mouse liver following high doses of fenbuconazole, including an increase in P450 enzymes (predominately of the CYP 2B type), an increase in cell proliferation, an increase in hepatocyte hypertrophy, and an increase in liver weight. Changes in these liver parameters, as well as the occurrence of the low incidence of liver tumors, were non-linear with respect to dose (i.e., effects were observed only at high dietary doses of fenbuconazole). Similar findings have been shown with several pharmaceuticals, including phenobarbital, which is not carcinogenic in humans. The non-linear dose response relationship observed with respect to liver changes (including the low incidence of tumors) in the mouse indicates that these findings should be carefully considered in deciding the relevance of high-dose animal tumors to human dietary exposure.

iii. *Rat*. A 24–month chronic/oncogenicity study in male and female rats was conducted at 0, 8, 80, and 800 ppm fenbuconazole, and a second 24–month chronic/oncogenicity study was conducted in male rats at 0, 800, and 1,600 ppm. The NOAEL was 80 ppm (3 and 4 mg/kg/day in males and females, respectively), and the LOAEL was 800 ppm (31 and 43 mg/kg/day in males and females, respectively) based on decreased body weight, increased liver and thyroid weights, and liver and thyroid hypertrophy. Fenbuconazole produced a minimal but statistically significant increase in the incidence of combined thyroid follicular cell benign and malignant tumors. These findings

occurred only in male rats following life-time ingestion of very high levels (800 and 1,600 ppm in the diet) of fenbuconazole.

6. *Animal metabolism*. The absorption, distribution, excretion, and metabolism of fenbuconazole in rats, goats, and hens were investigated. Following oral administration, fenbuconazole was completely and rapidly absorbed, extensively metabolized by oxidation/hydroxylation and conjugation, and rapidly and essentially completely excreted, predominately in the feces. Fenbuconazole did not accumulate in tissues.

7. *Metabolite toxicology*. Common metabolic pathways for fenbuconazole have been identified in both plants (wheat, peaches, and sugar beets) and animals (rat, goat, and hen). The metabolic pathway common to both plants and animals involves oxidation of the benzylic position alpha to the chlorophenyl ring. The metabolites which result from this path are the benzylic alcohols and their conjugates, including sulfates and glucuronides, the iminolactones, the lactones, and the ketoacid, all resulting from intramolecular cyclization. A second pathway is oxidation of the unchlorinated ring to produce the 3– and 4–phenols and their conjugates. Combinations of the above two pathways produce phenol-lactones and their conjugates. A third pathway is cleavage of the triazole moiety, which produces free triazole and its conjugates. Extensive degradation and elimination of polar metabolites occurs in animals such that residues are unlikely to accumulate in humans or animals exposed to these residues through the diet.

8. *Endocrine disruption*. The mammalian endocrine system includes estrogen and androgens as well as other hormonal systems. Fenbuconazole is not known to interfere with reproductive hormones; thus, fenbuconazole should not be considered to be estrogenic or androgenic. There are no known instances of proven or alleged adverse reproductive or developmental effects to people, domestic animals, or wildlife as a result of exposure to fenbuconazole or its residues.

C. Aggregate Exposure

1. *Dietary exposure*. Time-limited tolerances have been established (40 CFR part 180) for the residues of fenbuconazole in the RACs stone fruits (except plum and prune) at 2.0 ppm, pecan at 0.1 ppm, and banana (whole fruit) at 0.3 ppm. Risk assessments were conducted by Rohm and Haas to assess dietary exposures and risks from fenbuconazole as follows.

i. *Food—Acute exposure and risk*. No acute endpoint was identified for fenbuconazole, and no acute risk assessment is required.

ii. *Chronic exposure and risk*. Risk associated with chronic dietary exposure from fenbuconazole was assessed on four levels. In the first assessment, tolerance level residues and 100% crop treated were assumed. In the second assessment, tolerance level residues and Rohm and Haas Company's conservative estimates of the highest achievable percent crop treated refinements were assumed. Rohm and Haas Company's percent of crop treated estimates used in the assessments are stone fruit = 30%, bananas = 20%, and pecans = 11%. In the third assessment, average field trial (anticipated) residues and 100% crop treated were assumed. In the fourth assessment, average field trial residues and Rohm and Haas Company's conservative percent of crop treated estimates indicated above were assumed. The anticipated residue contribution (ARC) from stone fruit (except plums and prunes), pecans, and bananas was assessed.

The reference dose (RfD) used for the chronic dietary analysis is 0.03 mg/kg/day. Potential chronic exposures were estimated using NOVIGEN'S dietary exposure evaluation model (DEEM~ version 7.075), which uses United States Department of Agriculture (USDA) food consumption data from the 1994–1996 survey. The existing and proposed fenbuconazole tolerances, and average fenbuconazole residues, result in ARCs that are equivalent to the following percentages of the RfD.

Population Subgroup	DEEM[1] %RfD	DEEM[2] %RfD	DEEM[3] %RfD	DEEM[4] %RfD
U.S. population (48 states)	1.5	0.4	0.2	0.1
Nursing infants (<1–year old)	5.1	1.4	0.8	0.2
Non-nursing infants (<1–year old)	10.8	3.1	1.7	0.5
Children (1 to 6 years old)	4.3	1.2	0.7	0.2
Children (7 to 12 years old)	2.0	0.6	0.3	0.1
Females (13+ and nursing)	1.9	0.5	0.3	0.1

[1]Assumes residues are present at tolerance levels and 100% crop treated.
[2]Assumes residues are present at tolerance levels and includes percent crop treated refinements.
[3]Assumes residues are present at their average field trial residue levels and 100% crop treated.
[4]Assumes residues are present at their average field trial residue levels and includes percent crop treated refinements.

iii. *Drinking water*. Fenbuconazole has minimal tendency to contaminate ground water or drinking water because of its adsorptive properties on soil, solubility in water, and degradation rate. USDA PRZM/GLEAMS computer modeling of laboratory and field dissipation data predict that fenbuconazole will not leach into ground water, even if heavy rainfall is simulated. The modeling predictions are consistent with the data from environmental studies in the laboratory and the results of actual field dissipation studies. There is no established maximum concentration level (MCL) for residues of fenbuconazole in drinking water. No drinking water health advisory levels have been established for fenbuconazole. There is no entry for fenbuconazole in the ''Pesticides in Ground Water Data Base'' (EPA 734–12–92–001; September 1992).

2. *Non-dietary exposure*. Fenbuconazole is not currently registered for any indoor or outdoor residential uses; therefore, no non-dietary residential exposure is anticipated.

3. *Aggregate cancer risk for U.S. population*. Fenbuconazole has been classified as a group C carcinogen with a Q_1^* value of 0.00359 mg/kg/day^{-1}. Cancer risk assessments for fenbuconazole use on stone fruit (except plums/prunes), pecans, and bananas for the U.S. population are as follow.

Assumptions/ Refinements	Stone fruits (except plums and prunes), pecans, and bananas
Tolerance residue levels and 100% crop treated assumed	1.67×10^{-6}
Tolerance residue levels and percent crop treated refinements assumed	4.62×10^{-7}
Anticipated residue levels and 100% crop treated assumed	2.68×10^{-7}
Anticipated residue levels and percent treated refinements assumed	7.64×10^{-8}

D. Cumulative Effects

The potential for cumulative effects of fenbuconazole with other substances that have a common mechanism of toxicity was considered. Fenbuconazole belongs to the class of fungicide chemicals known as triazoles having demethylase inhibition capability. The toxicological effects of fenbuconazole are related to its effects on rodent thyroid and liver. Extensive data that are available on the biochemical mode of action by which fenbuconazole produces animal tumors in rats and mice indicate that the initiating events do not occur below a given dose, and that the processes are reversible. There are no data which suggest that the mode of action by which fenbuconazole produces these animal tumors or any other toxicological effect is common to all fungicides of this class. In fact, the closest structural analog to fenbuconazole among registered fungicides of this class is not tumorigenic in animals, even at maximally tolerated doses, and has a different spectrum of toxicological effects.

E. Safety Determination

1. *U.S. population*—i. *Acute exposure and risk*. Since no acute endpoint was identified for fenbuconazole, no acute risk assessment is required.

ii. *Chronic exposure and risk*. Using the conservative exposure assumptions described above and taking into account the completeness and reliability of the toxicity data, the percentage of the RfD that will be utilized by dietary (food only) exposure to residues of fenbuconazole from the proposed permanent tolerances is 1.5% for the U.S. population, assuming residues are present at their tolerance levels and 100% crop treated. The percentage of the RfD that will be utilized by dietary (food only) exposure to residues of fenbuconazole from the proposed permanent tolerances is 0.1% for the U.S. population, assuming residues are present at their average field trial residue levels, and conservative percent crop treated refinements. Aggregate exposure is not expected to exceed 100%. EPA generally has no concern for exposures below 100% of the RfD, because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Rohm and Haas concludes that there is a reasonable certainty that no harm will result to the U.S. population from aggregate exposure to fenbuconazole residues.

2. *Infants and children*—i. *General*. In assessing the potential for additional sensitivity of infants and children to residues of fenbuconazole, data from developmental toxicity studies in the rat and rabbit, and 2–generation reproduction studies in the rat are considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

ii. *Developmental toxicity studies*—a. *Rat*. In the developmental study in rats, the maternal (systemic) NOAEL was 30 mg/kg/day based on decreases in body weight and body weight gain at the LOAEL of 75 mg/kg/day. The developmental (fetal) NOAEL was 30 mg/kg/day based on an increase in post implantation loss and a significant decrease in the number of live fetuses per dam at the LOAEL of 75 mg/kg/day.

b. *Rabbit*. In the developmental study in rabbits, the maternal (systemic) NOAEL was 10 mg/kg/day based on decreased body weight gain at the LOAEL of 30 mg/kg/day. The developmental (fetal) NOAEL was 30 mg/kg/day based on increased resorptions at the LOAEL of 60 mg/kg/day.

c. *Reproductive toxicity study*. In the 2–generation reproduction toxicity study in rats, the maternal (systemic) NOAEL was 4 mg/kg/day based on decreased body weight and food consumption, increased number of dams delivering nonviable offspring, and increases in adrenal and thyroid weights at the LOAEL of 40 mg/kg/day. The reproductive (pup) NOAEL was 40 mg/kg/day, the highest dose tested.

d. *Prenatal and postnatal sensitivity*. The prenatal and postnatal toxicology data base for fenbuconazole is complete with respect to current toxicological data requirements. There is a 10–fold difference between the developmental NOAEL of 30 mg/kg/day from the rat and rabbit developmental toxicity studies and the NOAEL of 3 mg/kg/day from the chronic rat feeding study which is the basis of the RfD. It is further noted that in the rabbit and rat developmental toxicity studies, the developmental NOAELs are similar to or greater than the respective maternal NOAELs. In the rat reproduction study, the maternal NOAEL (4 mg/kg/day) was 10 times lower than the developmental (pup) and reproductive NOAEL (40 mg/kg/day, the highest dose tested). These studies indicate that there is no additional sensitivity for infants and children in the absence of maternal toxicity for fenbuconazole.

e. *Acute risk*. No acute dietary risk has been identified for fenbuconazole.

f. *Chronic risk*. Using the exposure assumptions described above, exposure to fenbuconazole from food will utilize 10.8% of the RfD for non-nursing infants <1 year old and 5.1% for nursing infants <1 year old assuming residues are present at tolerance levels and 100% crop treated. Exposure to fenbuconazole will utilize only 0.5% of the RfD for non-nursing infants <1 year old and 0.2% for nursing infants <1 year old assuming residues are present at their average field trial residue levels and conservative percent crop treated refinements. The exposure to fenbuconazole from food will utilize 4.3% of the RfD for children 1 to 6 years old and 2.0% for children 7 to 12 years old assuming residues are present at tolerance levels and 100% crop treated, and will utilize only 0.2% of the RfD for children 1 to 6 years old and 0.1% for children 7 to 12 years old assuming residues are present at their average field trial residue levels and conservative percent crop treated refinements. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health.

g. *Conclusion*. It is concluded that reliable and complete data support the use of the 100–fold uncertainty factor (UF), and that an additional 10–fold factor is not needed to ensure the safety of infants and children from dietary exposure. Rohm and Haas concludes that there is a reasonable certainty that no harm will result from aggregate exposure of infants and children to fenbuconazole residues.

F. International Tolerances

There are currently no Codex maximum residue limits (MRLs) for fenbuconazole, but the fenbuconazole data base was evaluated by the world health organization (WHO) and the food and agriculture organization (FAO) expert panels at the joint meeting on pesticide residues (JMPR) in September 1997. An allowable daily intake (ADI; also called RfD) of 0.03 mg/kg/day and a total of 32 Codex MRLs were proposed in the JMPR report.

[FR Doc. 01–7287 Filed 3–22–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6957–4]

Notice of Proposed Administrative Order on Consent Under Section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as Amended, 42 U.S.C. 9622, Lehigh Portland Cement Company Superfund Site, Mason City, Iowa, Docket No. CERCLA–07–2001–0006

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed administrative order on consent, Lehigh Portland Cement Company superfund site, Mason City, Iowa.

SUMMARY: Notice is hereby given that a proposed administrative order on consent regarding Lehigh Portland Cement Company was signed by the United States Environmental Protection Agency (EPA) on February 6, 2001, and approved by the United States Department of Justice (DOJ) on February 19, 2001.

DATES: EPA will receive, for a period until on or before April 23, 2001, written comments relating to the proposed administrative order on consent.

ADDRESSES: Comments should be addressed to Barbara L. Peterson, Senior Assistant Regional Counsel, United States Environmental Protection Agency, Region VII, 901 N. 5th Street, Kansas City, Kansas 66101 and should refer to *the Lehigh Portland Cement Company Superfund Site Administrative Order on Consent.*

The proposed consent order may be examined or obtained in person or by mail at the office of the United States Environmental Protection Agency, Region VII, 901 N. 5th Street, Kansas City, KS 66101, (913) 551–7277.

SUPPLEMENTARY INFORMATION: The proposed consent order concerns the Lehigh Portland Cement Company Superfund Site located in Mason City, Cerro Gordo County, Iowa. The consent order resolves the liability of Lehigh under Section 107(a) of CERCLA, 42 U.S.C. 9607(a), for both EPA response costs and natural resource damages relating to the site. Under the Administrative Order, Lehigh will pay the United States $640,000 in settlement of EPA's past response costs and $35,000 in settlement of natural resource damages claims.

Dated: March 7, 2001.

William W. Rice,

Acting Regional Administrator, United States Environmental Protection Agency, Region VII.

[FR Doc. 01–7284 Filed 3–22–01; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[PB–402404A–IN; FRL–6767–7]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; Approval of State of Indiana Lead Activities Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On April 12, 2000, the State of Indiana submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). Indiana provided a self-certification letter stating that its program is at least as protective of human health and the environment as the Federal program and it has the legal authority and ability to implement the appropriate elements necessary to receive EPA approval. In the **Federal Register** of August 8, 2000 (65 FR 68498) (FRL–6593–2), EPA published a notice announcing receipt of the State's application. EPA did not receive any comments regarding any aspect of the Indiana program and/or application. This notice announces the approval of the Indiana application, and the authorization of the Indiana Department of Environmental Management's Lead-Based Paint Activities Program to apply in the State of Indiana, effective April 12, 2000, in leu of the corresponding Federal program under section 402 of TSCA.

DATES: Based upon the State's self-certification, Lead-Based Paint Activities Program authorization was granted to the State of Indiana effective on April 12, 2000.

FOR FURTHER INFORMATION CONTACT: Ludmilla Koralewska, Project Officer, Environmental Protection Agency, Region V, 77 West Jackson Blvd. (DT-8J), Chicago, IL 60604; telephone: (312) 886–3577; e-mail address: koralewska.ludmilla@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to firms and individuals engaged in lead-based paint activities in Indiana. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

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

2. *In person.* The Agency has established an official record for this action under docket control number PB–402404A–IN. The official record consists of the documents specifically referenced in this action, this notice, the State of Indiana's authorization application, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any

electronic comments submitted during an applicable comment period, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The docket is located at the U.S. EPA Region V Office, Environmental Protection Agency, Waste, Pesticides and Toxics Division, Pesticides and Toxics Substances Branch, Toxics Program Section (DT-8J), 77 West Jackson Blvd, Chicago, IL 60604.

II. Background

On October 28, 1992, the Housing and Community Development Act of 1992, Public Law 102–550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681–2692), entitled *Lead Exposure Reduction*. Section 402 of TSCA (15 U.S.C. 2682) authorizes and directs EPA to promulgate final regulations governing lead-based paint activities in target housing, public and commercial buildings, bridges, and other structures. Under section 404 of TSCA, a State may seek authorization from EPA to administer and enforce its own lead-based paint activities program. On August 29, 1996, EPA issued section 402/404 regulations (40 CFR part 745) governing lead-based paint activities in target housing and child-occupied facilities. States and Indian Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. To receive EPA approval, a State or Indian Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement (section 404(b) of TSCA, 15 U.S.C. 2684(b)). EPA's regulations (40 CFR part 745, subpart Q) provide the detailed requirements a State or Indian Tribal program must meet in order to obtain EPA approval.

Under these regulations, a State must demonstrate that it has the legal authority and ability to immediately implement certain elements, including legal authority for accrediting training providers, certification of individuals, work practice standards and pre-renovation notification, authority to enter, and flexible remedies. In order to receive final approval, the State must be able to demonstrate that it is able to immediately implement the remaining performance elements, including training, compliance assistance, sampling techniques, tracking tips and complaints, targeting inspections, follow up to inspection reports, and compliance monitoring and enforcement.

III. Federal Overfiling

Section 404(b) of TSCA makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Indian Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Indian Tribal program.

IV. Withdrawal of Authorization

Pursuant to section 404(c) of TSCA, the EPA Administrator may withdraw a State or Indian Tribal lead-based paint activities program authorization, after notice and opportunity for corrective action, if the program is not being administered or enforced in compliance with standards, regulations, and other requirements established under the authorization. The procedures EPA will follow for the withdrawal of an authorization are found at 40 CFR 745.324(i).

V. Submission to Congress and the Comptroller General

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

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: February 6, 2001.

David A. Ullrich,

Acting Regional Administrator, Region V.

[FR Doc. 01–7285 Filed 3–22–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6953–7]

Final Reissuance of the National Pollutant Discharge Elimination System (NPDES) Storm Water Multi-Sector General Permit for Industrial Activities; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Final NPDES general permit; correction.

SUMMARY: EPA published a new version of the NPDES Storm Water Multi-Sector General Permit (MSGP) in the **Federal Register** of October 30, 2000 (65 FR 64746), which replaced the first version issued on September 29, 1995 (60 FR 50804) and amended on February 9, 1996 (61 FR 5248), February 20, 1996 (61 FR 5248), September 24, 1996 (61 FR 50020), August 7, 1998 (63 FR 42534) and September 30, 1998 (63 FR 52430). This general permit authorizes the discharge of storm water from industrial activities consistent with the terms of the permit. The permit contained incorrect dates, typographical errors and omissions from any of the following: the fact sheet portion of the final MSGP from October 30, 2000, the proposed MSGP from March 30, 2000 (65 FR 17010), or the original 1995 version of the MSGP and subsequent amendments. This correction is subsequent to an initial correction notice published January 9, 2001 (66 FR 1675).

FOR FURTHER INFORMATION CONTACT: Bryan Rittenhouse, 202–564–0577; *rittenhouse.bryan@epa.gov.*

SUPPLEMENTARY INFORMATION:

Correction

The following corrections are to be made to the **Federal Register** of October 30, 2000, (65 FR 64746):

1. On page 64758, first column, under ''2. Deadlines'', correct the second paragraph to read:

Facilities currently covered by the 1995 MSGP who cannot immediately determine if they are eligible for coverage under today's reissued MSGP may nevertheless continue their previous coverage for up to 270 days, providing the permittee submits to EPA an application for an individual permit by January 29, 2001. He must also submit a written notification before January 29, 2001, that he needs the extension. The notification alerts the permitting authority of the need for continued coverage under the 1995 MSGP (and also that the permittee may

need some help in submitting the application), and it must include the reason why the extension is needed (e.g., to conduct Endangered Species Act or National Historic Preservation Act investigations, or intentionally obtain an individual permit). Applications and notifications must be sent to the appropriate Regional office as listed in part VI.F.2 of this portion of the permit. This interim coverage enables permittees to assesses their eligibility for the MSGP–2000 and, if necessary, still meet the 180 day lead time required for applications for individual permits. If a permittee subsequently determines he is eligible for coverage under the MSGP–2000 before the 270 day extension is up, he may withdraw his individual permit application and submit an NOI for coverage under the MSGP–2000.

2. On page 64766, first column, under ''4. Deadlines'', insert ''in writing, to the appropriate Regional office (listed in part VI.F.2), for'' into the third sentence so that it reads:

However, a permittee may request, in writing, to the appropriate Regional office (listed in part VI.F.2), for an extension for the SWPPP update not to exceed 270 days from the expiration date of the 1995 MSGP.

3. On page 64779, second column, under ''Section 2.1 Notice of Intent (NOI) Deadlines'', Replace the first sentence following ''Response:'' with:

The fact sheet clarifies that SWPPPs are to be prepared, in general, by January 29, 2001.

4. On page 64790, first column, under ''Response c:'', correct the second sentence to read:

He then has up to 180 additional days of interim coverage under the MSGP while he conducts the consultation and determines whether he meets the criteria for coverage under the MSGP–2000, providing he requests in writing to the appropriate Regional office for the extension.

5. On page 64808, second column, under ''1.2.3.6 *Endangered and Threatened Species or Critical Habitat Protection.*'', replace the first sentence with:

You are not authorized for discharges or discharge-related activities that are likely to jeopardize the continued existence of any species that are listed as endangered or threatened under the ESA or result in the adverse modification or destruction of habitat that is designated as critical under the ESA.

6. On page 64808, second column, under part 1.2.3.6.1, delete the phrase ''or proposed to be designated'' from the first sentence.

7. On page 64808, third column, under part 1.2.3.6.3.4, replace the phrase ''listed species or critical habitat would be adversely affected.'' with:

the discharges and discharge-related activities will jeopardize the continued existence of any species or result in the adverse modification or destruction of critical habitat.

8. On page 64809, first column, under part 1.2.3.6.6, delete the phrase ''or proposed to be designated'' from the first sentence.

9. On page 64810, second column, under part 2.1.2.2, in the first sentence, replace the phrase ''under this permit'' with:

for continued coverage under the previous permit

10. On page 64810, second column, under part 2.1.2.2, after the first sentence, add the following sentence:

A written notification must also be submitted to the Director explaining why you need the extended coverage (e.g., conducting Endangered Species Act or National Historic Preservation Act investigations, or applying for an individual permit). If you subsequently determine you are eligible for coverage under the MSGP–2000 before the 270 day extension is up, you may withdraw your individual permit application and submit a notice of intent for coverage under the MSGP–2000. If you cannot determine eligibility for the MSGP–2000 by the end of 270 days (July 29, 2001) your alternative permit coverage must be finalized or your discharges will be unauthorized.

11. On page 64825, second column, under ''6.G.6 Storm Water Pollution Prevention Plan (SWPPP) Requirements'', delete the sentence: ''In addition to the following requirements, you must also comply with the requirements listed in Part 4.''

12. On page 64825, second column, under ''6.G.6.1 SWPPP Requirements for Active and Temporarily Inactive Metal Mining Facilities'', add the following sentence:

For Part 6.G.6.1 only, in addition to the following requirements, you must also comply with the requirements listed in Part 4.

13. On page 64832, first column, under ''6.K.2 Industrial Activities Covered by Sector K'', add the following paragraph after the one found there:

Disposal facilities that have been properly closed and capped, and have no significant materials exposed to storm water, are considered inactive and do not require permits.

14. On page 64817, under Table 5–1, footnote 3, delete the word ''ethylene'.

15. On page 64817, in Table 5–1, column 2, following the words ''Scrap Recycling'', add the following:

and Waste Recycling Facilities

16. On page 64837, first column, following ''6.N.4.2 Scrap'', insert the word:

Recycling

17. On page 64838, third column, after ''6.N.5 Monitoring and Reporting Requirements. (See also Part 5)'', add the following:

The monitoring and reporting requirements given in TABLE N–1 apply only to scrap recycling and waste recycling facilities (non-source separated facilities only).

18. On page 64839, in Table 5N–1, column 1, following the words ''Scrap Recycling'', add the following:

and Waste Recycling

19. On page 64845, column 3, under ''6.S.6 Monitoring and Reporting Requirements (See also Part 5)'', add the following language:

Monitor per the requirements in Table S–1, 4 times only during the three month period of December, January and February when deicing activities are occurring, for the year 2 and year 4 monitoring years.

20. On page 64845, under table S–1, delete the footnote: ''1 Monitor once/quarter for the year 2 and 4 monitoring years.''

21. On page 64799, first column, under ''Response y'', replace the entire paragraph with:

EPA will keep the visual monitoring requirement waiver for representative outfalls that was contained in the 1995 MSGP. This applies when two or more outfalls at a facility discharge substantially identical effluents. When this occurs, the permittee can perform a visual examination of just one of the discharges, providing he describes in his SWPPP why the other outfalls are expected to discharge essentially the same effluents.

22. On page 64818, third column, in ''5.2.4 Representative Outfalls-Essential Identical Discharges'', replace the word ''Essential'' with:

Essentially

23. On page 64818, third column, under ''5.2.4 Representative Outfalls-Essential Identical Discharges'', add the following sentence after the first sentence:

The same outfall monitoring waiver for substantially identical discharges applies to quarterly visual monitoring as well.

24. On page 64873, Addendum D-Notice of Intent Form, under ''A. Permit Selection', correct the sentence to read:

If new, enter generic permit, otherwise enter previous permit:

25. On page 64874, column 1, under ''Section A. Permit Selection'', replace the language in both the original version published on October 29, 2000 and the corrected version published on January 9, 2001 with the following:

If your facility was previously covered by the MSGP 1995 Permit, and you are transferring to the October 29, 2000 version of the MSGP (MSGP 2000), then you must indicate the MSGP 1995 permit number assigned to you by the Storm Water Notice of Intent Center.

If your facility was not previously covered by the MSGP 1995 Permit, and you are applying for new coverage under the MSGP 2000 Permit, you must indicate the ''generic'' permit number covering your facility area. You will find your generic permit number in the MSGP 2000 Permit, **Federal Register**, Vol. 65, No. 210, Monday, October 30, 2000, on pages 64802–64803. (As an example, the generic permit number for an industrial site in Puerto Rico would be PRR05*###.) The MSGP 2000 Permit is available online at *http://www.epa.gov/owm/sw/industry/msgp/msgp2000.pdf.*

26. On page 64871, column 1, under ''Puerto Rico, Commonwealth of'', delete ''Deputy: Berenice Sueiro, E-Mail: bsueiro@prshpo.prstar.net'' and replace ''Ms. Lilliane D. Lopez'' with:

Ms. Enid Torregrosa de la Rosa

27. On page 64826, column 3, under ''6.G.6.2.4.4 Capping'', replace ''6.G.6.1.7'' with:

6.G.6.1.6.4

28. On page 64826, column 3, under ''6.G.6.2.4.5 Treatment'', replace ''6.G.6.1.8'' with:

6.G.6.1.6.5

Region 1

Signed and issued this 30th day of February 2001.

Susan Studlien,

Deputy Director, Office of Ecosystem Protection.

Region 2

Signed and issued this 28th day of January 2001.

George Pavlou,

Director, Division of Environmental Planning and Protection.

Signed this 2nd day of February, 2001.

Jon M. Capacasa,

Deputy Director, Water Protection Division, Region 3.

Dated: February 12, 2001

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Region 6

Signed and issued this 1st day of February 2001.

Oscar Ramirez, Jr.,

Acting Director, Water Quality Protection Division.

Region 8

Signed and issued this 26th day of January 2001.

Stephen S. Tuber,

Acting Assistant Regional Administrator, Office of Partnerships and Regulatory Assistance.

Region 9

Signed and issued this 24th day of January 2001.

Alexis Strauss,

Director, Water Division.

Region 10

Signed and issued this 29th day of January 2001.

Robert Robichaud,

Acting Director, Office of Water.

BILLING CODE 6560–50–P

NPDES Form 3510-6

United States Environmental Protection Agency
Washington, DC 20460

Form Approved
OMB No. 2040-0086

Notice of Intent for Storm Water Discharges Associated with INDUSTRIAL ACTIVITY Under the Multi-sector NPDES General Permit

Submission of this completed Notice of Intent (NOI) constitutes notice that the entitiy in Section B intends to be authorized to discharge pollutants to waters of the United States, from the facility or site identified in Section C, under EPA's Storm Water Multi-sector General Permit (MSGP). Submission of the NOI also constitutes notice that the party identified in Section B of this form has read, understands, and meets the eligibility conditions of Part I of the MSGP; agrees to comply with all applicable terms and conditions of the MSGP; understands that continued authorization under the MSGP is contigent on maintaining eligibility for coverage, and that implementation of the permittee's pollution prevention plan is required two days after a complete NOI is mailed. In order to be granted coverage, all information required on this form must be completed. Please read and make sure you comply with all permit requirements, including the requirement to prepare and implement a storm water pollution prevention plan.

A. Permit Selection
If new, enter generic permit, otherwise enter previous permit: _____

New Permit Number (EPA Use Only) ___ R05 ___

B. Facility Operator Information

1. Name: _____ 2. Phone: _____
3. Mailing Address: a. Street or P.O. Box: _____
   b. City: _____ c. State: ___ d. Zip Code: _____

C. Facility/Site Information

1. Facility/Site Name: _____
2. Location Address: a. Street: _____
   b. City: _____ c. County: _____
   d. State: ___ e. Zip Code: _____ f. Latitude: ___ ___ ___ g. Longitude: ___ ___ ___
3. If you are filing as a co-permittee, enter storm water general permit number: _____
4. a. Permit Applicant: ☐ Federal ☐ State ☐ Tribal ☐ Private ☐ Other public entity
   b. Is the facility located on Indian Country Lands? ☐ Yes ☐ No
5. Does the facility discharge storm water into:
   a. Receiving water(s)? ☐ Yes ☐ No If yes, name(s) of receiving water(s): _____
   b. A municipal separate storm sewer system (MS4)? ☐ Yes ☐ No
   If yes, name of the MS4 operator: _____
6. The 4-digit Standard Industrial Classification (SIC) codes or the 2-letter Activity Codes that best represent the principal products produced or services rendered by your facility and major co-located activities:
   Primary: ____ Secondary (if applicable): ____
7. Applicable sector(s) of industrial activity, as designated in Part 1.2.1 of the MSGP, that include associated discharges that you seek to have covered under this permit (choose up to three):

☐ Sector A	☐ Sector F	☐ Sector K	☐ Sector P	☐ Sector U	☐ Sector Z
☐ Sector B	☐ Sector G	☐ Sector L	☐ Sector Q	☐ Sector V	☐ Sector AA
☐ Sector C	☐ Sector H	☐ Sector M	☐ Sector R	☐ Sector W	☐ Sector AB
☐ Sector D	☐ Sector I	☐ Sector N	☐ Sector S	☐ Sector X	☐ Sector AC
☐ Sector E	☐ Sector J	☐ Sector O	☐ Sector T	☐ Sector Y	☐ Sector AD

8. Additional Facility/Site Requirements:
   a. Based on the instructions provided in Addendum A of the MSGP, have the eligibility criteria for "listed species" and critical habitat been met? ☐ Yes ☐ No
   b. Based on the instructions provided in Addendum B of the MSGP, have the eligibility criteria for protection of historic properties been met? ☐ Yes ☐ No

D. Certification

Do you certify under penalty of law that this document and all attachments were prepared under your direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted? Based on your inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, do you certify that the information submitted is, to the best of your knowledge and belief, true, accurate, and complete? Do you certify that you are aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations?

Print Name: _____

Signature: _____ Date: _____

Instructions for Completing the Notice of Intent for Storm Water Discharges Associated with INDUSTRIAL ACTIVITY Under the Multi-sector General Permit

Who Must File a Notice of Intent?

Under the provisions of section 402(p) of the Clean Water Act (CWA) and regulations at 40 CFR Part 122, Federal law prohibits "point source" discharges of storm water associated with industrial activity to waters of the U.S. without a National Pollutant Discharge Elimination System (NPDES) permit. If you operate a facility which is described in Part 1.2.1. of the Multi-sector General Permit (MSGP) or if you have been designated as needing permit coverage for your storm water discharges by your NPDES permitting authority, and you meet the eligibility requirements in Part 1 of the permit, you may satisfy your CWA obligation for permit coverage by submitting a completed NOI to obtain coverage under the MSGP. If you have questions about whether you need a permit under the NPDES Storm Water Program, contact your NPDES permitting authority (i.e., your EPA Regional storm water coordinator or your State water pollution control agency).

One NOI must be submitted for each facility or site for which you are seeking permit coverage. Only one NOI need be submitted to apply for coverage for all of your activities at each facility (e.g., you do not need to submit a separate NOI for each type of industrial activity located at a facility or industrial complex, provided your storm water pollution prevention plan covers each area for which you are an operator). Finally, the NOI must be submitted in accordance with the deadlines established in Part 2.1 of the MSGP.

When to File the NOI Form

DO NOT FILE THE NOI UNTIL YOU HAVE OBTAINED A COPY OF THE MULTI-SECTOR GENERAL PERMIT. You will need it to determine your eligibility, prepare your storm water pollution prevention plan, and correctly answer all questions on the NOI form — all of which must be done before you can sign the certification statement on the NOI in good faith (and without risk of committing perjury).

If you have a new facility or are the new operator of an existing facility, this form must be postmarked at least 48 hours before you need permit coverage. If your facility was covered under the 1995 Multi-sector General Permit or if you are currently operating without a permit, see Part 2.1 of the MSGP for your deadlines. CAUTION: You must allow enough lead time to gather the information necessary to complete the NOI (especially that related to determining eligibility with regards to endangered species and historic properties) and prepare the pollution prevention plan required by Part 4 of the MSGP prior to submitting your NOI.

Where to File the NOI Form

NOIs must be sent to the following address (do not send Storm Water Pollution Prevention Plans (SWPPPs) to this address):

Storm Water Notice of Intent (4203M)
USEPA
1201 Constitution Avenue
Washington, DC 20460

(For overnight/express delivery of NOIs, add the phone number (202) 564-9537)

NOTE: While not currently available, EPA is exploring the possibility of offering the option to complete the NOI form electronically online via the Internet. If this option does become available, directions will be posted on EPA's web site. To check on the availability of the alternative Online NOI, please visit http://www.epa.gov/owm/sw. If the Online NOI is not available, you must file the NOI at the above address.

If your facility discharges through a municipal separate storm sewer system (MS4) that is permitted as a medium or large MS4 under the NPDES Storm Water Program, you must also submit a signed copy of the NOI to the operator of that MS4, in accordance with the deadlines established in Part 2.1 of the permit.

Completing the NOI Form

To complete this form, type or print, using uppercase letters, in the appropriate areas only. Please place each character between the marks (abbreviate if necessary to stay within the number of characters allowed for each item). Use one space for breaks between words. Please make sure you have addressed all applicable questions and have made a photocopy for your records before sending the completed form to the address above.

Section A. Permit Selection

If your facility was previously covered by the MSGP 1995 Permit, and you are transferring to the October 29, 2000 version of the MSGP (MSGP 2000), then you must indicate the MSGP 1995 permit number assigned to you by the Storm Water Notice of Intent Center.

If your facility was not previously covered by the MSGP 1995 Permit, and you are applying for new coverage under the MSGP 2000 Permit, you must indicate the "generic" permit number covering your facility area. You will find your generic permit number in the MSGP 2000 Permit, Federal Register, Vol. 65, No. 210, Monday, October 30, 2000, on pages 64802-64803. (As an example, the generic permit number for an industrial site in Puerto Rico would be PRR05*###.) The MSGP 2000 Permit is available online at http://www.epa.gov/owm/sw/industry/msgp/msgp2000.pdf.

Section B. Facility Operator Information

1. Provide the legal name of the person, partnership, co-partnership, firm, company, corboration, association, joint stock company, trust, estate, governmental entity, or other legal entity that operates the facility or site described in this application. The name of the operator may or may not be the same as the name of the facility. The responsible party is the legal entity that controls the facility's operation, rather than the plant or site manager.
2. Provide the telephone number of the facility operator.
3. Provide the mailing address of the facility operator. Include the street address or P.O. Box, city, state, and zip code. All correspondence regarding the permit will be sent to this address, not the facility address in Section C.
4. Indicate the legal status of the facility operator as a Federal, State, Tribal private, or other public entity (other than Federal or State). This refers only to the operator, not the owner or the land the facility or site is located upon.

Section C. Facility/Site Information

1. Enter the official or legal name of the facility or site.
2. Enter the complete street address (if no street address exists, provide a geographic description [e.g., Intersection of Routes 9 and 55]), city county, state, and zip code. Do not use a P.O. Box. Enter the latitude and longitude of the approximate center of the facility or site in degrees/minutes/seconds. Latitude and longitude can be obtained from U.S. Geological Survey (USGS quadrangle or topographic maps, by using a GPS unit, by calling 1-(888) ASK-USGS, by searching for your facility's address on several commercial "map" sites on the Internet, or by accessing EPA's web site at http://www.epa.gov/owm/sw/industry/index.htm and selecting Latitude and Longitude Finders under the Resources/Permit section.
3. If you are filing as a co-permittee and a storm water general permit number has been issued to the co-permittee, enter the number in the space provided.
4. Indicate whether the facility is located on Indian Country lands (e.g., a federally recognized reservation, etc.).
5. Indicate whether the facility or site discharges storm water into a receiving water(s) and/or a municipal separate storm sewer system (MS4). Enter the name(s) of the closest receiving water(s) and/or the MS4 (An MS4 is defined as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by a state, city, town, borough, county, parish, district, association, or other public body and is designed or used for collecting or conveying storm water.)
6. List your primary and secondary four 4-digit Standard Industrial Classification (SIC) codes or 2-character Activity Codes that best describe the principal products or services provided at the facility or site identified in Section C of this application. For industrial activities defined in 40 CFR 122.26(b)(lf)(i)-(ix) and (xi) that do not have SIC codes that accurately describe the principal products produced or services provided, use the following 2-character Activity Codes:
   HZ = Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of RCRA [40 CFR 122.26(b)(lf)(iv)];
   LF = Landfills, land application sites, and open dumps that receive or have received any industrial wastes, including those that are subject to regulation under subtitle D of RCRA [40 CFR 122.26(b)(lf)(v)J;
   SE = Steam electric power generating facilities, including coal handling sites [40 CFR 122.26(b)(lf)(vii)];
   TW = Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage [40 CFR 122.26(b)(lf)(ix)]; or
   Alternatively, if your facility or site was specifically designated by your NPDES permitting authority (EPA), enter **"AD."**

Section D. Certification

Certification statement and signature. (CAUTION: An unsigned or undated NOI form will prevent the granting of permit coverage.) Federal statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means:

(i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or

(ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner or the proprietor; or

For a municipal, State, Federal, or other public facility: by either a principal executive or ranking elected official.

Paperwork Reduction Act Notice

Public reporting burden for this certification is estimated to average 3.7 hours per certification, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose to provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Director, Office of Environmental Information Services, Collection Services Division (2823), USEPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. Include the OMB control number of this form on any correspondence. Do not send the completed NOI form to this address.

[FR Doc. 01–7280 Filed 3–22–01; 8:45 am]
BILLING CODE 6560–50–C

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6956–4]

Underground Injection Control Program; Hazardous Waste Injection Restrictions; Petition for Exemption—Class I Hazardous Waste Injection E. I. du Pont de Nemours & Company, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Notice of final decision on a no migration petition reissuance.

SUMMARY: Notice is hereby given that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to E. I. du Pont de Nemours & Company, Inc. (DuPont) for Class I injection wells located at Orange, Texas. As required by 40 CFR part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by the petition reissuance and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the underground injection by DuPont, of the specific restricted hazardous wastes identified in the exemption, into Class I hazardous waste injection wells No. WDW–54, WDW–55, WDW–191 and WDW–282 at the Orange, Texas facility, until December 31, 2020, unless EPA moves to terminate the exemption under provisions of 40 CFR 148.24. As required by 40 CFR 148.22(b) and 124.10, a public notice of the proposed decision was issued December 21, 2000. The public comment period closed on February 5, 2001. No comments were received. This decision constitutes final Agency action.

DATES: This action was effective as of February 13, 2001.

ADDRESSES: Copies of the petition and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Water Quality Protection Division, Source Water Protection Branch (6WQ–S), 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Philip Dellinger, Chief Ground Water/UIC Section, EPA—Region 6, telephone (214) 665–7165.

Philip Dellinger,

Acting Division Director, Water Quality Protection Division (6WQ).

[FR Doc. 01–7283 Filed 3–22–01; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

Technological Advisory Council Meeting Postponed

AGENCY: Federal Communications Commission.

ACTION: Notice of rescheduling of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, Public Law 92–463, as amended, this notice advises interested persons that the meeting of the Technological Advisory Council scheduled for March 28, 2001 has been cancelled and will be rescheduled at a later date.

FOR FURTHER INFORMATION CONTACT: Robert Kimball@fcc.gov or 202–418–2339.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–7239 Filed 3–22–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning an information collection titled ''Transfer Agent Registration and Amendment Form.''

DATES: Comments must be submitted on or before May 22, 2001.

ADDRESSES: Interested parties are invited to submit written comments to Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898–7453, Office of the Executive Secretary, Room F–4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. All comments should refer to ''Transfer Agent Registration and Amendment Form.'' Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. [FAX number (202) 898–3838; Internet address: comments@ fdic.gov]. Comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Tamara R. Manly, at the address identified above.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently Approved Collection of Information

Title: Transfer Agent Registration and Amendment Form.

OMB Number: 3064–0026.

Form Number: TA–1.

Frequency of Response: On occasion.

Affected Public: All financial institutions.

Estimated Number of Respondents: 29 (11—initial registration; 18—amendments).

Estimated Time per Response: 1.25 hours (initial registration), .17 hours (amendment).

Estimated Total Annual Burden: 17 hours.

General Description of Collection: Section 17A(c)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q) requires a bank to register with the appropriate Federal bank regulator prior to performing any transfer agent function. Under FDIC regulation 12 CFR 341, an insured nonmember bank uses Form TA–1 to register with the FDIC.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use

of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record.

Dated at Washington, DC, this 20th day of March, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–7252 Filed 3–22–01; 8:45 am]

BILLING CODE 6714–01–U

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1363–DR]

Arkansas; 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 Arkansas (FEMA–1363–DR), dated March 13, 2001, and related determinations.

EFFECTIVE DATE: March 13, 2001.

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 March 13, 2001, 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, as follows:

I have determined that the damage in certain areas of the State of Arkansas, resulting from severe storms and flooding on February 14, 2001 and continuing, 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 (Stafford Act). I, therefore, declare that such a major disaster exists in the State of Arkansas.

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 Public 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 Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

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 Joe Bray 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 Arkansas to have been affected adversely by this declared major disaster:

Bradley, Clark, Columbia, Drew, Franklin, Hempstead, Hot Spring, Lincoln, Miller, Nevada, Prairie, Union, and White Counties for Public Assistance.

All counties within the State of Arkansas 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)

Joe M. Allbaugh,

Director.

[FR Doc. 01–7251 Filed 3–22–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1357–DR]

Louisiana; Amendment No. 3 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 Louisiana, (FEMA–1357–DR), dated January 12, 2001, and related determinations.

EFFECTIVE DATE: March 13, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice is hereby given that, in a letter dated March 13, 2001, the President amended the cost-sharing arrangements concerning Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, as amended by the Disaster Mitigation Act of 2000, Public Law 106–390, 114 Stat. 1552 (2000), in a letter to Joe M. Allbaugh, Director of the Federal Emergency Management Agency, as follows:

I have determined that the damage in certain areas of the State of Louisiana resulting from a severe winter ice storm beginning on December 11, 2000, and continuing through January 3, 2001, is of sufficient severity and magnitude that the provision of additional Federal assistance to ensure public health and safety is warranted under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 (Stafford Act).

Therefore, I amend the major disaster declaration of January 12, 2001, to provide that the Federal Emergency Management Agency (FEMA) may reimburse 100 percent of the costs of debris removal through March 13, 2001. This adjustment of the cost share may be provided to all counties under the major disaster declaration. You may extend this assistance for an additional period of time, if requested and warranted.

Please notify the Governor of Louisiana and the Federal Coordinating Officer of this amendment to my major disaster declaration.

(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).

Joe M. Allbaugh,

Director.

[FR Doc. 01–7246 Filed 3–22–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1360–DR]

Mississippi; Amendment No. 3 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 Mississippi, (FEMA–1360–DR), dated February 23, 2001, and related determinations.

EFFECTIVE DATE: March 15, 2001.

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 Mississippi 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 February 23, 2001:

Forrest, Jones, Lamar, Lincoln, Marion, Pearl River, Perry, and Walthall Counties for Individual Assistance and Public Assistance.

Amite, Franklin, Neshoba, Pike, Scott, Tate, and Wilkinson 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)

Lacy E. Suiter,

Associate Director, Response and Recovery Directorate.

[FR Doc. 01–7247 Filed 3–22–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1360–DR]

Mississippi; Amendment No. 4 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 Mississippi (FEMA–1360–DR), dated February 23, 2001, and related determinations.

EFFECTIVE DATE: March 15, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective March 15, 2001.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 01–7248 Filed 3–22–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1355–DR]

Oklahoma; Amendment No. 9 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 Oklahoma, (FEMA–1355–DR), dated January 5, 2001, and related determinations.

EFFECTIVE DATE: March 13, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice is hereby given that, in a letter dated March 13, 2001, the President amended the cost-sharing arrangements concerning Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, as amended by the Disaster Mitigation Act of 2000, Public Law 106–390, 114 Stat. 1552 (2000), in a letter to Joe M. Allbaugh, Director of the Federal Emergency Management Agency, as follows:

I have determined that the damage in certain areas of the State of Oklahoma resulting from a severe winter ice storm beginning on December 25, 2000, and continuing through January 10, 2001, is of sufficient severity and magnitude that the provision of additional Federal assistance to ensure public health and safety is warranted under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 (Stafford Act).

Therefore, I amend the major disaster declaration of January 5, 2001, to provide that the Federal Emergency Management Agency (FEMA) may reimburse 100 percent of the costs of debris removal through July 6, 2001. This adjustment of the cost share may be provided to all counties under the major disaster declaration. You may extend this assistance for an additional period of time, if requested and warranted.

Please notify the Governor of Oklahoma and the Federal Coordinating Officer of this amendment to my major disaster declaration.

(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)

Joe M. Allbaugh,

Director.

[FR Doc. 01–7245 Filed 3–22–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1361–DR]

Washington; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Washington (FEMA–1361–DR), dated March 1, 2001, and related determinations.

EFFECTIVE DATE: March 16, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective March 16, 2001.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing

Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 01–7249 Filed 3–22–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1361–DR]

Washington; Amendment No. 3 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 Washington, (FEMA–1361–DR), dated March 1, 2001, and related determinations.

EFFECTIVE DATE: March 16, 2001.

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 Washington 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 March 1, 2001:

Grays Harbor for Public Assistance (already designated for Individual Assistance).

Skagit County for Individual Assistance and Public Assistance.

Cowlitz, Island, Jefferson, Pacific, Skamania, Wahkiakum, and Yakima 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. 01–7250 Filed 3–22–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting; Notice

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10 a.m., Wednesday, March 28, 2001.

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 items 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: March 21, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–7394 Filed 3–21–01; 1:06 am]

BILLING CODE 6210–01–M

FEDERAL TRADE COMMISSION

Premerger Notification: Reporting and Waiting Period Requirements

AGENCY: Federal Trade Commission.

ACTION: Notice of Amendment of Formal Interpretation 15.

SUMMARY: The Premerger Notification Office (''PNO'') of the Federal Trade Commission (''FTC''), with the concurrence of the Acting Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (''DOJ''), is amending a Formal Interpretation of the Hart-Scott-Rodino Act, which requires persons planning certain mergers, consolidations, or other acquisitions to report information about the proposed transactions to the FTC and DOJ. The Interpretation concerns the reportability of certain transactions involving the formation of a Limited Liability Company (''LLC''), a relatively new form of entity authorized by state statutes, resulting in the combination of businesses into the new LLC.

This Formal Interpretation was first published on October 13, 1998, 63 Fed. Reg. 54713. It was subsequently modified and republished on February 5, 1999, 64 Fed. Reg. 5808; and on June 29, 1999, 64 FR 34804.

On December 21, 2000, the President signed into law certain amendments to Section 7A(a) of the Clayton Act, 15 U.S.C. 18a(a). *See* Public Law 106–553, 114 Stat. 2762, effective on February 1, 2001. The current amendments to Formal Interpretation 15 merely reflect the changes in the statutory size-of-transaction test and size-of-person test, and the resultant repeal of 16 CFR. 802.20.

The reference to § 802.20 at 64 FR 34806 is removed. Example 2 to Formal Interpretation 15 is amended to reflect the new $50 million threshold. Minor typographical errors were corrected in two footnotes, and footnote 7 was revised to reflect the elimination of the size-of-person test for transactions which are valued in excess of $200 million.

DATES: The Amended Formal Interpretation 15 will become effective on March 23, 2001.

FOR FURTHER INFORMATION CONTACT: B. Michael Verne, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580. Telephone: (202) 326–3167.

SUPPLEMENTARY INFORMATION: The text of Formal Interpretation 15, as amended, is set out below. The revision is bolded and italicized. The removed language is bracketed and underlined.

Formal Interpretation Number 15

Formal Interpretation Pursuant to § 803.30 of the Premerger Notification Rules, 16 CFR 803.30, Concerning the Reporting Requirements for the Formation of Certain Limited Liability Companies (''LLCs'').

This is a Formal Interpretation pursuant to § 803.30 of the Premerger Notification Rules (''the rules''). The rules implement Section 7A of the Clayton Act, 15 U.S.C. 18a, which was added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (''the act'').

This Formal Interpretation was first published on October 13, 1998, together with a request for comments, to become effective on December 14, 1998. 63 FR 54713 (October 13, 1998). The PNO received six comments which were placed on the public record. On

December 2, 1998, the effective date of this Interpretation was postponed until February 1, 1999, to give the PNO staff more time to analyze and respond to the comments. 63 Fed Reg 66546 (December 2, 1998).

Formal Interpretation 15 was modified in response to the comments and republished on February 5, 1999. 64 FR 5808 (February 5, 1999). Under the revised Interpretation, the formation of an LLC which combines under common control in the LLC two or more pre-existing businesses will be treated as subject to the requirements of the HSR act under § 801.2(d) of the HSR rules, 16 CFR 801.2(d), which governs mergers and consolidations. Because Formal Interpretation 15 had been modified substantially, the effective date of the Interpretation was postponed until March 1, 1999. Id.

Shortly after the Interpretation became effective, it became apparent that the Interpretation as it applies to transactions involving existing LLCs did not give clear guidance. The section of the Interpretation dealing with acquisitions of and by existing LLCs was therefore amended in a number of respects to explain how such transactions are to be analyzed. First, the first full paragraph in the third column at 64 FR 5809 (February 5, 1999) was deleted. Second, the four paragraphs in the notice which begin with the phrase ''The acquisition of a membership interest in an existing LLC will be potentially reportable event * * *.'' and end with the phrase ''* * * whether there is a change in any member's membership interest.'' was inserted between the carryover paragraph and the first full paragraph in the second column at 64 FR 5810. Third, Example 2, at 64 FR 5811, was revised in a number of respects. Fourth, a new Example 3 was added, and current Examples 3 and 4 at 64 FR 5811 were renumbered as Examples 4 and 5. Fifth, a new Example 6 was added, and current Examples 6–8 at 64 FR 5811 were renumbered as Examples 8–10. Finally, current Example 8 (now Example 10) was revised in a number of respects.

The most recent amendments to Formal Interpretation 15 merely reflect the changes in the statutory size-of-transaction test and size-of-person test, and the resultant repeal of 16 CFR 802.20

The act requires the parties to certain acquisitions of voting securities or assets to notify the FTC and DOJ and to wait a specified period of time before consummating the transaction. The purpose of the act and the rules is to ensure that such transactions receive meaningful scrutiny under the antitrust laws, with the possibility of an effective remedy for violations, prior to consummation. Under the rules, certain types of transactions, such as mergers, consolidations, and the formation of corporate joint ventures, are treated as acquisitions of voting securities potentially subject to the act, while other transactions, such as the formation of partnerships, are deemed non-reportable. See §§ 801.2(d) and 801.40 of the rules, 16 CFR 801.2(d) and 801.40.

The LLC [(1)] is a relatively new form of business organization that is neither a partnership nor a corporation but a hybrid legal entity that combines certain desirable features of both partnerships and corporations. Specifically, an LLC is taxed as a partnership but shields its members from liability as a corporation shields its shareholders. The first LLC statute was passed in 1977 by Wyoming [(2)] and a trickle of other states followed. The use of LLCs expanded significantly after 1988 when the Internal Revenue Service (''IRS'') concluded that an LLC organized under the Wyoming statute was taxable as a partnership.[(3)] By 1993 all 51 jurisdictions had LLC laws of one form or another.

When it first encountered these types of organizational structures, the PNO concluded that as ''companies'' LLCs are ''entities'' within the meaning of § 801.1(a)(2), 16 CFR 801.1(a)(2), and that, until it had more experience with them, the PNO would treat LLCs like corporations. Initially, therefore, § 801.40 of the rules, 16 CFR 801.40, ''Formation of joint venture or other corporations,'' governed the formation of LLCs and an interest in an LLC was treated as a voting security for HSR purposes.

On further analysis, the PNO concluded that this initial approach was too inclusive. LLCs at the time were primarily used as vehicles for the creation of start-up businesses. The PNO's treatment of LLCs resulted in requiring HSR filings in a large number of transactions that did not raise antitrust concerns. Furthermore, the PNO believed that in most LLCs the interest held by the members of the LLC was more like a partnership interest than a voting security interest. Consequently, in 1994, the PNO began to informally advise parties that the treatment of LLCs for reporting purposes would depend on a determination of whether the interest acquired in the LLC was more like a voting security interest or more like a partnership interest.[4]

This treatment of LLCs has not been completely satisfactory. The use of LLCs has evolved, and while LLCs continue to be used as vehicles for start-up enterprises, they are now often used to combine competing businesses under common control. Indeed, the Commission's litigation staff has investigated several transactions raising potential antitrust concerns involving the formation of LLCs. In these transactions, previously separate businesses were combined under common control when they were both contributed to a single, newly-formed LLC. Nevertheless, the creation of the LLC to combine competing businesses under common control was typically not treated as reportable under the PNO's then-current treatment. However, the union of competing businesses under common control is of obvious potential antitrust concern. Since the past treatments of LLCs have not been satisfactory at singling out those transactions that were the most likely to have anticompetitive effects, the PNO staff has decided to revise its approach to LLCs in order to better carry out the purposes of the act.

The formation of an LLC into which two or more businesses are contributed, like other unions of businesses under common control, is a kind of merger or consolidation.[5] Section 801.2(d)(1)(i) of the rules, 16 CFR 801.2(d)(1)(i), states that ''[m]ergers and consolidations are transactions subject to the act * * *''[6]

[1] This Formal Interpretation applies only to the reportability of the formation of certain LLCs. The position of the FTC staff on the status and treatment under the act of other non-corporate entities such as partnerships remains unchanged.

[2] Wyo. Stat. section 17–15–101 to 135 (Supp. 1989).

[3] Rev. Rul. 88–76, 1988–2 C. B. 360 361.

[4] Specifically, the formation of an LLC was treated as potentially reportable only if the LLC had a group that functioned like a board of directors and the LLC ownership interest resulted in the holders appointing person(s) other than their employees, officers, or directors (or those of entities controlled by such holder or its ultimate parent entity to that group. In such cases, the LLC interest was treated as a voting security interest. In all other instances, LLC interests were treated as partnership interests and the acquisition of these interests was not reportable (unless the acquiring person would hold 100 percent of the interests as a result of the acquisition).

[5] While combining businesses in an LLC may not be a ''merger'' or ''consolidation'' in the strictest sense because they do not involve corporations, the rationale of this interpretation is similar to that used by the PNO under § 801.2(d) to require filing for acquisitions of non-profit corporations which, like LLCs, typically do not issue voting securities. (See ABA, The Premerger Notification Practice Manual, 1991 ed., Interp. #109.)

[6] In fact, as it was originally promulgated in 1978, § 801.2(d)(1)(i), 16 CFR 801.2(d)(1)(i), stated that ''[a] merger, consolidation, or other transaction combining all or any part of the business of two or more persons shall be an acquisition subject to the act * * *'' (emphasis added) 43 FR 33539, July 31, 1978. In 1983, this section was changed to clarify

A filing requirement for those LLC formations that involve the combination of businesses is appropriate and advances the purposes of the act and the rules, namely, to ensure that the antitrust enforcement agencies have advance notice of, and a timely opportunity to challenge, transactions which may violate the antitrust laws.

This Formal Interpretation, therefore, changes the PNO's treatment of LLC's as follows: The PNO will henceforth treat as reportable the formation of an LLC if (1) two or more pre-existing, separately controlled businesses will be contributed, and (2) at least one of the members will control the LLC (i.e., have an interest entitling it to 50 percent of the profits of the LLC or 50 percent of the assets of the LLC upon dissolution).[7] The formation of all other LLCs will be treated similar to the formation of a partnership which, under the PNO's longstanding position on partnership formations, will not be reportable.

In determining what is a ''business'' for purposes of this Interpretation, the PNO will look to the definition of ''operating unit'' for purposes of § 802.1(a) of the rules, 16 CFR 802.1(a), namely, '' * * * assets that are operated * * * as a business undertaking in a particular location or for particular products or services, even though those assets may not be organized as a separate legal entity.'' In addition, for purposes of this Formal Interpretation, the contribution to an LLC of an interest in intellectual property, such as a patent, a patent license, know-how, and so forth, which is exclusive against all parties including the grantor, is the contribution of a business, whether or not the intellectual property has generated any revenues.

Under this Interpretation, the approach of § 801.2(d) will be used to determine the acquiring person(s) and acquired person(s) for potentially reportable LLC formations.[8] Section 801.2(d)(2)(i) states that ''[a]ny person party to a merger or consolidation is an acquiring person if as a result of the transaction such person will hold any assets or voting securities which it did not hold prior to the transaction'' (emphasis added). In the context of the formation of a new LLC, this means that any person that will control an LLC in which two or more previously separate businesses will be combined will be an acquiring person. Thus, if ''A'' and ''B'' form a 60–40 LLC, the 60 percent member, ''A,'' will be an acquiring person with respect to the contributions of ''B.'' Section 801.2(d)(2)(ii) states that ''[a]ny person party to a merger or consolidation is an *acquired person* if as a result of the transaction the assets or voting securities of any entity included within such person will be held by any other person'' (emphasis added). In the above example of the formation of a 60–40 LLC, ''B'' would therefore be an acquired person. If ''A'' and ''B'' were to form a 50–50 LLC to which both were to contribute businesses, both would be both acquiring and acquired persons because both would control the LLC and thus hold assets or voting securities it did not hold prior to the transaction. ''A'' and ''B'' would file in both capacities, assuming the relevant size criteria were met. Thus, both the acquiring and acquired persons will be required to file notification and, in accordance with § 803.10 of the rules, the 30-day waiting period will begin when both persons have substantially complied with the notification requirements.

Under this Interpretation, the nature of the acquisition(s) taking place when an LLC is formed, that is, whether it is an acquisition of assets or of voting securities, depends on what is being contributed by the other member(s) of the LLC.[9] In the 50–50 LLC described above, suppose that ''A'' contributes a group of assets constituting a business and ''B'' contributes 50 or more percent of the voting securities of a corporate subsidiary, S. In this example, ''B'' will be deemed to have made an acquisition of assets and ''A,'' an acquisition of voting securities.

In addition, any exemption in the act or rules that would make any other acquisition non-reportable may make the acquisition by one or more of the contributors to an LLC non-reportable. If, for example, ''A's'' asset contribution consists of hotel properties the acquisition of which would be exempt under § 802.2(e), ''B's'' acquisition in the formation of this LLC would not be reportable. [*Similarly, if S has sales and assets of less than $25 million and the value of the S stock that will be held by ''A'' as a result of the acquisition is $15 million or less then ''A's'' acquisition in the formation would be exempted by § 802.20(b).*]

To determine whether a filing is required, the parties to potentially reportable formation transactions also must determine the size-of-person and size-of-transaction, which should be done just as in any other asset or voting securities acquisition in accordance with §§ 801.10 and 801.11 of the HSR rules. Since these transactions are similar to asset exchanges, for most such transactions there will not be a determined acquisition price for the acquired assets or voting securities to use in applying the size-of-transaction test. For such transactions, parties should use the market price or fair market value where another contributor contributes 50 or more percent of the voting securities of an issuer (see § 801.10(a)), or the fair market value where another contributor puts assets constituting a business into the LLC (see § 801.10(b)).

The acquisition of a membership interest in an existing LLC will be a potentially reportable event (1) if it results in the acquiring person holding 100 percent of the membership interests in that LLC, and (20 that person had not previously filed for and consummated the acquisition of control of that LLC. Such an acquisition is reportable as the acquisition of all the assets of the LLC. This is similar to the PNO's treatment of acquisitions of partnership interests.

Acquisitions of additional businesses by existing LLCs fall into one of two categories. First, those that result in a change in the percentage membership interest of any member will be treated by the PNO as the formation of new LLC under this Interpretation. In such a new formation, the acquisition by any person that will control the new LLC of the assets or voting securities of the business(es) being contributed that it did not previously control is potentially reportable. Both additional businesses and the business(es) already in the existing LLC are regarded as being contributed to the new LLC. These transactions should be analyzed using the criteria for formations. Accordingly, persons will be regarded as acquiring

the treatment of mergers and consolidations under the rules, and the italicized wording was eliminated. However, there is no indication that this change was intended to narrow the scope of § 801.2(d). Rather, according to the Statement of Basis and Purpose to the 1983 changes, 48 FR 34430, July 29, 1983, the Commission simply sought to make clear that mergers and consolidations are treated as acquisitions of voting securities and to aid the parties to a merger in determining which is the acquiring person and which is the acquired person.

[7] Of course, as with all transactions, the HSR size requirements (size of transaction and, if size of transaction is $200 million or less, size of person) need to be met as well, and exemptions may apply.

[8] The Formal Interpretation as published in October, 1998 described a method to determine reportability that was based on concepts found in § 801.40 of the HSR rules, 16 CFR 801.40. Certain comments suggested that such an approach was confusing and would increase the likelihood that parties would make erroneous conclusions on their reporting obligations. In light of those comments, and the change in approach this Formal Interpretation adopts, there will no longer be any need to look to § 801.40 to determine reporting obligations.

[9] In this respect, the Interpretation necessarily departs from the text of § 801.2(d)(1)(i), which provides that all mergers and consolidations shall be treated as acquisitions of voting securities.

only those businesses that they come to control as a result of the transaction.

Second, those acquisitions of businesses by existing LLCs that do not result in a change in the percentage membership interest of any member are not treated as new formations but, rather, as the acquisition of the assets or voting securities of the business by the LLC or, if it is controlled, by its ultimate parent entity, or entities, and, as such, are potentially reportable.

The acquisition by an existing LLC of assets or voting securities not constituting a business will be treated as the acquisition of assets or voting securities by the LLC or, if it is controlled, by its post-acquisition ultimate parent entity, or entities, and, as such, is potentially reportable. This treatment will pertain without regard to whether there is a change in any member's membership interest.

This Formal Interpretation will not require reporting of some LLC formations and some acquisitions of existing LLC interests that would have required reporting under the Interpretation announced by the PNO in October of 1998. Unlike the October version, this Formal Interpretation requires reporting of the formation of an LLC only if the formation brings together within the LLC two formerly separately controlled businesses. Comments received suggested that the treatment announced in the October version would have covered a substantial number of LLCs that are not likely to raise competitive concerns. For example, the October Formal Interpretation would have viewed LLCs that are created solely as financing vehicles as reportable. In these transactions, a financial institution (or other party providing financing) in the ordinary course of its business contributes only cash or other financial assets and one other party contributes one or more operating units to a new LLC that the financial institution may control for HSR purposes, at least for a period of time. Under this revised interpretation, so long as such financing transactions do not result in the contribution of a business to the LLC by two or more members, it will not be treated as reportable.[10]

As described above, except for a situation where, as a result of an acquisition, the acquiring person would hold 100 percent of the interests in an existing LLC, no acquisition of an interest in an existing LLC is reportable under this Interpretation. Several comments indicated that LLC agreements are sometimes entered into in which the right to receive more than 50 percent of the LLC's profits shifts from one member to another upon the happening of some event outside the control—or even the knowledge—of the members. Under the definition of control applicable to LLCs (i.e., § 801.1(b)(ii)), under the October Interpretation, such a shift in the right to receive profits might have created a reporting obligation. The commenters argued that it would be unduly burdensome to require the beneficiaries of such shifts to file and that no substantive law enforcement interest would be served. The PNO does not intend that such shifts be reportable under this Formal Interpretation. Since such a shift would be the post-formation acquisition of an interest in an existing LLC without the contribution of another business, it will not be treated as subject to the reporting requirements of the act.

Some of the reasons for concluding that the formation of certain LLCs should be treated as reportable may apply equally well to partnerships. The position of the PNO, however, is that the formation of a partnership is not reportable and acquisitions of partnership interests that do not result in one person's holding 100 percent of the interests in a partnership are non-reportable. Several comments received on the Formal Interpretation published in October suggested that no change to the treatment of partnerships was necessary at this time. The treatment of partnerships was originally adopted, in part, because of the difficulty of monitoring compliance with HSR reporting obligations since many partnerships can be formed informally or by implication in many typical business arrangements. Furthermore, there has been no suggestion in any of the comments that partnerships are being used with any greater frequency now to combine competing businesses. Consequently, the PNO has decided not to change its treatment of partnerships at this time, but it may re-visit this issue in the future as developments require.

The following examples are an integral part of this Formal Interpretation:

1. ''A'' and ''B'' both plan to contribute businesses to a new LLC in which each will acquire a 50 percent interest. This LLC formation would involve both ''A'' and ''B'' making reportable acquisitions if the size-of-person and size-of-transaction tests are met. Each acquisition would be reportable unless exempted by Section 7A(c) of the act or Part 802 of the HSR rules. ''A'' would file as an acquiring person and ''B'' as an acquired person for ''A's'' acquisition of the assets being contributed by ''B,'' and ''B'' would file as an acquiring person and ''A'' as an acquired person for ''B's'' acquisition of the assets contributed by ''A.'' If ''A'' or ''B'' (or both) contributed 50 percent or more of the voting securities of a corporation, the acquisition(s) would be treated as an acquisition of voting securities of the issuer whose shares are contributed.

2. ''A,'' ''B,'' and ''C'' form an LLC in year 1 in which each receives a one-third interest and to which each contributes a business valued at approximately $60 million. ''A,'' ''B,'' and ''C'' are $100 million persons. This formation would not be reportable because no member controls the LLC. In year 2, ''X,'' also a $100 million person, acquires the membership interests of ''A'' and ''B'' for cash. This would not be reportable because acquisitions of membership interests in existing LLCs are potentially reportable only if they result in one person holding 100 percent of the interests in the LLC. Note that if ''X'' also contributes a business to the LLC in exchange for the LLC membership interest it receives, the transaction will be treated as the formation of a new LLC. The acquisition of the new business will not be reportable because ''X'' already controls it. ''X'' may, however, have a filing obligation as an acquiring person with respect to the businesses already in the LLC if the size tests are met and no exemption applies. The existing LLC would be the acquired person because no member controls it. Note also that in the example where ''X'' contributed only cash and did not file under HSR, if ''X'' were subsequently also to acquire ''C's'' membership interest it would then hold 100 percent of the interests in this LLC and would therefore have to file for the acquisition of all of the assets of the LLC.

3. In year 1, ''A'' and ''B'' form an LLC to which ''A'' contributes a business and takes back a 60 percent interest and ''B'' contributes cash and takes back a 40 percent interest. This transaction is not reportable. Suppose, however, that in year 4:

a. ''B'' contributes a new business, ''A'' contributes cash, and there is no change in percentage membership interests. This would not be analyzed as a new formation but would be treated as an acquisition by the LLC. ''A,'' as the ultimate parent entity of the LLC, would file as acquiring and ''B'' as acquired for the acquisition of the business.

[10] There is no evidence to suggest now that LLC formations where only one business is contributed are being used to accomplish a merger or consolidation of two businesses. However, the PNO will look carefully at these transactions in the future and, if they begin to be used to accomplish a merger or consolidation, will re-visit this issue.

b. ''A'' contributes a business, ''B'' contributes cash, and their interests change so that ''A'' has 61 percent and ''B'' has 39 percent. This is a new formation because of the changes in the membership interests but it is not reportable because two or more separately controlled businesses are not being contributed, as ''A'' controlled both businesses before the transaction.

c. ''B'' contributes a business, ''A'' contributes cash, and their interests change so that ''A'' has 59 percent and ''B'' has 41 percent. This is also a new formation. ''A'' will file to acquire the business being contributed by ''B.''

d. ''B'' contributes a business and the membership interests change so that ''B'' has 60 percent and ''A'' has 40 percent. This is a new formation, and ''B'' would file to acquire the business contributed by the LLC. ''A,'' as the ultimate parent entity of the existing LLC, would file as the acquired person.

e. ''C'' contributes assets not constituting a business and the percentage interests are adjusted so that ''A'' has 50 percent, ''B'' has 30 percent, and ''C'' has 20 percent. This is not a new formation because the assets being contributed are not a business. ''A,'' as ultimate parent entity of the LLC, will file to acquire these assets from ''C.''

4. ''A'' and ''B'' form a new LLC, to which ''A'' will contribute its widget business and ''B'' will contribute cash for operating capital. This formation would not be reportable because two previously separate businesses are not being contributed to the LLC.

5. ''A,'' ''B,'' and ''C'' form a 60–20–20 LLC to which ''A'' contributes cash and receives a 60 percent membership interest and ''B'' and ''C'' each contribute an operating unit for a 20 percent interest. This is a kind of a consolidation of ''B's'' and ''C's'' operating units into the new LLC and ''A'' will control the LLC. There are two reportable transactions (assuming the size criteria are met and no exemption applies): ''A'' acquiring the operating unit contributed by ''B,'' and ''A'' acquiring the operating unit contributed by ''C.''

6. In year 1, ''A,'' ''B,'' and ''C'' form a new LLC to which each contributes a business and takes back a one-third membership interest. In year 4, the LLC acquires all the voting securities of another business from ''D'' in exchange for certain assets not constituting a business. This acquisition would not be analyzed as the formation of a new LLC because no member's percentage interest changes as a result of the transaction. Rather, the LLC would be viewed as acquiring the voting securities of the new business from ''D.'' This transaction will be reportable if the size criteria are met and no exemption applies. ''D'' will, of course, have to analyze its acquisition of assets from the LLC to determine if it is also reportable.

7.''A'' proposes to consolidate its widget business, which it has conducted in two subsidiaries and a division, into a newly-formed LLC in which it will hold a 60 percent membership interest. This would not be reportable because, although separate businesses are being combined, they were not under separate control prior to the transaction.

8. ''A,'' ''B,'' and ''C'' form a new LLC in which ''A'' will have a 60 percent interest and ''B'' and ''C'' each will have 20 percent interests. ''A,'' a large, international pharmaceutical company, contributes $100 million in cash and the assets of a pharmaceutical product which is currently on the market. This pharmaceutical product line constitutes a business. ''B'' contributes licenses to several patents which it will also continue to use to manufacture various drugs. ''C'' will contribute licenses which are exclusive even against itself for several drugs which are still at the testing stage and which have never been marketed. With a 60 percent interest, ''A'' will control the LLC. Since the licenses ''B'' will contribute are not exclusive as against it, they do not constitute a business. However, the licenses being contributed by ''C'' do constitute a business, even though they have not generated any revenue. ''A'' has a potential reporting obligation for the formation of this LLC for acquiring assets from ''C.'' This formation combines two pre-existing, separately controlled businesses in an LLC which ''A'' will control.

9. ''A'' and ''B'' are both regional grocery store chains which do their data processing in-house. ''A's'' data processing unit does work only for ''A'' and ''B's'' only for ''B.'' ''A'' and ''B'' decide to contribute the assets used in their data processing operations to a new jointly-controlled LLC which will provide data processing services to ''A'' and ''B.'' Assume the size tests are met. This would not be reportable because the assets used to provide such management and administrative support services do not constitute businesses. Cf § 802.1(d)(4) of the rules and Examples 10 and 11, 16 CFR 802.1(d)(4). This would be the case even if the new LLC intends to begin offering data processing services to third parties, since this would be beginning a new business rather than uniting existing businesses. Note, however, that the result would be different if ''A'' and ''B'' had used their equipment to provide any data processing services to others prior to contributing it to the new LLC, for then each would be contributing an existing business.

10. In year 1, ''A,'' ''B,'' and ''C'' form a new LLC to which each contributes a business in exchange for a one-third interest. This formation is not reportable because no member controls the LLC. Suppose that in year 2 ''A'' sells additional assets to the LLC for cash. This transaction is not analyzed as a new formation under this Formal Interpretation. However, the LLC has a potential filing obligation as the acquiring person of those assets and ''A'' as the acquired person. Note that it is irrelevant whether the assets sold by ''A'' in year 2 constitute a business. Note also that if assets not constituting a business are acquired by an LLC, even if the percentage membership interests change in the transaction, this is not analyzed as the formation of a new LLC, either, but as an acquisition by the LLC (or its post-acquisition ultimate parent entity).

Donald S. Clark,

Secretary.

[FR Doc. 01–7253 Filed 3–22–01; 8:45 am]

BILLING CODE 6750–01–M

GENERAL ACCOUNTING OFFICE

Commercial Activities Panel

AGENCY: General Accounting Office.

ACTION: Notice and request for comments.

SUMMARY: Section 832 of the National Defense Authorization Act for Fiscal Year 2001 requires the Comptroller General to convene a panel of experts to study the transfer of commercial activities currently performed by government employees to federal contractors, a procedure commonly known as ''contracting out'' or ''outsourcing.'' Selection of panel members is proceeding, and the formation of the panel will be announced in a subsequent **Federal Register** notice. To ensure that the panel considers the full array of possible issues and a wide range of views, this notice seeks public input on issues the panel should address. This notice also seeks reference to or copies of written materials on topics related to outsourcing. The General Accounting Office encourages input from all interested parties, including federal government agencies, federal employees or their representatives, industry groups, labor unions, and individuals. All submissions received will be reviewed for consideration by the panel.

The authorization act requires the Comptroller General to submit the panel's report to Congress by May 1, 2002.

DATES: Submit comments and submissions on or before May 7, 2001.

ADDRESSES: Submit comments electronically to GAO at: A76panel@gao.gov. Send comments and submissions to the General Accounting Office, Office of General Counsel, Room 7476, 441 G St. NW., Washington, DC 20548, Attention: William T. Woods. See **SUPPLEMENTARY INFORMATION** for other information about electronic filing.

FOR FURTHER INFORMATION CONTACT: William T. Woods, Project Director, (202) 512–8214; E-mail: woodsw@gao.gov.

SUPPLEMENTARY INFORMATION: Section 832 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Public Law 106–398, Oct. 30, 2000, directs the Comptroller General of the United States to convene a panel of experts to study the policies and procedures governing the transfer of commercial activities for the federal government from government personnel to a federal contractor. The panel's study is to include a review of: (1) Procedures for determining whether functions should continue to be performed by government personnel; (2) procedures for comparing the costs of performing functions by government personnel with the costs of performing those functions by federal contractors; (3) implementation by the Department of Defense of the Federal Activities Inventory Reform Act of 1998 (Pub. L. 105–270, 112 Stat. 2382, 31 U.S.C. 501 note); and (4) procedures of the Department of Defense for public-private competitions under Office of Management and Budget Circular A–76. By May 1, 2002, the Comptroller General must submit to Congress a report of the panel on the results of the study, including recommended changes with regard to implementing policies and enactment of legislation.

The Act requires the Comptroller General or a person within GAO designated by him to serve as the panel's chairman. The Comptroller General must appoint highly qualified and knowledgeable persons to serve on the panel and must ensure that the following entities receive fair representation on the panel: (1) The Department of Defense; (2) persons in private industry; (3) federal labor organizations; and (4) the Office of Management and Budget.

The General Accounting Office is in the process of forming a panel to conduct the study. The GAO issued a **Federal Register** notice on December 1, 2000, 65 FR 75288, inviting the public to submit suggestions on the composition of the panel. The GAO invited interested parties to submit suggestions on who should serve on the panel, specific agencies and organizations that should be represented, and the qualifications of panel members. In response to this notice, the GAO received a variety of comments on the composition of the panel, as well as numerous nominations of individuals to serve on the panel. The Comptroller General is in the process of reviewing these comments and nominations. Formation of the panel will be announced in a subsequent **Federal Register** notice.

In preparing for the panel's discussions, the GAO is asking now for input from interested parties, including federal government agencies, federal employees or their representatives, industry groups, labor unions, and individuals. At this time, the GAO is seeking comments identifying significant sourcing issues, as well as references to or copies of written materials related to these issues, including: (1) Determining which functions should be performed by the government and which functions are potential candidates for outsourcing; (2) options, mechanisms, and best practices for determining how commercial activities should be performed; and (3) issues involving Office of Management and Budget Circular A–76. GAO invites submission of comments, articles, and publications on these issues or other key topics the panel should address. As the panel proceeds with its work, it will solicit public comments on relevant issues through a variety of means, including public hearings.

Electronic Access and Filing

This notice is available on GAO's website at *http://www.gao.gov* under ''Commercial Activities Panel.'' Comments and suggestions on the issues that should be addressed and references to or copies of written materials may be submitted by sending either an E-mail to *A76panel@gao.gov* or a hard copy to the General Accounting Office, Office of General Counsel, Room 7476, 441 G St. NW., Washington, DC 20548, Attention: William T. Woods.

Jack L. Brock, Jr.,

Managing Director, Acquisition and Sourcing Management, General Accounting Office.

[FR Doc. 01–7238 Filed 3–22–01; 8:45 am]

BILLING CODE 1610–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

White House Commission on Complementary and Alternative Medicine Policy; Notice of Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is given of a meeting of the White House Commission on Complementary and Alternative Medicine Policy.

The purpose of the meeting is to convene the Commission for a public hearing to receive public testimony from individuals and organizations interested in the subject of Federal policy regarding complementary and alternative medicine. The major focus of the meeting is complementary and alternative (CAM) practices in self-care and wellness and the development and dissemination of information on Complementary and Alternative Medicine practices and products. Comments received at the meeting may be used by the Commission to prepare the Report to the President as required by the Executive Order.

Comments should focus on the Complementary and Alternative Medicine in Self-Care and Wellness and Complementary and Alternative Medicine Information Development and Dissemination. Invited speaker discussions on March 26 include the following: CAM Information on the Internet; CAM Information in the Media; Advertising and Marketing of CAM Information and Products; and Analysis and Evaluation of CAM Consumer Information. Invited speaker discussions on March 27 include the following: Integrative Approaches to Wellness in Children, Families, and Communities; Integrative Approaches to Wellness and Nutrition; and Integrative Approaches to Wellness and Self-Care in the Elderly, Underserved Communities, in Schools, in the Workplace, for Caregivers, and at the End of Life.

Some Commission members may participate by telephone conference. Opportunities for oral statements by the public will be provided on March 27, from about 3 p.m.–4 p.m. (Time approximate).

Name of Committee: The White House Commission on Complementary and Alternative Medicine Policy.

Date: March 26–27, 2001.

Time:

March 26—8:15 a.m.–6 p.m.

March 27—8:15 a.m.–6 p.m.

Place: Hyatt Regency Hotel on Capitol Hill, Capitol Room, Lobby Level, 400 New Jersey Avenue, NW, Washington, DC 20001.

Contact Persons:

Michele M. Chang, CMT, MPH Executive Secretary

or

Stephen C. Groft, Pharm.D., Executive Director, 6701 Rockledge Drive, Room 1010, MSC 7707, Bethesda, MD 20817–7707, Phone: (301) 435–7592, Fax: (301) 480–1691, E-mail: WHCCAMP@mail.nih.gov

Because of the need to obtain the views of the public on these issues as soon as possible and because of the early deadline for the report required of the Commission, this notice is being provided at the earliest possible time.

Supplementary Information: The President established the White House Commission on Complementary and Alternative Medicine Policy on March 7, 2000 by Executive Order 13147. The mission of the White House Commission on Complementary and Alternative Medicine Policy is to provide a report, through the Secretary of the Department of Health and Human Services, on legislative and administrative recommendations for assuring that public policy maximizes the benefits of complementary and alternative medicine to Americans.

Public Participation

The meeting is open to the public with attendance limited by the availability of space on a first come, first serve basis. Members of the public who wish to present oral comment may register by faxing a request to register at 301–480–1691 or by accessing the website of the Commission at *http://whccamp.hhs.gov* no later than March 21, 2001.

Oral comments will be limited to five minutes. Individuals who register to speak will be assigned in the order in which they registered. Due to time constraints, only one representative from each organization will be allotted time for oral testimony. The number of speakers and the time allotted may also be limited by the number of registrants. All requests to register should include the name, address, telephone number, and business or professional affiliation of the interested party, and should indicate the area of interest or question (as described above) to be addressed.

Any person attending the meeting who has not registered to speak in advance of the meeting will be allowed to make a brief oral statement during the time set aside for public comment if time permits, and at the Chairperson's discretion. Individuals unable to attend the meeting, or any interested parties, may send written comments by mail, fax, or electronically to the staff office of the Commission for inclusion in the public record.

When mailing or faxing written comments provide, if possible, an electronic version on diskette. Persons needing special assistance, such as sign language interpretation or other special accommodations, should contact the Commission staff at the address or telephone number listed no later than March 21, 2001.

Dated: March 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–7223 Filed 3–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–167]

Public Health Assessments Completed

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces those sites for which ATSDR has completed public health assessments during the period from October through December 2000. This list includes sites that are on or proposed for inclusion on the National Priorities List (NPL), and includes sites for which assessments were prepared in response to requests from the public.

FOR FURTHER INFORMATION CONTACT: Robert C. Williams, P.E., DEE, Assistant Surgeon General, Director, Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E–32, Atlanta, Georgia 30333, telephone (404) 639–0610.

SUPPLEMENTARY INFORMATION: The most recent list of completed public health assessments was published in the **Federal Register** on December 21, 2000 [65 FR 80432]. This announcement is the responsibility of ATSDR under the regulation, Public Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities [42 CFR part 90]. This rule sets forth ATSDR's procedures for the conduct of public health assessments under section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) [42 U.S.C. 9604(i)].

Availability

The completed public health assessments and addenda are available for public inspection at the Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, Building 33, Executive Park Drive, Atlanta, Georgia (not a mailing address), between 8 a.m. and 4:30 p.m., Monday through Friday except legal holidays. The completed public health assessments are also available by mail through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at (703) 605–6000. NTIS charges for copies of public health assessments and addenda. The NTIS order numbers are listed in parentheses following the site names.

Public Health Assesssments Completed or Issued

Between October 1 and December 31, 2000, public health assessments were issued for the sites listed below:

NPL Sites

Arizona

Franklin Elementary School—Phoenix—(PB21–102209)

Litchfield Airport Area—Goodyear—(PB21–102210)

Tucson International Airport Area—Tucson—(PB21–101599)

California

Pacific Gas and Electric (a/k/a Hinkley Site)—Hinkley —(PB21–101673)

Louisiana

Southern Shipbuilding (a/k/a Southern Shipbuilding Corporation) —(PB21–101946)

New Jersey

Brick Township Investigation (a/k/a Brick Township Autism Investigation)—Brick Township—(PB21–102170)

Cinnaminson Ground Water Contamination—Cinnaminson Township —(PB21–102407)

Martin Aaron, Incorporated—Camden—(PB21–101598)

New Mexico

Fruit Avenue Plume—Albuquerque—(PB21–101819)

New York

Hiteman Leather—West Winfield—(PB21–102406)

Little Valley—Little Valley—(PB21–102408)

Plattsburgh Air Force Base—Plattsburgh—(PB21–102613)

Tennessee

Memphis Defense Depot (Defense Logistics Agency) (a/k/a USA Defense Depot Memphis)—Memphis—(PB21–102388)

Texas

Hart Creosoting Company—Jasper—(PB21–101405)

Non NPL Petitioned Sites

Colorado

Cripple Creek and Victor Gold Mining—Cripple Creek (PB21–102213)

Missouri

Amoco Oil Company [a/k/a Amoco Oil Company—Sugar Creek (Finds) SS#0716]—Sugar Creek—(PB21–102171)

Dated: March 16, 2001.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 01–7237 Filed 3–22–01; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–166]

Availability of Draft Chemical Technical Summary on Malathion

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), Section 104 (i)(4) [42 U.S.C. 9604(i)(4)], directs the Administrator of ATSDR to provide informational materials on request on health issues relating to exposure to hazardous or toxic substances to the Administrator of the EPA, State officials, and local officials. A chemical technical summary provides information on a specific public health issue related to real or possible exposure and is a method ATSDR uses to respond rapidly to requests for assistance and public health needs. The chemical technical summary will aid public health and public safety professionals in evaluating symptoms and conducting surveillance of human exposure to toxic material.

This notice announces that a chemical technical summary on malathion is now available for public comment. This ATSDR chemical technical summary reviews the scientific literature describing the relationship between exposure to malathion and possible resultant health effects.

DATES: In order to be considered, comments on this draft chemical technical summary must be received within forty-five (45) days from the date of this publication. Comments received after the close of the public comment period will be considered at the discretion of ATSDR based upon what is deemed to be in the best interest of the general public.

ADDRESSES: Requests for copies of the draft chemical technical summary should be sent to: Ms. Franchetta Stephens, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 1–(888) 422–8737 or (404) 639–6345. Written comments regarding the draft chemical technical summary should be sent to the same address. ATSDR reserves the right to provide only one copy of the draft chemical technical summary free of charge. The document may also be accessed at the ATSDR Home page News section at *www.atsdr.cdc.gov.*

Written comments submitted in response to this notice should bear the docket control number ATSDR–166. Because all public comments regarding ATSDR–166 chemical technical summary will be available for inspection, no confidential business information or personal medical information should be submitted in response to this notice.

FOR FURTHER INFORMATION CONTACT: Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

SUPPLEMENTARY INFORMATION: Malathion is an organophosphate insecticide commonly used to control mosquitos and other flying insects, especially during outbreaks of vector-borne diseases, to protect public health. Malathion is toxic to aquatic organisms, but has a relatively low toxicity for birds and mammals. The principal toxicological effect of malathion is cholinesterase inhibition, due primarily to malaoxon and to phosphorus thionate impurities. Levels of malathion used for wide-area treatment to protect the public from mosquito-carrying diseases are not likely to result in harmful effects in individuals who are not directly exposed during spraying.

Dated: March 16, 2001.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 01–7236 Filed 3–22–01; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–168]

Availability of the Draft Document, Public Health Reviews of Hazardous Waste Thermal Treatment Technologies

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), HHS.

ACTION: Notice of availability and request for public comment of the draft document, Public Health Reviews of Hazardous Waste Thermal Treatment Technologies.

SUMMARY: The Agency for Toxic Substances and Disease Registry announces the availability for public comment of the draft document, Public Health Reviews of Hazardous Waste Thermal Treatment Technologies.

DATES: Comments must be received by April 23, 2001.

ADDRESSES: The document is available by contacting the Chief, Program Evaluation, Records, and Information Services Branch, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road (E–56), Atlanta, GA 30333. Please submit written comments relating to the document to the same location. ATSDR reserves the right to provide only one copy of this draft document free of charge. The document may also be accessed at the ATSDR Home page News section at *www.atsdr.cdc.gov.* Generally, comments submitted will be available to the public upon request. Information submitted which is claimed as personal, medical, or otherwise confidential and proprietary must be clearly marked as such. Information so marked will not be disclosed except in accordance with 45 CFR part 5.

FOR FURTHER INFORMATION CONTACT: Further information may be obtained by contacting Betty C. Willis, ATSDR (Mailstop E–56), 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone (404) 639–6071 or (toll free) 1–888–42–ATSDR, 1–888–422–8737, or Email: bwillis@cdc.gov.

SUPPLEMENTARY INFORMATION: The Agency for Toxic Substances and Disease Registry (ATSDR) is the lead Department of Health and Human Services agency addressing human health concerns and risks in communities near hazardous waste sites or other sources of environmental contamination. ATSDR has specific responsibilities for public health

activities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include: Health consultations and public health assessments at sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public.

This draft document, Public Health Reviews of Hazardous Waste Thermal Treatment Technologies, will assist in the Agency's critical mission to reduce and prevent exposures and adverse health outcomes from exposure to hazardous substances. The document provides technical guidance for Agency staff who review thermal treatment technologies to evaluate the potential public health effects associated with the use of incinerators or thermal desorbers to treat hazardous wastes. This document contains detailed technical guidance to promote consistency among Agency staff during evaluations of thermal treatment facilities. People who do not have technical experience and knowledge of thermal technologies may find it difficult to understand.

This draft, Public Health Reviews of Hazardous Waste Thermal Treatment Technologies, is available for public comment so the Agency can benefit from public review and input before finalizing the document. This **Federal Register** notice announces that this draft document is available for public comment.

Dated: March 19, 2001.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 01–7235 Filed 3–22–01; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Refugee Resettlement Program Estimates: CMA, ORR–1.

OMB No. 0970–0030.

Description: ORR reimburses, to the extent of available appropriations, certain non-Federal costs for the provision of cash and medical assistance to refugees, along with allowable expenses in the administration of the Refugee Resettlement Program. ORR needs sound State estimates of likely expenditures for refugee cash, medical, and administrative (CMA) expenditures so that it can anticipate Federal costs in upcoming quarters. If Federal costs are anticipated to exceed budget allocations, ORR must take steps to reduce Federal expenses, such as limiting the number of months of eligibility for Refugee Cash Assistance (RCA) and Refugee Medical Assistance (RMA).

To meet the need for reliable State estimates of anticipated expenses, ORR has developed a single-page form in which States estimate the average number of recipients for each category of assistance, the average unit cost over the next 12 months and the expense for the overall administration of the program. This form, the ORR–1 (formerly Form FSA–601) must be submitted prior to the beginning of each Federal fiscal year. Without this information, ORR would be out of compliance with the intent of its legislation and otherwise unable to estimate program costs adequately.

In addition, the ORR–1 serves as the State's application for reimbursement of its CMA expenses. Submission of this form is thus required by section 412(a)(4) of the Immigration and Nationality Act which provides that ''no grant or contract may be awarded under this section unless an appropriate proposal and application * * * are submitted to, and approved by, the appropriate administering official.''

Respondents: State, Local or Tribal Govt.

Annual Burden Estimates

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ORR–1	48	1	.5	24
Estimated Total Annual Burden Hours				24

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, S.W., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: March 19, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–7187 Filed 3–22–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0114]

Agency Information Collection Activities; Proposed Collection; Comment Request; Patent Term Restoration, Due Diligence Petitions, Filing, Format, and Content of Petitions

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the

Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on FDA's patent term restoration regulations on due diligence petitions for regulatory review period revision. Where a patented product must receive FDA approval before marketing is permitted, the Office of Patents and Trademarks may add a portion of the FDA review time to the term of a patent. Petitioners may request reductions in the regulatory review time if FDA marketing approval was not pursued with ''due diligence.''

DATES: Submit written or electronic comments on the collection of information by May 22, 2001.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Patent Term Restoration, Due Diligence Petitions, Filing, Format, and Content of Petitions—Part 60 (21 CFR Part 60) (OMB Control No. 0910–0233)—Extension

FDA's patent extension activities are conducted under the authority of the Drug Price Competition and Patent Term Restoration Act of 1984 and the Animal Drug and Patent Term Restoration Act of 1988 (35 U.S.C. 156). New human drug, animal drug, human biological, medical device, food additive, or color additive products regulated by FDA must undergo FDA safety, or safety and effectiveness, review before marketing is permitted. Where the product is covered by a patent, part of the patents's term may be consumed during this review, which diminishes the value of the patent. In enacting 35 U.S.C. 156, Congress sought to encourage development of new, safer, and more effective medical and food additive products. It did so by authorizing the U.S. Patent Office (PTO) to extend the patent term by a portion of the time during which FDA's safety and effectiveness review prevented marketing of the product. The length of the patent term extension is generally limited to a maximum of 5 years, and is calculated by PTO based on statutory formula. When a patent holder submits an application for patent term extension to PTO, PTO requests information from FDA, including the length of the regulatory review period for the patented product. If PTO concludes that the product is eligible for patent term extension, FDA publishes a notice that describes the length of the regulatory review period, and the dates used to calculate that period. Interested parties may request, under § 60.24, revision of the length of the regulatory review period, or may petition under § 60.30 to reduce the regulatory review period by any time where marketing approval was not pursued with ''due diligence.'' The statute defines due diligence as ''that degree of attention, continuous directed effort, and timeliness as may reasonably be expected from, and are ordinarily exercised by, a person during a regulatory review period.'' As provided in § 60.30(c), a due diligence petition ''shall set forth sufficient facts, including dates if possible, to merit an investigation by FDA of whether the applicant acted with due diligence.'' Upon receipt of a due diligence petition, FDA reviews the petition and evaluates whether any change in the regulatory review period is necessary. If so, the corrected regulatory review period is published in the **Federal Register**. A due diligence petitioner not satisfied with FDA's decision regarding the petition may, under § 60.40, request an informal hearing for reconsideration of the due diligence determination. Petitioners are likely to include persons or organizations having knowledge that FDA's marketing permission for that product was not actively pursued throughout the regulatory review period. The information collection for which an extension of approval is being sought is the use of the statutorily created due diligence petition.

Since 1992, five requests for revision of the regulatory review period have been submitted under § 60.24. One regulatory review period has been altered. No due diligence petitions have been submitted to FDA under § 60.30, and consequently there have been no requests for hearings under § 60.40 regarding the decisions on such petitions.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
60.24(a)	1	1	1	100	100
60.30	0	0	0	0	0

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]—Continued

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Total					100

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: March 19, 2001.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 01–7243 Filed 3–22–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1033]

Agency Information Collection Activities; Announcement of OMB Approval; Information Program on Clinical Trials for Serious and Life-Threatening Diseases

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Information Program on Clinical Trials for Serious and Life-Threatening Diseases'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 9, 2000 (65 FR 67385), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0116. The approval expires on March 31, 2004. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: March 19, 2001.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 01–7244 Filed 3–22–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Pediatric Subcommittee of the Anti-Infective Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Pediatric Subcommittee of the Anti-Infective Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on April 23, 2001, 8 a.m. to 5:30 p.m. and on April 24, 2001, 8 a.m. to 3 p.m.

Location: Center for Drug Evaluation and Research Advisory Committee conference room 1066, 5630 Fishers Lane, Rockville, MD 20857.

Contact: Jayne E. Peterson, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5630 Fishers Lane, Rockville, MD 20857, 301–827–7001, e-mail: petersonj@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12530. Please call the Information Line for up-to-date information on this meeting.

Agenda: On April 23, 2001, beginning at 8 a.m., the subcommittee will discuss issues in drug development for pediatric patients with chronic hepatitis C. Beginning at 3:30 p.m., the agency will provide an update to the subcommittee as to recent efforts to ensure adequate labeling and proper pediatric use of therapies. On April 24, 2001, the subcommittee will discuss issues involved in designing clinical trials to study anti-muscarinics for drooling in children with cerebral palsy and other neurologic diseases, as well as the ethical issues involved in performing studies with children having special needs.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the subcommittee. Written submissions may be made to the contact person by April 13, 2001. On April 23 and 24, 2001, oral presentations from the public will be scheduled between approximately 10:30 a.m. and 11 a.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before April 13, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 16, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–7186 Filed 3–22–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Arthritis Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Arthritis Advisory Committee.

General Function of the Committee: To provide advice and

recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on April 19 and 20, 2001, 8 a.m. to 5 p.m.

Location: CDER Advisory Committee conference room 1066, 5630 Fishers Lane, Rockville, MD. Parking and seating is limited.

Contact: Kathleen R. Reedy or LaNise S. Giles, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, (for express delivery, 5630 Fishers Lane, rm. 1093) Rockville, MD 20857, 301–827–7001, FAX: 301–827–6776 or e-mail: reedyk@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12532. Please call the Information Line for up-to-date information on this meeting.

Agenda: On April 19, 2001, the committee will discuss new drug application (NDA) 21–239, Aslera® (prasterone, Genelabs Technologies, Inc.) for improvement in disease activity and/or its symptoms in women with mild to moderate systemic lupus erythematosus (SLE) and reduction of corticosteroid requirements in women with mild to moderate SLE.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by April 13, 2001. Oral presentations from the public will be scheduled between approximately 11 a.m. and 11:30 a.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before April 13, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On April 20, 2001, from 8 a.m. to 5 p.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)).

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 16, 20001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–7183 Filed 3–22–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on April 24, 2001, 8 a.m. to 4 p.m.

Location: Best Western Washington Gateway Hotel, The Ballroom, 1251 West Montgomery Ave., Rockville, MD.

Contact: Karen M. Templeton-Somers, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, e-mail: at SomersK@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12542. Please call the Information Line for up-to-date information on this meeting.

Agenda: The subcommittee will discuss parameters used for extrapolation from the adult to the pediatric setting in the hematological malignancies of leukemia and lymphoma.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the subcommittee. Written submissions may be made to the contact person by April 17, 2001. Oral presentations from the public will be scheduled between approximately 8:15 a.m. and 8:45 a.m., and 1 p.m. and 1:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before April 17, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 16, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–7185 Filed 3–22–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Nonclinical Studies Subcommittee of the Advisory Committee for Pharmaceutical Science; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Nonclinical Studies Subcommittee of the Advisory Committee for Pharmaceutical Science.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on May 3, 2001, 8:30 a.m. to noon.

Location: Center for Drug Evaluation and Research Advisory Committee conference room 1066, 5630 Fishers Lane, Rockville, MD.

Contact: Nancy Chamberlin or Jayne E. Peterson, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, e-mail: CHAMBERLINN@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12539. Please call the Information Line for up-to-date information on this meeting.

Agenda: The subcommittee meeting will discuss strategies to identify promising areas of nonclinical scientific research to develop biomarkers and/or other evolving molecular technologies to identify or predict: (1) Drug-induced cardiac tissue injury, and (2) drug-induced vasculitis.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by April 20, 2001. Oral presentations from the public will be scheduled between approximately 10:45 a.m. and 11:45 a.m. Time allotted for

each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before April 20, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 16, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–7181 Filed 3–22–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Science Board to the Food and Drug Administration Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Science Board to the Food and Drug Administration.

General Function of the Committee: The board shall provide advice primarily to the agency's Senior Advisor for Science, and as needed, to the Commissioner of Food and Drugs and other appropriate officials on specific complex and technical issues as well as emerging issues within the scientific community in industry and academia. Additionally, the board will provide advice to the agency on keeping pace with technical and scientific evolutions in the fields of regulatory science, formulating an appropriate research agenda, and upgrading its scientific and research facilities to keep pace with these changes. It will also provide the means for critical review of agency-sponsored intramural and extramural scientific research programs.

Date and Time: The meeting will be held on April 13, 2001, 9 a.m. to 4:30 p.m.

Location: 5630 Fishers Lane, rm. 1066, Rockville, MD.

Contact: Susan M. Bond, Office of Science Coordination and Communication (HF–33), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6687, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12603. Please call the Information Line for up-to-date information on this meeting.

Agenda: Open committee discussion, 8:30 a.m. to 1 p.m.; open public hearing, 1 p.m. to l:30 p.m.; open committee discussion, 1:30 p.m. to 4:30 p.m. The board will hear and discuss programmatic peer review for the FDA's Center for Devices and Radiological Health. The committee will also discuss: (1) The FDA's Office of Women's Health research plan; (2) an overview of tissue and tissue engineered products; and (3) strategies to meet scientific workforce challenges.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by April 6, 2001. Oral presentations from the public will be scheduled between approximately 1 p.m. and 1:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before April 6, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 16, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–7184 Filed 3–22–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA 225–00–8002]

Memorandum of Understanding Between the Food and Drug Administration, the Department of Agriculture, and the University of Puerto Rico

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between the Food and Drug Administration, the Department of Agriculture, and the University of Puerto Rico. The purpose is to establish a framework for collaboration on mutually agreed upon activities in scientific and regulatory areas.

DATES: The agreement became effective December 7, 2000.

FOR FURTHER INFORMATION CONTACT: Maritza Colon-Pullano, Office of the Commissioner (HFG–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4553.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and MOU's between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of this MOU.

Dated: March 19, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

BILLING CODE 4160–01–S

225-00-8002

MEMORANDUM OF UNDERSTANDING

Between the

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES
FOOD AND DRUG ADMINISTRATION
ROCKVILLE, MARYLAND

UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD SAFETY AND INSPECTION SERVICE
WASHINGTON, D.C.

and

THE UNIVERSITY OF PUERTO RICO
SAN JUAN, PUERTO RICO

The Food and Drug Administration (FDA), Food and Safety Inspection Service (FSIS), and the University of Puerto Rico (UPR), collectively referred to as the Parties, intend to establish cooperative training and research programs in the product areas subject to regulation by FDA and FSIS as follows:

I. PURPOSE

The purpose of this Memorandum of Understanding (MOU) is to establish a framework for the Parties to collaborate on mutually agreed upon activities in the scientific and regulatory areas as they pertain to products falling within the statutory authority of FDA and FSIS. These efforts are intended to support and encourage the further understanding of science-based regulatory systems in the countries of the Americas and may lead to further cooperation among regulatory authorities.

II. GOALS OF MOU

The Parties intend to work together toward developing:

A. Educational programs covering U.S. laws, regulations and procedures as they pertain to products falling within the statutory authority of FDA and FSIS.

B. Outreach programs designed to recruit Hispanic professionals from the United States and to enhance and sustain the qualifications of professionals in the Americas.

C. Cooperative activities among other academic institutions, authorities, and organizations (e.g., PAHO) in the Americas.

D. Cooperative partnerships in the Americas among government regulatory agencies, academic institutions, regulated industries, and consumers for dissemination and exchange of information developed at UPR through this MOU.

III. ORGANIZATION TO IMPLEMENT MOU

An organization will be formed to implement this MOU that includes representatives from FDA, FSIS, and UPR. The organization will operate according to terms agreed to by the Parties.

IV. RESOURCE OBLIGATIONS

This MOU describes in general terms the basis upon which the Parties intend to cooperate in these activities. It does not create binding, enforceable obligations against any Party.

All activities undertaken pursuant to this MOU are subject to availability of personnel, resources, and appropriated funds.

V. OTHER AGREEMENTS OR ARRANGEMENTS

This MOU does not affect or supercede any existing or future agreements or arrangements among any of the Parties and does not affect the ability of the Parties to enter into other agreements or arrangements related to the purpose of this MOU.

VI. NAMES AND ADDRESSES OF PARTICIPATING PARTIES

A. Food and Drug Administration
5600 Fishers Lane
Rockville, MD 20857

B. Food Safety and Inspection Service
14th and Independence Avenue, S.W.
Washington, D.C. 20250

C. University of Puerto Rico
San Juan, Puerto Rico 00936-4984

VII. LIAISON OFFICERS

A. Liaison Office for FDA:

THE OFFICE OF INTERNATIONAL PROGRAMS

B. Liaison Office for FSIS:

THE OFFICE OF MANAGEMENT

C. Liaison Office for UPR:

THE OFFICE OF THE PRESIDENT

VIII. DURATION OF MOU

This MOU shall become effective upon signature of all the Parties and will continue in effect for five (5) years. It may be extended by mutual written agreement of the Parties in writing. It may be modified by mutual consent or terminated by either Party upon a 30-day advance notice to the other Party.

IX. This MOU and all associated agreements will be subject to applicable federal and state laws and regulations.

FOOD AND DRUG ADMINISTRATION

BY:

JANE E. HENNEY, M.D.
COMMISSIONER OF FOOD AND DRUGS

DATE: Dec 7, 2000

FOOD SAFETY AND INSPECTION SERVICE

BY:

THOMAS J. BILLY
ADMINISTRATOR, FOOD SAFETY AND INSPECTION SERVICE

DATE: DEC 7, 2000

THE UNIVERSITY OF PUERTO RICO

BY:

NORMAN I. MALDONADO, M.D.
PRESIDENT OF THE UNIVERSITY OF PUERTO RICO

DATE: DEC 7, 2000

[FR Doc. 01–7242 Filed 3–22–01; 8:45 am]
BILLING CODE 4160–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA 225–01–8001]

Memorandum of Understanding Between the United States Food and Drug Administration and National Fisheries Service, Ministry of Economy, Development, and Reconstruction, Republic of Chile Covering the Sanitary Control of Fresh and Frozen Molluscan Shellfish Exported From the Republic of Chile to the United States

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between FDA, Department of Health and Human Services, United States of America and the National Fisheries Service, Ministry of Economy, Development, and Reconstruction, Republic of Chile. This agreement renews the cooperative work arrangement concerning the safety and wholesomeness of fresh and frozen oysters, clams, and mussels exported to the United States from Chile, which expired by its terms on May 18, 1999. The purpose of this agreement is to assist in assuring aquacultural fresh or frozen molluscan shellfish exported from Chile and offered for import into the United States will continue to be safe and wholesome, and will be harvested, processed, transported, and labeled in accordance with the sanitation principles of the United States National Shellfish Sanitation Program and the U.S. Federal Food, Drug, and Cosmetic Act and other related public health laws.

DATES: The agreement became effective February 23, 2001.

FOR FURTHER INFORMATION CONTACT: Angel M. Suarez, Center for Food Safety and Applied Nutrition (HFS–628), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–401–7338.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and MOU's between FDA and others shall be published in the **Federal Register** the agency is publishing notice of this MOU.

Dated: March 14, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

BILLING CODE 4160–01–S

MEMORANDUM OF UNDERSTANDING

BETWEEN THE

FOOD AND DRUG ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES
OF THE UNITED STATES OF AMERICA

AND THE

NATIONAL FISHERIES SERVICE
MINISTRY OF ECONOMY, DEVELOPMENT, AND RECONSTRUCTION
OF THE REPUBLIC OF CHILE

COVERING THE SANITARY CONTROL OF FRESH AND FROZEN MOLLUSCAN SHELLFISH EXPORTED FROM THE REPUBLIC OF CHILE TO THE UNITED STATES OF AMERICA

The Food and Drug Administration (FDA), Department of Health and Human Services of the United States of America and the National Fisheries Service (Servicio Nacional de Pesca or "Sernapesca"), Ministry of Economy Development and Reconstruction of the Republic of Chile, hereinafter referred to as the "Parties",

In keeping with the beneficial and cooperative work conducted under the terms of a 1989 Memorandum of Understanding (MOU) concerning the safety and wholesomeness of fresh and frozen oysters, clams, and mussels to the United States from Chile, which expired by its terms on May 18, 1999,

Recognizing that the Parties have held technical consultations leading to the successful development and implementation of an effective aquaculture program in Chile for oysters, clams, mussels, and scallops (whole or roe-on),

Acknowledging that FDA endorses the Chilean Shellfish Sanitation Program (CNSSP) and finds the Chilean program meets the United States National Shellfish Sanitation Program (NSSP) guidelines that are administered by FDA in cooperation with State agencies, and

Noting that the Parties can and will fulfill their responsibilities as members of the NSSP,

Have reached the following understanding:

I. PURPOSE

The mutual goals of the Parties in entering into this MOU are to:

A. Recognize that the Sernapesca within the Ministry of Economy Development and Reconstruction retains the overall responsibility for the CNSSP and coordinates participation of Chilean Regional governments in the shellfish program. Chilean Regions participating in the NSSP are equally responsible for fulfilling the sanitary control of shellfish in interstate commerce. Sernapesca will provide program direction.

B. Acknowledge that this MOU will permit Sernapesca to certify Chilean shippers for fresh or frozen shellfish and to have these certified shippers listed on FDA's "Interstate Certified Shellfish Shippers List" (ICSSL). FDA will recognize shellfish from certified Chilean shippers as having been certified under NSSP.

C. Recognize that this MOU will assist in assuring aquacultural fresh or frozen molluscan shellfish exported from Chile and offered for import into the United States will continue to be safe and wholesome, and will be harvested, processed, transported, and labeled in accordance with the sanitation principles of the NSSP, and the requirements of the U.S. Federal Food, Drug, and Cosmetic Act, the U.S. Public Health Service Act, and the U.S. Fair Packaging and Labeling Act.

II. DEFINITIONS

A. Approved area means the classification of a state molluscan shellfish growing area that has been approved by the state shellfish control authority for growing or harvesting molluscan shellfish for direct marketing. The classification of an approved growing area is determined through a sanitary survey conducted by the state shellfish control authority in accordance with the NSSP Model Ordinance.

B. Aquaculture means the controlled production of molluscan shellfish in natural or artificial systems. Components of aquaculture may overlap with other activities such as relaying, transplanting, wet storage, growing water classification and labeling.

C. Central file means the location where the enforcement agency stores and maintains program information, data, and reports.

D. Enforcement agency means Sernapesca, which has regulatory authority in Chile over the production, harvesting, processing, transportation, classification, and export of certified shellfish to the United States under the terms of this memorandum; classification and patrol of shellfish growing waters; and the evaluation of shellfish laboratories.

E. Lot of shellstock means a collection of bulk shellstock or containers of no more than one day's harvest from a single defined growing area harvested by one or more harvesters.

F. Lot of shucked shellfish means a collection of shellfish of no more than one day's harvest from a single defined growing area, produced under conditions as nearly uniform as possible, with the shucked shellfish product placed in containers designated by a common container code or marking.

G. Marine biotoxins means poisonous compounds accumulated by shellfish feeding upon toxic microorganisms. The poisons may come from dinoflagellates, e.g., Alexandrium spp. (formerly Protogonyaulax spp., Gonyaulax catenella, Gonyaulax tamarensis), Gymnodinium breve (formerly Ptychodiscus brevis), and Dinophysis spp. as well as diatoms such as *Pseudonitzia*.

H. Molluscan shellfish means all edible species of oysters, clams, mussels, and whole or roe on scallops; either shucked or in the shell, fresh or frozen, whole or in part.

I. Shellstock means live molluscan shellfish in the shell.

III. BASIC OBLIGATIONS

A. RESPONSIBILITIES OF SERNAPESCA

Sernapesca agrees that:

1. Sernapesca shall have overall responsibility for the coordination and implementation of the CNSSP, and develop and maintain interagency agreements and protocols with other government enforcement agencies to implement the CLNSSP controls as necessary. Sernapesca will be the liaison with the FDA and maintain compliance with the administrative/operational and technical aspects of the NSSP and CNSSP.

2. Sernapesca, as the Chilean enforcement agency, shall:

   a. Maintain CNSSP required legal, administrative, and sanitary controls over shellfish exported by certified Chilean dealers.

   b. Ensure that the CNSSP:

(1) Classifies molluscan bivalve growing areas based on comprehensive sanitation surveys;

(2) Prepares sanitation survey reports and maintains survey data in a central file;

(3) Updates survey data annually and periodically review the classification status of each harvest area;

(4) Approves and supervises harvesting and relaying operations and provides proper labeling and identification of source of shellstock;

(5) Restricts harvesting of shellstock from unapproved areas and takes appropriate enforcement action against violations; and

(6) Oversees certification laboratories approved to participate in the shellfish sanitation control program.

c. Inspect firms processing fresh or frozen shellfish for export to ensure compliance with NSSP controls.

d. On an annual basis, 1) certify dealers exporting fresh or frozen shellfish to the United States, 2) certify that such dealers comply with NSSP requirements, and 3) notify FDA of the name, location and certification number of those firms on Form FD-3038, "Shellfish Dealer Certification."

e. Cancel the certification of any firm:

1. Operating out of compliance with the requirements of the NSSP;

2. Utilizing shellfish from nonapproved areas; or,

3. Shipping shellfish that do not conform to the requirements of the U.S. Federal Food, Drug, and Cosmetic Act, U.S. Public Health Service Act, and the U.S. Fair Packaging and Labeling Act.

f. Ensure that all containers of each lot of fresh or frozen shellfish certified for export are identified with the shipper's address, certification number, and lot number or code, together with all other information required by the U.S. Federal Food, Drug and Cosmetic

Act, the U.S. Public Health Service Act, and the U.S. Fair Packaging and Labeling Act.

g. Provide results of research investigations conducted on live shellfish (tissue and shell material) taken from approved growing areas designated for shellfish harvest for export to the United States.

h. Maintain a central file of program records including, but not necessarily limited to sanitation survey reports, inspection reports laboratory evaluation reports, and enforcement actions. These records are to be made available to FDA for review upon request.

i. Provide inspection results, as appropriate, and other program information, including FDA evaluation reports, interpretations, and laboratory quality assurance program information, to Regional Chile National Fisheries Service offices and other government agencies that have responsibilities in the CNSSP.

j. Review periodically, but at least annually, the level of conformity to NSSP requirements that is being enforced by Sernapesca. Provide a report of the review to FDA as necessary, or at least annually.

k. Provide FDA with information about current or potential public health problems affecting shellfish intended for export to the United States.

l. Make travel arrangements in Chile for, and conduct joint inspections with, FDA evaluation officers at FDA's request. Meet transportation expenses in Chile of FDA officials making inspections in accordance with this memorandum.

3. Sernapesca is responsible for designating the laboratory officer for:

a. Certification of all laboratories participating in the CNSSP and maintaining appropriate infrastructure, technical materials, equipment, and trained personnel to carry out required NSSP sampling and analytical procedures.

b. Periodic evaluation of certified laboratories to verify compliance with all NSSP requirements and the maintenance of laboratory quality assurance procedures.

4. The Chilean Ministry of Health, through its Health Services, is directly responsible for the prohibition of the harvesting of shellfish from areas in response to contamination emergencies and for reopening such

prohibited areas after water quality data demonstrates the area meets approved criteria.

5. The Chilean Ministry of Health, through its Institute of Public Health, shall serve as the official laboratory of reference for:

   a. Analyzing and maintaining a marine biotoxin monitoring program for those areas where shellfish are harvested for export to the United States.

   b. Analyzing and maintaining a split-sample (cross-sampling) program between designated shellfish laboratories for evaluating uniform laboratory practices in microbiological practices.

B. RESPONSIBILITIES OF THE FOOD AND DRUG ADMINISTRATION OF THE UNITED STATES OF AMERICA

FDA agrees to:

1. Recognize the Republic of Chile as a participant in the NSSP with full rights to participate in the Interstate Shellfish Sanitation Conference (ISSC), cooperative research programs, seminars, training courses, and other NSSP activities; to make recommendations for changes or improvements in the procedures, methods, standards, and guidelines of the NSSP; and to have the Sernapesca certify Chilean firms for inclusion in FDA's ICSSL.

2. Publish the names, locations, and certification numbers of Chilean shellfish shipping firms certified by Sernapesca in the monthly publication of the ICSSL upon receipt of Form FD-3038.

3. Provide training and technical assistance to enforcement agency personnel in shellfish sanitation program administration, laboratory procedures, and growing area classification procedures upon request of Sernapesca and subject to availability of funds or personnel for such purposes.

4. Inform Sernapesca of the reasons for any detentions of certified molluscan shellfish shipments from Chile which have been carried out under the authority of the U.S. Federal Food, Drug, and Cosmetic Act, the U.S. Public Health Service (PHS) Act and the U.S. Fair Packaging and Labeling Act. Additional information that FDA should provide may include, but not be limited to:

(a) Commodity identification;

(b) Commodity code, lot, and certification number;

(c) Name and address of the shipper;

(d) Sampling procedures;

(e) Methods of analysis and confirmation; and

(f) Administrative guidelines.

5. Participate with Sernapesca in joint evaluations of the CNSSP as it pertains to certifying firms. Joint evaluations normally will be conducted periodically to ascertain the level of conformity with the requirements of the NSSP and with the responsibilities specified in this memorandum. FDA will pay round trip transportation expenses between the United States and Chile and the per diem of the members of the FDA evaluation team while in Chile.

6. Exchange appropriate information concerning questions by the United States, state or local food control officials regarding the certification, safety, and wholesomeness of shellfish imported from Chile. The FDA will, if requested by the Sernapesca, seek to communicate with state and local authorities in the United States on issues, which may adversely affect the importation of Chilean shellfish to the United States.

IV. TECHNICAL INFORMATION EXCHANGE

The working language for documents exchanged under this MOU shall be English. The Parties agree to share expertise, provide assistance, and exchange information. Such mutual cooperation may include, but shall not be limited to:

A. Exchanging information through designated liaison officers concerning significant proposed and final changes in program operations and procedures including:

(a) Methods and procedures for sampling;

(b) Methods of analysis;

(c) Methods of confirmation;

(d) Administrative guidelines, tolerances, specification standards, and nomenclature;

(e) Reference standards; and

(f) Inspection procedures.

B. Providing written notification to the other party of any changes in liaison officers. Changing liaison officers will not otherwise constitute a change in the provisions of this MOU.

C. Facilitating the exchange of information between Sernapesca and the U.S. Federal and State agencies concerned with the introduction and proliferation of exotic organism that might be carried by Chilean shellfish.

V. PARTICIPATING PARTIES

A. National Fisheries Service (Sernapesca)
Victoria #2832
Valparaiso, Chile

B. Food and Drug Administration
5600 Fishers Lane
Rockville, MD 20857
The United States of America

VI. LIAISON OFFICERS

A. For the National Fisheries Service (Sernapesca)

Head of Health Fisheries Department
Servicio Nacional de Pesca
Victoria #2832
Valparaiso, Chile

B. For the Food and Drug Administration:

Director, Office of Seafood
Center for Food Safety and Applied Nutrition
Food and Drug Administration,
200 C Street, SW. (HFS-400)
Washington, D.C. 20204
Telephone: (202) 418-3133

VII. PERIOD OF AGREEMENT AND TEXTUAL VERSIONS

This MOU shall enter into force upon signature by both Parties and shall continue for five (5) years. The Parties agree to evaluate the MOU during the five-year period. It may be extended or amended by written consent of the Parties. It may be terminated by either Party upon 30 days written notice to the other.

This MOU is done in duplicate in the English language. A text in the Spanish language shall be considered equally authentic upon written confirmation by the Parties of its substantive conformity with the text in the English language.

His Excellency Andrés Bianchi
Ambassador of Chile

Sharon Smith Holston
Deputy Commissioner
International and Constituent Relations

FOR THE
NATIONAL FISHERIES SERVICE
MINISTRY OF ECONOMY,
DEVELOPMENT, AND RECONSTRUCTION
OF THE REPUBLIC OF CHILE

DATE: February 23, 2001

PLACE: Rockville, MD

FOR THE
FOOD AND DRUG ADMINISTRATION
DEPARTMENT OF HEALTH AND
HUMAN SERVICES
OF THE UNITED STATES OF
AMERICA

DATE: February 23, 2001

PLACE: Rockville, Maryland

ANNEX

REFERENCES

1. U.S. Department of Health and Human Services (formerly U.S. Department of Health, Education, and Welfare), PHS, National Shellfish Sanitation Program, Guide for the Control of Molluscan Shellfish, 1997 Revision.

2. Association of Official Analytical Chemists, Official Methods of Analysis, 16th Edition; 4th Revision, Association of Official Analytical Chemists, Inc., 111 North 19th Street, Suite 210, Arlington, VA 22209, U.S.A., 1998.

3. Food and Drug Administration, "Interstate Certified Shellfish Shippers List," published monthly and distributed to food control officials and other interested persons by FDA, Center for Food Safety and Applied Nutrition, Division of Cooperative Programs (HFS-625), 200 C Street, SW., Washington, D.C. 20204.

4. Federal Food, Drug, and Cosmetic Act, 1938, as amended, U.S. Code, Title 21.

5. Public Health Service Act, as amended, U.S. Code, Title 42.

6. Fair Packaging and Labeling Act, Public Law 89-755, approved November 3, 1966.

7. American Public Health Association, Recommended Procedures for the Examination of Seawater and Shellfish, 4th Ed., 1970, APHA, Inc., 1015 15th Street, NW, Washington, D.C. 20036.

8. Food and Drug Administration, "Fish and Fishery Products" regulations, 21 CFR Part 123.

9. Food and Drug Administration "Current Good Manufacturing Practice in Manufacturing, Processing, Packing, or Holding Human Food," regulations, 21 CFR Part 110.

10. Food and Drug Administration, "Fish and Shellfish" regulations, 21 CFR Part 161.

11. Food and Drug Administration, "Specific Administrative Decisions Regarding Interstate Shipments," "Shellfish," 21 CFR 1240.60.

12. Food and Drug Administration, "Food Service Sanitation on Land and Air Conveyances, and Vessels," "Special Food Requirements," 21 CFR 1250.26

13. 1989 Shellfish Sanitation Agreements between the Government of the United States of America and the Republic of Chile.

[FR Doc. 01–7241 Filed 3–22–01; 8:45 am]

BILLING CODE 4160–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–10033]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New collection.

Title of Information Collection: Data Collection to Support Policy Analysis of Choices Offered to Medicare+Choice Enrollees and Choices Made by Enrollees.

Form No.: HCFA–10033 (OMB# 0938–NEW).

Use: The purpose of this information collection is to collect data from Medicare+Choice (M+C) organizations regarding choices that Medicare beneficiaries make as M+C enrollees. Information will be collected regarding enrollment and benefits, particularly for employment-connected individuals and will help HCFA fully evaluate the effectiveness of the M+C program. All Medicare Managed Care organizations will be surveyed.

Frequency: Other: One-time.

Affected Public: Business or other for-profit.

Number of Respondents: 200.

Total Annual Responses: 200.

Total Annual Hours: 1,600.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan (HCFA–10033), Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: March 13, 2001.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–7188 Filed 3–22–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–SP–0001]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Medicaid Post-Eligibility Preprint and Supporting Regulations in 42 CFR 435.310; *Form No.:* HCFA–SP–0001 (OMB# 0938–0673); *Use:* The post-eligibility preprint is part of the comprehensive statement that a State submits to show that it is meeting the requirements for Federal funding of its Medicaid program. It comprises part of each State's Plan which outlines the mandatory and optional aspects of a State's Medicaid program. Accurate submission of this information is necessary in order for States to receive federal funding; *Frequency:* On occasion; *Affected Public:* State, local or tribal government; *Number of Respondents:* 13; *Total Annual Responses:* 5; *Total Annual Hours:* 15.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm,* or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Julie Brown HCFA SP 0001, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: March 13, 2001.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–7190 Filed 3–22–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–10018]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget

(OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection.

Title of Information Collection: Survey of Medicaid Home and Community-Based Services Waiver and Personal Care Option Recipients for the Multi-Site Study of Medicaid Home and Community-Based Services.

Form No.: HCFA–10018 (OMB#0938–NEW).

Use: Information collected will pertain to a description of the person, information regarding service use, unmet need for HCBS, quality of life, satisfaction with services, general health and functional status, care management and consumer direction. These data will be combined with secondary data on utilization of health care services to analyze the coordination of care; utilization; outcomes; and cost of providing services.

Frequency: One Time.

Affected Public: Individuals or Households.

Number of Respondents: 4,800.

Total Annual Responses: 4,800.

Total Annual Hours: 3,200.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's Web Site Address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address and phone number, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: January 25, 2001.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–7189 Filed 3–22–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Revision of OMB No. 0925–0001/exp.05/31/01, ''Research and Research Training Grant Applications and Related Forms''

SUMMARY: Under the provisions of requirement of section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Director (OD), Office of Extramural Research, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. The proposed information collection was previously published in the **Federal Register** on December 7, 2000, Page 76649 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comments. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: Research and Research Training Grant Applications and Related Forms. *Types of Information Collection Request:* Revision, OMB 0925–0001, Expiration Date 05/31/01. Form Numbers: PHS 398, 2590, 2271, 3734 and HHS 568. *Need and Use of Information Collection:* The application is used by applicants to request Federal assistance for research and research-related training. The other related forms are used for trainee appointment, final invention reporting, and to relinquish rights to a research grant. *Frequency of response:* Applicants may submit applications for published receipt dates. If awarded, annual progress is reported and trainees may be appointed or reappointed. *Affected Public:* Individuals or Households; Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local or Tribal Government. *Type of Respondents:* Adult scientific professionals. The annual reporting burden is as follows: *Estimated Number of Respondents:* 114,407; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours Per Response:* 12.040; and *Estimated total Annual Burden Hours Requested:* 1,377,548. The estimated annualized cost to respondents is $48,214,180.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time should be directed to the Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Ms. Jan Heffernan, Division of Grants Policy, Office of Policy for Extramural Research Administration, NIH, Rockledge 1 Building, Room 1196, 6705 Rockledge Drive, Bethesda, MD 20892–7974, or call non-toll-free number (301) 435–0940, or E-mail your request, including your address to: *Heffernj@OD.NIH.GOV.*

Comments Due Date: comments regarding this information collection are best assured of having their full effect if received on or before April 23, 2001.

Dated: March 8, 2001.

Carol Alderson,

Acting Director, OPERA, NIH.

[FR Doc. 01–7224 Filed 3–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

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.

Pyrimidine Phosphorylase as a Target for Imaging and Therapy

RW Klecker and JM Collins (FDA)
DHHS Reference No. E–156–99/0 filed 19 Jan 2001
Licensing Contact: Richard Rodriguez; 301/496–7056 ext. 287; e-mail: rodrigur@od.nih.gov

The present invention describes methods to diagnose and monitor the treatment of tumors with high expression of thymidine phosphorylase (TP) . Overexpression of TP has been shown to correlate with angiogenesis, and this fact can be used, via TP's enzyme function, to preferentially label angiogenic cells through the introduction of relevant precursors. These precursors consist of labeled thymine analogues which are converted by TP into retained cell-components. This can allow for the non-invasive imaging of tumors with high angiogenic activity. The technique can also be used to kill tumor cells by providing the analogues in higher concentrations or with therapeutic isotopes so as to be toxic to cells with high TP levels.

3-D Video Image-Based Microscopic Robotic Targeting

Jeffrey C. Smith (NINDS), James W. Nash (EM)
DHHS Reference No. E–162–00/0 filed 22 Dec 2000
Licensing Contact: Dale Berkley; 301/496–7735 ext. 223; e-mail: berkleyd@od.nih.gov

The invention is a robotic software and hardware system that allows a microscopic object such as a living biological cell to be targeted in 3–D optical space for micromanipulation or probing. The software permits the selection of an object for targeting by a point and click operation with a computer mouse, and performs the transforms between video pixel space, optical space and micro-manipulator mechanical coordinate space to translate the point and click operation into the precision targeting movements of the micro-positioner. The object is viewed in real time through a microscope system via a video output camera and displayed on a computer terminal. Applications include precision positioning of microelectrodes for electrophysiological recording from living cells, micro-injection and micro-manipulation of cells and micro-delivery of pharmacological agents to cells for drug testing and diagnostics. The invention may also find application in microelectronics fabrication.

Dated: March 14, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 01–7227 Filed 3–22–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 Cancer Institute Special Emphasis Panel, Innovative Toxicology Models for Drug Evaluation.
Date: April 10–11, 2001.
Time: 7 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Gaithersburg, 620 Perry Parkway, Gaithersburg, MD 20877.
Contact Person: Thomas M. Vollberg, PhD, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8049, Rockville, MD 20852, 301/594–9582.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–7212 Filed 3–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 Cancer Institute Initial Review Group, Subcommittee D—Clinical Studies.
Date: April 5, 2001.
Time: 7 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8777 Georgia Avenue, Silver Spring, MD 20919.
Contact Person: Martin H. Goldrosen, PhD, Scientific Review Administrator, Grants Review Branch, Division of Extramural

Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, 8th Floor, Room 8050, Bethesda, MD 20852–8328, (301) 496–7930, mg85x@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. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Center Control, National Institutes of Health, HHS)

Dated: March 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–7213 Filed 3–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 Cancer Institute Initial Review Group, Subcommittee E—Cancer Epidemiology, Prevention & Control.

Date: April 4–6, 2001.

Time: 7 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Mary C Fletcher, PhD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8115, Bethesda, MD 20892–8328.

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. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHD)

Dated: March 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–7214 Filed 3–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 Cancer Institute Special Emphasis Panel, Flexible System to Advance Innovative Research for Cancer Drug Discovery by Small Business.

Date: April 19, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, 6130 Executive Boulevard, EPN/Conference J, Rockville, MD 20852.

Contact Person: Timothy C. Meeker, MD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8088, Rockville, MD 20852, 301/594–1279, meekert@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–7215 Filed 3–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 Cancer Institute Initial Review Group, Subcommittee C—Basic & Preclinical Basic and Preclinical Studies.

Date: April 10–11, 2001.

Time: 7:30 pm to 6 pm.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Michael B. Small, PhD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8040, Bethesda, MD 20892, 301/402–0996.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–7216 Filed 3–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 Cancer Institute Initial Review Group, Subcommittee A—Cancer Centers.

Date: April 5–6, 2001.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: David E. Maslow, PhD., Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard—Room 8117, Bethesda, MD 20892–7405, 301/496–2330.

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. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–7218 Filed 3–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 Cancer Institute Special Emphasis Panel, Cancer Communications and Interactive Media Technology.

Date: April 5–6, 2001.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Joyce C. Pegues, PhD, Scientific Review Administrator, Special Review, Referral, and Resources Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8084, Bethesda, MD 20892, 301/594–1286.

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. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–7221 Filed 3–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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 Mental Health Special Emphasis Panel.

Date: April 27, 2001.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, dsommers@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: March 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–7204 Filed 3–22–01; 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.

Date: April 17, 2001.

Time: 11:30 a.m to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd., Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Craig A. Jordan, PhD, Chief, Scientific Review Branch, NIH/NIDCD/DER, Executive Plaza South, Room 400C, Bethesda, MD 20892–7180, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: March 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–7206 Filed 3–22–01; 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 5529(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.

Date: March 30, 2001.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd., Suite 400C, Rockville, MD 20852 (Telephone Conference Call).

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.

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. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: March 15, 2001.

Laverne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–7207 Filed 3–22–01; 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(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the AIDS Research Advisory Committee, NIAID.

The meeting will be open to the public, 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.

Name of Committee: AIDS Research Advisory Committee, NIAID.

Date: June 5, 2001.

Time: 8:30 a.m. to 4:30 p.m.

Agenda: The Committee will provide advice on scientific priorities, policy, and program balance at the Division level. The Committee will review the progress and productivity of ongoing efforts, and identify critical gaps/obstacles to progress.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Contact Person: Rona L. Siskind, Executive Secretary, AIDS Research Advisory Committee, Division of AIDS, NIAID/NIH, Room 4139, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7601, 301–435–3732.

(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: March 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–7208 Filed 3–22–01; 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 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: April 5, 2001.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Washington-National Airport, 1489 Jefferson Davis Highway, Arlington, CA 22202.

Contact Person: Gerald L. McLaughlin, 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, *gm145x@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 15, 2001.

LaVerna Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–7209 Filed 3–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel.

Date: April 26, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Tracy A. Shahan, PhD, Scientific Review Administrator, National Institutes of Health, National Institute of Arthritis and Musculoskeletal and Skin Diseases, Bldg. 45/Room 5as–25h, Bethesda, MD 20892, (301) 594–4952.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: March 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–7210 Filed 3–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDA.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Drug Abuse, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDA.

Date: April 25–27, 2001.

Time: 1 p.m. to 12 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Intramural Research Program, National Institute on Drug Abuse, John Hopkins Bayview Campus, Bldg. C, 2nd Floor Auditorium, 5500 Nathan Shock Drive, Baltimore, MD 21224.

Contact Person: Stephen J. Heishman, PhD, Research Psychologist, Clinical Pharmacology Branch, Intramural Research Program, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5500 Nathan Shock Drive, Baltimore, MD 21224, (410) 550–1547.

Dated: March 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–7211 Filed 3–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute 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: March 28, 2001.

Time: 12:30 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd., Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Richard D. Crosland, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/ Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–594–0635.

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 Research in the Neurosciences, National Institutes of Health, HHS)

Dated: March 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–7220 Filed 3–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: April 12, 2001.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Henry J. Haigler, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, 301/443–2716.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for

Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: March 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–7222 Filed 3–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Library of Medicine.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Library of Medicine, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Library of Medicine, Board of Scientific Counselors, National Center for Biotechnology Information, National Library of Medicine.

Date: April 23–24, 2001.

Time: April 23, 2001, 7 p.m. to 10 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Hyatt Regency Hotel, One Bethesda Metro, Bethesda, MD 20814.

Time: April 24, 2001, 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Library of Medicine Board Room Bldg 38, 2E–09 8600 Rockville Pike Bethesda, MD 20894.

Contact Person: David J. Lipman, MD Director Natl Ctr For Biotechnology Information National Library of Medicine Department of Health and Human Services Bethesda, MD 20894.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: March 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–7217 Filed 3–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to 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 Office of AIDS Research Advisory Council.

The meeting will be open to the public, 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.

Name of Committee: Office of AIDS Research Advisory Council.

Date: April 17, 2001.

Time: 8:30 a.m. to Adjournment.

Agenda: Human Immunology.

Place: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Contact Person: Linda Reck, Head, Program, Planning and Evaluation, Office of AIDS Research, NIH, Bethesda, MD 20892, (301) 402–8655.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency)

Dated: March 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–7205 Filed 3–22–01; 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: AIDS and Related Research Integrated Review Group, AIDS and Related Research.

Date: March 19–20, 2001.

Time: 8:30 a.m. to 10 a.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Ranga V. Srinvas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1167, srinivar@csr.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.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 23, 2001.

Time: 3 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Syed Quadri, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 4144, MSC 7804, Bethesda, MD 20892, (301) 435–1211.

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: AIDS and Related Research Integrated Review Group, AIDS and Related Research.

Date: March 27–28, 2001.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Keystone Resort, Keystone, CO 80222.

Contact Person: Sami A. Mayyasi, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7852, Bethesda, MD 20892, (301) 435–1169.

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: Center for Scientific Review Special Emphasis Panel.

Date: March 28, 2001.
Time: 2 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Samuel C. Edwards, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, MSC 7812, Bethesda, MD 20892, (301) 435–1152 edwardss@csr.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.

Name of Committee: Center for Scentific Review Special Emphasis Panel.
Date: March 29, 2001.
Time: 1 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Richard Panniers PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, 7842, Bethesda, MD 20892, (301) 435–1741.
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: Center for Scientific Review Special Emphasis Panel.
Date: March 29, 2001.
Time: 1 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Samuel C. Edwards, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200 MSC 7812, Bethesda, MD 20892, (301) 435–1152, edwardss@csr.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.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 29, 2001.
Time: 2 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Luigi Giacometti, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7850, Bethesda, MD 20892, (301) 435–1246.
This notice is being published less than 15 days prior the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scentific Review Special Emphasis Panel.
Date: March 30, 2001.
Time: 2 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: David J. Remondini, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2210 MSC 7890, Bethesda, MD 20892, 301–435–1038, remondid@csr.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.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: April 2, 2001.
Time: 2 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Timothy J. Henry, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4180, MSC 7808, Bethesda, MD 20892, (301) 435–1147.
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: Center for Scientific Review Special Emphasis Panel.
Date: April 2, 2001.
Time: 3:30 p.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Timothy J. Henry, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4180, MSC 7808, Bethesda, MD 20892, (301) 435–1147.
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: Center for Scientific Review Special Emphasis Panel.
Date: April 3, 2001.
Time: 2:30 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: Charles N. Rafferty, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, Bethesda, MD 20892, (301) 435–1147.
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.

AIDS and Related Research Integrated Review Group

Name of Committee: AIDS and Related Research 5.
Date: April 3–4, 2001.
Time: 8 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: The Virginia Suites, 1500 Arlington Blvd., Arlington, VA 22209.
Contact Person: Ranga Srinivas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1167.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: April 4, 2001.
Time: 3 p.m. to 4 .
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Camilla E. Day, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2208, MSC 7890, Bethesda, MD 20892, (301) 435–1037, dayc@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: April 4, 2001.
Time: 3 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: Alexander D. Politis, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, (301) 435–1225, politisa@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: April 5, 2001.
Time: 8:30 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Club Quarters DC, 839 17th Street, N.W., Washington, DC 20006.
Contact Person: Anne Schaffner, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7850, Bethesda, MD 20892, (301) 435–1239, schaffna@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: April 9, 2001.
Time: 12 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Eugene Vigil, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7840, Bethesda, MD 20892, (301) 435–1025.

(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: March 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–7202 Filed 3–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Meeting

Pursuant to 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 Center for Scientific Review Advisory Committee.

The meeting will be open to the public, 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.

Name of Committee: Center for Scientific Review Advisory Committee.

Date: May 14–15, 2001.

Time: 8:30 a.m. to 1 p.m.

Agenda: Discussion of activities to evaluate organization and function of the Center for Scientific Review.

Place: National Institutes of Health, Two Rockledge Center, Conference Room 9100, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Robert W. Eisinger, PhD, Associate Director, Office of Planning, Analysis and Evaluation, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3016, MSC 7776, Bethesda, MD 20892, 301–435–1111.

(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: March 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–7203 Filed 3–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, March 14, 2001, 8 a.m. to March 14, 2001, 3 p.m., NIH, Rockledge 2, Bethesda, MD 20892 which was published in the **Federal Register** on February 23, 2001, 66 FR 11307–11308.

The meeting will be held on April 9, 2001, from 2 p.m. to 3:30 p.m. The location remains the same. The meeting is closed to the public.

Dated: March 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–7219 Filed 3–22–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Co-Exclusive License: Treating Inflammatory Bowel Disease Using Antibodies Against Interleukin-Twelve (IL–12)

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR Part 404.7(a)(1)(i), announces that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of a co-exclusive license to practice the inventions embodied in U.S. Patent 5,853,697 entitled, ''Methods of Treating Established Colitis Using Antibodies Against IL–12,'' which was filed on October 25, 1995 and issued on December 29, 1998, and corresponding foreign patent applications, to Centocor, Inc. which is located in Malvern, PA. The patent rights in these inventions have been assigned to the United States of America.

The prospective co-exclusive license territory will be worldwide and the field of use will be therapeutics for the treatment of inflammatory bowel disease, including but not necessarily limited to colitis and Crohn=s disease.

DATES: Only *written* comments and/or license applications which are received by the National Institutes of Health on or before May 22, 2001 will be considered.

ADDRESSES: Requests for copies of the patent and/or patent applications, inquiries, comments and other materials relating to the contemplated co-exclusive license should be directed to: Richard U. Rodriguez, M.B.A., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804. Telephone: (301) 496–7056, X287; Facsimile: (301) 402–0220; E-mail: rodrigur@od.nih.gov.

SUPPLEMENTARY INFORMATION: The technology claimed in the aforementioned patent and patent applications relates to methods of treating inflammatory bowel diseases through the administration of antibodies against IL–12. A method for evaluating the effectiveness of the IL–12 antibodies in reducing the inflammatory response is also claimed.

The prospective co-exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR Part 404.7. The prospective co-exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR Part 404.7. This notice serves to modify the previous intent to grant notice published in the **Federal Register**, 62 FR 13162, March 19, 1997.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated co-exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: March 16, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 01–7225 Filed 3–22–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: The Use of Recombinant Cholera Toxin B Subunit to Treat Autoimmune and/or Inflammatory Diseases

AGENCY: National Institutes of Health, Public Health Service, and HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the inventions embodied in PCT Patent Application, S/N PCT/US00/30837, entitled, ''Methods of Treating Inflammatory Bowel Disease Using Cholera Toxin B Subunit'' which was filed on November 9, 2000 and claims priority to U.S. Patent Application, S/N 60/165,111, entitled, ''Methods of Treating Inflammatory Bowel Disease Using Cholera Toxin B

Subunit,'' which was filed on November 12, 1999, and corresponding foreign patent applications, to Active Biotech Research AB which is located in Lund, Sweden. The patent rights in these inventions have been assigned to the United States of America.

The prospective exclusive license territory will be worldwide and the field of use may be limited to human therapeutics for the treatment of inflammatory bowel disease and/or other human autoimmune or inflammatory diseases.

DATES: Only *written* comments and/or license applications which are received by the National Institutes of Health on or before May 22, 2001 will be considered.

ADDRESSES: Requests for copies of the patent, inquiries, comments and other materials relating to the contemplated exclusive license should be directed to: Richard U. Rodriguez, M.B.A., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804. Telephone: (301) 496–7056, X287; Facsimile: (301) 402–0220; and E-mail: RodriguR@od.nih.gov.

SUPPLEMENTARY INFORMATION: The technology claimed in the PCT application relates to methods for treating inflammatory and/or autoimmune diseases through the administration of recombinant cholera toxin B subunit (rCTB). This treatment appears to suppress the production of interferon-gamma and interleukin-12 thus causing apoptosis, or cell death, in a select pool of T-cells. The administration of rCTB may be particularly useful for the treatment of inflammatory bowel disease which would include, but not necessarily be limited to, Crohn's disease and ulcerative colitis.

The prospective exclusive license: will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR Part 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: March 16, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 01–7226 Filed 3–22–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH), National Toxicology Program (NTP); Request for Data and Nominations of Expert Scientists for an Independent Peer Review Evaluation of In Vitro Estrogen and Androgen Receptor Binding and Transcriptional Activation Assays for Endocrine Disruptor Screening

SUMMARY: The National Toxicology Program (NTP) Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) in collaboration with the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) is planning an independent Peer Review Panel (hereafter, Panel) evaluation of the validation status of in vitro estrogen receptor (ER) and androgen receptor (AR) binding and transcriptional activation assays. Conclusions and recommendations from the Panel will be considered by federal agencies in selecting and establishing minimum performance criteria for in vitro test methods used to screen chemicals for potential endocrine disrupting effects, including the U.S. Environmental Protection Agency's (EPA) Endocrine Disruptor Screening Program. At this time, NICEATM requests study results and data evaluating the performance and reliability of ER and AR binding and transcriptional activation assays, and other relevant information from the scientific community that should be considered by the Panel. NICEATM also requests nominations of expert scientists for consideration as potential Panel members.

BACKGROUND INFORMATION: In response to public concern that pesticides may interfere with endocrine processes in humans and wildlife, Congress directed EPA, through the 1996 Food Quality Protection Act (FQPA) (Pub. L. 104–170) to develop a screening program for evaluating the potential of pesticides and other chemicals to induce hormone-related health effects. Language in the1996 amendments to the Safe Drinking Water Act (Pub. L. 104–182) added that EPA would use this screening program to evaluate substances found in drinking water sources for endocrine effects if there is widespread human exposure to such substances. Consequently, in 1998, EPA proposed an Endocrine Disruptor Screening Program (EDSP) (**Federal Register**, Vol. 63, No. 248, pp. 71541–71568, December 28, 1998, available at *http://www.epa.gov/fedrgstr/EPA–TOX/1998/December/Day-28/t34298.htm*).

The conceptual framework of the EDSP (*http://www.epa.gov/scipoly/oscpendo/index.htm*) consists of a Tier 1 Screening battery of tests that is designed to identify substances capable of interacting with the endocrine system, and a Tier 2 Testing level that is designed to confirm Tier 1 results and characterize the nature of the endocrine disrupting effects of the substances identified with Tier 1 Screening. Under the mandates of the FQPA, EPA is requiring that each screen and test method proposed for use in the program undergo standardization and scientific validation consistent with the principles of ICCVAM, as described in NIH Publication 97–3981, Validation and Regulatory Acceptance of Toxicological Test Methods: A Report of the ad hoc Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM Report), available at *http://iccvam.niehs.nih.gov/validate.pdf* and the Organization for Economic Co-operation and Development (OECD) (Final Report of the OECD Workshop on Harmonization of Validation and Acceptance Criteria for Alternative Toxicological Test Methods: OECD, 1996, available at *http://www.oecd.org//ehs/test/08e69840.pdf*).

EPA nominated the ER and AR binding assays and ER and AR transcriptional activation assays for review using the ICCVAM evaluation process, and agreed to sponsor the necessary background review document preparation and peer review. ICCVAM subsequently recommended that these methods should undergo independent scientific peer review based on their potential interagency applicability and public health significance. NICEATM, in collaboration with ICCVAM, is therefore convening an independent panel of scientists to assess the validation status of these four different types of in vitro assays. These assays are relevant for screening purposes in the EDSP because they may identify substances that alter natural endocrine processes in the body by binding with estrogen and/or androgen receptors, resulting in either activation or

inhibition of gene activation. As part of the evaluation, EPA requested the development and review of proposed minimum performance criteria that future methods of these types should achieve, in light of the performance of existing methods.

For both the receptor binding and transcriptional activation assays, the Panel will evaluate the extent to which the validation and acceptance criteria outlined in the ICCVAM Report have been addressed. The Panel will be asked to provide conclusions and recommendations regarding the usefulness and limitations of various ER and AR binding and/or transcriptional activation assays, and the adequacy of proposed technically feasible minimum performance criteria that these types of assays should achieve. Finally, the Panel will address whether and what additional test method development and validation efforts might further enhance and/or characterize the usefulness of specific in vitro ER and AR binding and/or transcriptional activation assays.

NICEATM is preparing background review documents on ER and AR binding and transcriptional activation testing methods that will contain comprehensive summaries of available data and related information characterizing the current validation status of these assays. The Panel will evaluate the background review documents, which will also be made available to the public.

The Peer Review Panel meeting is anticipated to take place in early 2002. Meeting information, including date and location, and public availability of the background review documents will be announced in a future **Federal Register** notice that will also be posted on the ICCVAM/NICEATM website (*http://iccvam.niehs.nih.gov*).

Request for Nominations of Experts to Serve on the Panel

NICEATM invites nominations of scientists with relevant knowledge and experience who might be considered for the independent Peer Review Panel. Areas of expertise that may be relevant include, but are not limited to, endocrinology, reproductive toxicology, cellular biology, molecular genetics and biostatistics. Each nomination should include the person's name, affiliation, contact information (i.e., mailing address, telephone and fax numbers, and e-mail address), and a brief summary of relevant experience and qualifications. Nominations should be sent to NICEATM by mail, fax or e-mail within 60 days of the publication date of this notice. Correspondence should be directed to Dr. William S. Stokes, Director, NTP Interagency Center for the Evaluation of Alternative Toxicological Methods, NIEHS, 79 T.W. Alexander Drive, MD EC–17, P.O. Box 12233, Research Triangle Park, NC 27709; telephone: 919–541–7997; fax: 919–541–0947; e-mail: iccvam@niehs.nih.gov.

Request for Data

NICEATM welcomes data from completed studies using or evaluating ER and AR binding and/or transcriptional activation assays, and information about ongoing or planned studies using these methods. Information should address applicable aspects of the validation and regulatory acceptance criteria provided in the ICCVAM Report. Where possible, data and information should adhere to the guidance provided in NIH Publication 99–4496, Evaluation of the Validation Status of Toxicological Methods: General Guidelines for Submissions to ICCVAM (*http://iccvam.niehs.nih.gov/subguide.htm*). Both documents are available by request from NICEATM at the address provided above. Information and data should be submitted within 60 days of the publication date of this notice to ensure adequate consideration during preparation of the background review documents for the Panel. Correspondence should be sent by mail, fax or e-mail to Dr. William S. Stokes (contact information is provided in the previous section of this notice).

Background Information on ICCVAM and NICEATM

ICCVAM was established in 1997 to coordinate cross-agency issues relating to the validation, acceptance, and national/international harmonization of toxicological testing methods. Composed of representatives from fifteen Federal regulatory and research agencies that use or generate toxicological information, ICCVAM promotes the scientific validation and regulatory acceptance of toxicological test methods that enhance agencies' ability to make decisions on health risks, while refining, reducing, and replacing animal use wherever possible. ICCVAM was authorized as a permanent Federal committee on December 19, 2000 through passage of the ICCVAM Authorization Act of 2000 (Pub. L. 106–545, available at *http://iccvam.niehs.nih.gov/PL106545.htm*). NICEATM provides operational and scientific support for ICCVAM and ICCVAM-related activities. NICEATM and ICCVAM work collaboratively to develop, validate, and achieve regulatory acceptance of new and improved test methods applicable to the needs of Federal agencies.

Additional information about ICCVAM and NICEATM can be found at the following website: *http://iccvam.niehs.nih.gov*.

Dated: March 9, 2001.

Samuel H. Wilson,

Deputy Director, National Toxicology Program.

[FR Doc. 01–7228 Filed 3–22–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4660–N–01]

Notice of Proposed Information Collection: Comment Request; Mortgagee Review Board

AGENCY: Enforcement Center, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. the Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 22, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number (2502–0450) should be sent to: Jack Kinkaid, Secretary to the Mortgage Review Board (MRB), Department of Housing and Urban Development, 451 7th Street, SW., Portals Building, Suite 200, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Jack Kinkaid, Secretary to the MRB, VD, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Jack_D._Kinkaid@HUD.gov; telephone (202) 708–3041 (this is not a toll-free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

This Notice also lists the following information:

Title of Proposal: Mortgagee Review Board.

OMB Control Number, if applicable: 2502–0450.

Description of the need for the information and proposed use: Sec. 202(c) of the HUD Reform Act of 1989 established a Mortgagee Review Board to impose administrative sanctions and civil money penalties against HUD approved mortgagees that violate the Department's requirements. The Mortgagee Review Board issues a Notice of Violation to mortgagees that have violated Departmental regulations. The Notice of Violation states the specific violations that have been alleged and gives mortgagees 30 days to provide a written response. The mortgagee may include a settlement proposal in their response. The Mortgagee Review Board then makes a determination on the case, taking into consideration any response received from the mortgagee. Mortgagees may appeal administrative sanctions or civil money penalties imposed by the Mortgagee Review Board.

Agency form numbers, if applicable: None.

Members of affected public: Business or other for-profit.

Estimation of the total burden: Number of hours needed to prepare the information collection is 2,440; number of respondents is 61, annual frequency of response is 1, and the hours per response is 40.

Status of the proposed information collection: Extension without change of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 7, 2001.

John J. Coonts,

Associate Director, Enforcement Center.

[FR Doc. 01–7177 Filed 3–22–01; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4652–N–08]

Notice of Proposed Information Collection for Public Comment for the Periodical Estimate for Partial Payment and Related Schedules

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 22, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4238, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–3642, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Periodical Estimated for Partial Payment and Related Schedules.

OMB Control Number: 2577–0025.

Description of the Need for the Information and Proposed Use: Housing Agencies (HAs) are responsible for contract administration for project development. The contractor/subcontractor reports details and summaries on payments, change orders, and schedule of materials stored for the project. The information is used to make sure that the total development cost are kept at the lowest possible cost and consistent with HUD construction requirements.

Agency Form Number: HUD–51001, HUD–51002, HUD–51003, HUD–51004.

Members of Affected Public: State or Local Government.

Estimation of the Total Number of Hours Needed to Prepare the Information Collection Including Number of Respondents, Frequency of Response, and Hours of Response: 10,150 (145 projects × 70) responses; forms are submitted when requesting payments; average 2 hours per response; 20,155 total reporting burden.

Status of the Proposed Information Collection: Extension, without change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 16, 2001.

Gloria Cousar,

Acting General Deputy, Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–M

Periodic Estimate for Partial Payment

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0025
(exp. 4/30/2001)

Submit original and one copy to the Public Housing Agency.
Complete instructions are on the back of this form.

Public reporting burden for this collection of information is estimated to average 3.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collecton displays a valid OMB control number.

This information is collected under the authority of Section 6(c) of the U.S Housing Act of l937 and HUD regulations. HAs are responsible for contract administration to ensure that the work for project development is done in accordance with State laws and HUD requirements. The contractor/subcontractor reports provide details and summaries on payments, change orders, and schedule of materials stored for the project The information will be used to ensure that the total development costs, identified in the ACC, are kept as low as possible and consistent with HUD construction requirements. Responses to the collection are necessary to obtain a benefit. The information requested does not lend itself to confidentiality.

Name of Public Housing Agency	Periodic Estimate Number	Period From (mm/dd/yyyy) To (mm/dd/yyyy)

Location of Project	Project Number
Name of Contractor	**Contract Number**

Item Number (1)	Description of Item (2)	Completed to Date (3)
		$
Value of Contract Work Completed to Date (Transfer this total to line 5 on back of this sheet)		**$**

Previous editions are obsolete ref. Handbooks 7417.1 & 7450.1 form **HUD-51001** (3/92)

Instructions

Headings. Enter all identifying data required. Periodic estimates must be numbered in sequence beginning with the number 1.

Columns 1 and 2. The"Item Number"and "Description of Item" must correspond to the number and descriptive title assigned to each principal division of work in the "Schedule of Amounts for Contract Payments", form HUD-51000.

Column 3. Enter the accumulated value of each principal division of work completed as of the closing date of the periodic estimate. Enter the total in the space provided.

Certifications. The certification of the contractor includes the analysis of amounts used to determine the net balance due. In the first paragraph, enter the name of the Public Housing Agency, the contractor, and the date of the contract. Enter the calculations used in arriving at the "Balance Due This Payment" on lines 1 through 16.

Enter the contractor's name and signature in the certification following line 16.

The latter portion of this certification relating to payment of legal rates of wages, is required by the contract before any payment may be made. However, if the contractor does not choose to certify on behalf of his/her subcontractors to wage payments made by them, he/she may modify the language to cover only himself /herself and attach a list of all subcontractors who employed labor on the site during the period covered by the Periodic Estimate, together with the individual certifications of each.

Certification of the Contractor or Duly Authorized Representative

According to the best of my knowledge and belief, I certify that all items and amounts shown on the other side of this form are correct; that all work has been performed and material supplied in full accordance with the items and conditions of the contract between the (name of owner) _____ and (contractor) _____ dated (mm/dd/yyyy) _____, and duly authorized deviations, substitutions, alterations, and additions; that the following is a true and correct statement of the Contract Account up to and including the last day of the period covered by this estimate, and that no part of the "Balance Due This Payment" has been received.

1. Original Contract Amount			$_____
Approved Change Orders:			
2. Additions (Total from Col. 3, form HUD-51002)	$_____		
3. Deductions (Total from Col. 5, form HUD-51002)	$_____	(net) $_____	
4. Current Adjusted Contract Amount (line 1 plus or minus net)			$_____
Computation of Balance Due this Payment			
5. Value of Original Contract work completed to date (from other side of this form)			$_____
Completed Under Approved Change Orders			
6. Additions (from Col. 4, form HUD-51002)	$_____		
7. Deductions (from Col.5, form HUD-51002)	$_____	(net) $_____	
8. Total Value of Work in Place (line 5 plus or minus net line 7)			$_____
9. **Less:** Retainage, _____ %	$_____		
10. Net amount earned to date (line 8 less line 9)		$_____	
11. **Less:** Previously earned (line 10, last Periodic Estimate)		$_____	
12. Net amount due, work in place (line 10 less line 11)			$_____
Value of Materials Properly Stored			
13. At close of this period (from form HUD-51004)	$_____		
14. **Less:** Allowed last period	$_____		
15. Increase (decrease) from amount allowed last period	$_____		
16. **Balance Due This Payment**			$_____

I further certify that all just and lawful bills against the undersigned and his/her subcontractors for labor, material, and equipment employed in the performance of this contract have been paid in full in accordance with the terms and conditions of this contract, and that the undersigned and his/her subcontractors have complied with, or that there is an honest dispute with respect to, the labor provisions of this contract.

Name of Contractor	Signature of Authorized Representative	Title	Date (mm/dd/yyyy)

Certificate of Authorized Project Representative and of Contracting Officer

Each of us certifies that he/she has checked and verified this Periodic Estimate No. _____; that to the best of his/her knowledge and belief it is a true statement of the value of work performed and material supplied by the contractor; that all work and material included in this estimate has been inspected by him/her or by his/her authorized assistants; and that such work has been performed or supplied in full accordance with the drawings and specifications, the terms and conditions of the contract, and duly authorized deviations, substitutions, alterations, and additions, all of which have been duly approved.

We, therefore, approve as the "Balance Due this Payment" the amount of $_____ .

Authorized Project Representative	Date (mm/dd/yyyy)	Contracting Officer	Date (mm/dd/yyyy)

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Previous editions are obsolete ref. Handbooks 7417.1 & 7450.1 form **HUD-51001** (3/92)

Schedule of Change Orders

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0025
(exp. 4/30/2001)

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collecton displays a valid OMB control number.

This information is collected under the authority of Section 6(c) of the U.S Housing Act of l937 and HUD regulations. HAs are responsible for contract administration to ensure that the work for project development is done in accordance with State laws and HUD requirements. The contractor/subcontractor reports provide details and summaries on payments, change orders, and schedule of materials stored for the project The information will be used to ensure that the total development costs, identified in the ACC, are kept as low as possible and consistent with HUD construction requirements. Responses to the collection are necessary to obtain a benefit. The information requested does not lend itself to confidentiality.

Instructions: Contractors use this form for reporting the details of approved Change Orders. Attach an original (or a opy) to each copy of the Periodic Estimate for Partial Payment (form HUD-51001) submission, and send to the Public Housing Agency. Complete all entries. Only Change Orders which bear the signatures required by the contract are to be recorded.

Name of Public Housing Agency	Supporting Periodic Estimate for Partial Payment Number	Period From (mm/dd/yyyy) to (mm/dd/yyyy)

Location of Project	Project Number

Name of Contractor	Contract Number

Approved Change Orders		Additions		Deductions
Change Order Number (1)	Dated (mm/dd/yyyy) (2)	Total Amount of Change Order (3)	Value of Work Completed to Date (4)	Total Amount of Change Order (5)
		$	$	$
Totals		$	$	$

Authorized Project Representative	Date (mm/dd/yyyy)

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Previous editions are obsolete.

form **HUD-51002** (3/92)
ref. Handbooks 7417.1 & 7450.1

Schedule of Materials Stored

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0025
(exp. 4/30/2001)

Public reporting burden for this collection of information is estimated to average 1.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collecton displays a valid OMB control number.

This information is collected under the authority of Section 6(c) of the U.S Housing Act of I937 and HUD regulations. HAs are responsible for contract administration to ensure that the work for project development is done in accordance with State laws and HUD requirements. The contractor/subcontractor reports provide details and summaries on payments, change orders, and schedule of materials stored for the project The information will be used to ensure that the total development costs, identified in the ACC, are kept as low as possible and consistent with HUD construction requirements. Responses to the collection are necessary to obtain a benefit. The information requested does not lend itself to confidentiality.

Instructions: This form is to be used to support the Periodic Estimate for Partial Payment (form HUD-51001). The contractor must prepare a separate schedule for his/her materials and for those of his/her subcontractors. Attach an original (or a copy) to each copy of the Summary of Materials Stored (form HUD-51004). Enter all identifying data and list materials stored. The listing of materials stored must correspond to the arrangement established on the Schedule of Contract Payments (form HUD-51000) and each item will be keyed by corresponding item number. This form must be signed as noted.

Name of Public Housing Agency	Supporting Periodic Estimate for Partial Payment Number	Period From (mm/dd/yyyy) To (mm/dd/yyyy)

Name and Location of Project	Project Number
Name of General Contractor	**Contract Number**
Name of Subcontractor	**Subcontract Number**

Item Number*	Description and Quality	Quantity	Unit of Measure	Unit Price at Site	Total Price
Amount Carried Forward					$
Total Amount or Amount Carried Forward					$

Prepared by (Contractor's Representative)	**Date** (mm/dd/yyyy)	**Checked by** (Owner's Representative)	**Date** (mm/dd/yyyy)

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

* As identified in Schedule of Amounts for Contract Payments, form HUD-51000.
Previous editions are obsolete

form **HUD-51003** (3/92)
ref. Handbooks 7417.1 & 7450.1

Summary of Materials Stored

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0025
(exp. 4/30/2001)

Public reporting burden for this collection of information is estimated to average 2.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collecton displays a valid OMB control number.

This information is collected under the authority of Section 6(c) of the U.S Housing Act of I937 and HUD regulations. HAs are responsible for contract administration to ensure that the work for project development is done in accordance with State laws and HUD requirements. The contractor/subcontractor reports provide details and summaries on payments, change orders, and schedule of materials stored for the project The information will be used to ensure that the total development costs, identified in the ACC, are kept as low as possible and consistent with HUD construction requirements. Responses to the collection are necessary to obtain a benefit. The information requested does not lend itself to confidentiality.

Instructions: This form is for the Contractor to summarize the value of materials stored at the site (as shown on the schedule, form HUD-51003). Use a separate line for the contractor and each of his/her subcontractors. Prepare an original and one copy, attach form HUD-51003, and send to the Public Housing Agency with the Periodic Estimate for Partial Payment, form HUD-51001. **Payment Value.** No more than 90 percent of the estimated value of the stored materials will be allowed, and only the net amount will be carried to line 13 on the back of the Periodic Estimate for Partial Payment, form HUD-51001. **Signatures.** This form must be signed by those employees of the contractor and of the Public Housing Agency who prepare and check the Schedule of Materials Stored, form HUD-51003.

Name of Public Housing Agency	Supporting Periodic Estimate for Partial Payment Number	Period From (mm/dd/yyyy)	To (mm/dd/yyyy)

Location of Project	Project Number

Name of General Contractor	Contract Number

Name of General Contractor or Subcontractor	Amounts
General Contractor	$
Subcontractors	$
Total	**$**
Less 10%	**$**
Net	**$**

Prepared by	Date (mm/dd/yyyy)	Checked by	Date (mm/dd/yyyy)

I certify that I or my authorized representatives have examined and checked in detail the invoices representing the cost of materials set forth in appended "Schedule of Materials Stored", form HUD-51003, dated (mm/dd/yyyy) _____ submitted by _____ consisting of _____ sheets with an indicated cost of $ _____ , and find that the net unit prices set forth in the schedule are the same or less than the invoices examined, and that such materials were suitably stored at the site of the development as of (date)(mm/dd/yyyy) _____ .

Name of Owner	By (Authorized Representative)	Title	Date (mm/dd/yyyy)

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Previous editions are obsolete

form **HUD-51004** (3/92)
ref. Handbooks 7417.1 & 7450.1

[FR Doc. 01–7179 Filed 3–22–01; 8:45 am]
BILLING CODE 4210–33–C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4652–N–07]

Notice of Proposed Information Collection for the Low-Income Public Housing Financial Statements

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 22, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4238, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–3642, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Low-Income Public Housing Financial Statements.

OMB Control Number; 2577–0067.

Description of the need for the information and proposed use: Public Housing Agencies (PHAs) submit annually the Form HUD–52599 electronically over the Internet or manually to HUD. The data contained on the form tracks the major accounts of the HUD-prescribed PHA operating budget forms and provides essential financial information on the operations of the PHA. HUD offices use the information provided by the financial statement for such purposes as: monitoring the overall effectiveness and efficiency of PHA operations and compliance with statutory and legal requirements, identifying at an early stage problems, potential problems, or negative trends affecting the financial solvency of a PHA; compliance with the approved operating budget of the PHA; establishing a nationwide data base for PHA operating income/expense information that is used in determining operating subsidy funding requirements and for other HUD analytical purposes.

The Form HUD–52295, Report of Tenants Accounts Receivable (TAR), is used by the HUD field offices to monitor a PHA's ability to collect amounts due from tenants in possession by collecting, by negotiating payments, or by evicting tenants who refuse to pay; the form will be automated in a Public and Indian Housing (PIH) system.

Forms HUD–52595, HUD–52596, HUD–52598, HUD–52603, HUD–53049, HUD–52656 are being discontinued because sufficient comparable information is available as part of the financial data submitted by PHAs to HUD's Real Estate Assessment Center (REAC) under the Uniform Financial Reporting Standards prescribed in 24 CFR 5.801, Subpart H.

The Form HUD 52599 requires the PHAs to submit data on operating income and expenses and surplus (or deficit) if any, with respect to the project or projects under each Annual Contributions Contract; the Form HUDD 52295 requires PHAs to submit information on the total accounts receivable for tenants in occupancy and for those who have vacated their units.

Agency form number: HUD–52599; HUD–52295.

Members of affected public: State, Local government.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 3,300, annually, total number of responses (2 forms), 1.25 hours per response for a total reporting burden of 4,125 hours.

Status of the proposed information collection: Reinstatement, with change (automation).

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 16, 2001.

Gloria Cousar,

Acting General Deputy Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–M

Report of Tenants Accounts Receivable (TARs)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0067
(exp. 4/30/2000)

Please refer to the public burden statement and instructions on page 2 when filling out this form.

A. Basic Identification Data

1. Name and address of Public Housing Agency (PHA)

2. Type of Program (check one)	3. Total Units Available	4. Projects Covered by Report (check one)
☐ PHA-Owned Rental Housing ☐ PHA-Leased Sec.23		☐ All projects in the program (list ACC nos. & the first project no. if program-wide)
5. Fiscal Year (FY) Beginning Date (yyyy)	6. Report Period Ending Date (mm/dd/yyyy)	☐ Only the following projects (list specific project nos.)

B. Charges to Tenants

1. No. of Units Occupied by Tenants In Possession (TIP) on the Last Day of this Reporting Period	2. Total Charges (see instructions)	3. Dwelling Rental	4. Retroactive Rent	5. Excess Utility	6. Additional Charges
	$	$	$	$	$

C. Receivables

Tenants In Possession(TIP)	No. of Accounts Delinquent	Accounts Receivable: Dwelling Rental	Retroactive Rent	Excess Utility	Additional Charges	Amounts Delinquent
One Month or Less Delinquent	1.	2. $	3. $	4. $	5. $	6. (C2+C3+C4+C5) $
Over One Month Delinquent	7.	8. $	9. $	10. $	11. $	12. (C8+C9+C10+C11) $
Total for TIP	13. (C1+C7)					14. (C6+C12) $
Vacated Tenants Accounts Receivable (TAR)	15.					20. $
Total	21. (C13+C15)					22. (C14+C20) $

D. TARs

Tenants Accounts Receivable	No. of Accounts	Balances
Under Formal Repayment Agreement	1.	2. $
Under Formal Repayment with Payments Up-to-Date	3.	4. $
Excluding Amounts Covered by Formal Up-to-Date Repayment Agreement	5. (C13 minus D3)	6. (C14 minus D4) $

E. Percentage Analysis

Tenants In Possession (TIP) Accounts Receivable (dates as mm/dd/yyyy)	a. Current Reporting Period (end date):	b. Prior FY (one year to date):	c. Previous FY (two years to date):
1. Percent of Accounts Delinquent to Number of Tenants In Possession (C13 divided by B1)	%	%	%
2 thru 4 RESERVED			
5. Percent of Amount Delinquent (excluding amounts covered by formal up-to-date repayment agreement) to Total Charges (D6 divided by B2)	%	%	%

F. Collection Losses

1. Amount Charged to Loss this Period	2. Amount Charged to Loss this Year to Date
$	$

Explain any circumstances causing a worsening collection record and explain corrective measures being taken for both TIP and Vacated Tenants Accounts.

Date (mm/dd/yyyy)

Signature of Person Preparing this Report	Print Name of Preparer	Date (mm/dd/yyyy)
	Title of Preparer	Phone Number
Signature of Person Approving this Report	Print Name of Approver	Date (mm/dd/yyyy)
	Title of Approver	Phone Number

Field Office Reviewer's Comments

Field Office Reviewer's Signature	Print Name of Field Office Reviewer	Date (mm/dd/yyyy)
	Title of Field Office Reviewer	Phone Number

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless that collecton displays a valid OMB control number.

The information on this form is collected to gather essential information on the operation of PHAs and IHAs. It will be used to report the actual operating receipts and expenditures, compare those amounts to the approved operating budget, and determine the amount of net income/deficit to be added to/deducted from the operating reserve for the year. The information will be used by HUD to assess the financial operation of PHAs and IHAs including trending, analyses and comparisons as well as to respond to information requests from Congress, other government agencies and the general public regarding the financial operation of HAs. This information is required for HUD to fulfill statutory requirements of the United States Housing Act of 1937, as amended. The information collected does not lend itself to confidentiality.

Instructions

This form, Report of Tenants Accounts Receivable (TARs), HUD-52295, shall be prepared semiannually and annually in accordance with the provisions of HUD Handbook 7475.1 Rev.

Part A. Basic Identification Data

2. Type of Program Prepare a separate report for (**a**) PHA-owned rental projects under the same contract and (**b**) Section 23 leased housing projects under the same contract even though combined with other projects for collection purposes.

3. Total Units Available Enter the total number of units available for occupancy under the program you indicated in item A2. Don't combine program types. For PHA-owned rental housing, the number of units available for occupancy should conform to the definition of "unit months available" found in 24 CFR 990.102.

6. Report Period Ending Date Enter the date of the last day of the period covered by this report.

Part B. Charges to Tenants

1. No. of Units Occupied by Tenants In Possession (TIP) on the Last Day of this Reporting Period Enter the total number of units included in A3 that are occupied.

2. Total Charges Enter the amount of total charges to tenants during the last month of this report. The Total Charges reported in B2 are equal to the sum of the amounts reported in B3 thru B6.

3. Dwelling Rental Enter the total of the tenant rent roll for the last month of the reporting period. The rent roll reflects the net reoccurring monthly dwelling rent charged to tenants; i.e., the total dwelling rent charged for the last month of the reporting period less the utility reimbursements for that month. Charges not specifically identified as dwelling rent for the month are not included in B3.

4. Retroactive Rent Enter back charges to tenants for changes in income and/or unreported increased income.

5. & 6. Excess Utility/Additional Charges. Enter charges billed during the last month of the reporting period.

Part C. Receivables

Tenants in Possession (TIP) who are delinquent for both the current month and the prior month are reported as "Over One Month Delinquent" in blocks C7-C11. Don't count them in C1-C5. Tenants with credit accounts receivable balances are not included in Section C.

Charges to tenants reported in B6, which are not due and collectible until a month subsequent to the month billed (for example, repair charges), are not considered to be owed in the month billed, and need not be reported in Section C until the month in which the charges become collectible.

Block C14, Total for TIP, is the total amount of accounts receivable owed, for any reason, by the tenants occupying units on the last day of the reporting period; the total includes the balance owed under repayment agreements.

Part D. TAR Repayment Agreements

Part D provides the PHA with the opportunity to report the effect on TARs of formal repayment agreements and of other measures being taken to pursue delinquent accounts receivable of tenants in possession.

A formal repayment agreement is a written agreement (or court order) for the tenant, or a third party agency on behalf of the tenant, to pay the amount of accounts receivable due, in specific amounts, on a specific schedule. The agreement is "up-to-date" unless/until the tenant fails to comply; an agreement with a third party agency is "up-to-date" even if the agency is late making payments.

The PHA may also include in Part D situations such as: (a) those amounts which must be charged to a tenant in continued occupancy but for which collection by the PHA cannot be accepted for legal reasons (for example, during an eviction process); (b) retroactive rent charges due to tenant fraud. Additional information is provided in HUD Handbook 7475.1 Rev.

Part E. Percentage Analysis: Self-explanatory.

Part F. Collection Losses

Enter for the period indicated, the amount written off to collection losses, less any collection of accounts previously written off.

Statement of Operating Receipts and Expenditures

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0067
(exp. 4/30/2000)

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

The information on this form is collected to gather essential information on the operation of PHAs and IHAs. It will be used to report the actual operating receipts and expenditures, compare those amounts to the approved operating budget, and determine the amount of net income/deficit to be added to/deducted from the operating reserve for the year. The information will be used by HUD to assess the financial operation of PHAs and IHAs including trending, analyses and comparisons as well as to respond to information requests from Congress, other government agencies and the general public regarding the financial operation of HAs. This information is required for HUD to fulfill statutory requirements of the United States Housing Act of 1937, as amended. The information collected does not lend itself to confidentiality.

Name and Address of Local Authority (including city, State, zip code)

1. Type of HUD assisted project(s)
- 01 ☐ PHA-Owned Rental Housing
- 04 ☐ PHA Leased Rental Housing, Sec 23/10(c)
- 10 ☐ PHA- Owned Turnkey III Homeownership

2. Project Number
___ ___ ___ ___ P ___ ___ ___ ___ ___ ___

3. Report for Period ended (mm/dd/yyyy)

4. Fiscal Year
Fiscal Year Ending (yyyy) _____
☐ Mar 31 ☐ June 30 ☐ Sept 30 ☐ Dec 31

5. Contract Number(s)	6. No. of Projects	7. No. of Dwelling Units	8. No. of Dwelling Units under Lease, Sec 23/10(c)	9. No. of Unit Months Availability or Under Lease	10. No. of Unit Days Under Lease, Sec 23/10(c)

Line No.	Acct. No.	Description	Budget Amount	Budget PUM	Actual PUM	Actual Amount
Homebuyers Monthly Payments for						
010	7710	Operating Expense				
020	7712	Earned Home Payments				
030	7714	Nonroutine Maintenance Reserve				
040	7716	Excess (or deficit) in Break-Even				
050	7790	Homebuyers Monthly Payments - Contra (lines 010 to 040)				
Operating Receipts						
060	3110	Dwelling Rental				
070	3120	Excess Utilities				
080	3190	Nondwelling Rental				
090		**Total** Rental Income (lines 060 to 080)				
100	3610	Interest on General Fund Investments				
120	3680	Assessments - Homeowners				
130	3690	Other Income				
140		**Total** Operating Income (lines 090 to 130)				
150	7110	Receipts from Off-site Utilities				
160	7530	Receipts from Nonexpendable Equipment Not Replaced				
170		**Total** Operating Receipts Excluding HUD Contribution (lines 140 to 160)				
Operating Expenditures - Administration						
180	4110	Administrative Salaries				
190	4130	Legal Expense				
200	4140	Staff Training				
210	4150	Travel				
220	4170	Accounting Fees				
221	4171	Auditing Fees				
230	4190	Sundry				
231	4195	Outside Management Fees				
240		**Total** Administrative Expense (lines 180 to 231)				
Tenant Services						
250	4210	Salaries				
260	4220	Recreation, Publications and Other Services				
270	4230	Contract Costs, Training and Other				
280		**Total** Tenant Services Expense (lines 250 to 270)				

Name of Local Authority	Fiscal Year Ending (mm/dd/yyyy)

Line No.	Acct. No.	Description	Budget Amount	Budget PUM	Actual PUM	Actual Amount
Utilities						
290	4310	Water				
300	4320	Electricity				
310	4330	Gas				
320	4340	Fuel				
330	4350	Labor				
340	4390	Other Utilities Expense				
350		**Total** Utilities Expense (lines 290 to 340)				
Ordinary Maintenance and Operation						
360	4410	Labor				
370	4420	Materials				
380	4430	Contract Costs				
381	4431	Garbage and Trash Removal				
390		**Total** Ordinary Maintenance & Operation Expense (lines 360 to 381)				
Protective Services						
400	4460	Labor				
410	4470	Materials				
420	4480	Contract costs				
430		**Total** Protective Services Expense (lines 400 to 420)				
General Expense						
440	4510	Insurance				
450	4520	Payments in Lieu of Taxes				
460	4530	Terminal Leave Payments				
470	4540	Employee Benefit Contributions				
480	4570	Collection Losses				
490	4580	Interest on Administrative and Sundry Notes				
500	4590	Other General Expense				
510		**Total** General Expense (lines 440 to 500)				
520		**Total** Routine Expense (lines 240, 280, 350, 390, 430, and 510)				
Nonroutine Maintenance						
530	4610	Extraordinary Maintenance				
540	4620	Casualty Losses - Non Capitalized				
550		**Total** Nonroutine Maintenance (lines 530 and 540)				
Rent for Leased Dwellings						
560	4710	Rents to Owners of Leased Dwellings				
570		**Total** Operating Expense (lines 520, 550, and 560)				
Capital Expenditures						
580	7520	Replacement of Nonexpendable Equipment				
590	7540	Property Betterments and Additions				
600	7560	Casualty Losses - Capitalized				
610		**Total** Capital Expenditures (lines 580 to 600)				
620		**Total** Operating Expenditures (lines 570 and 610)				
Prior Year Adjustments:						
630	6010	Prior Year Adjustments Affecting Residual Receipts				
Other Deductions						
640		Deposits in Rental Debt Service Account				
670		**Total** Operating Expenditures, including prior year adjustments and other deductions(line 620 plus or minus line 630 plus line 640)				
680		Residual Receipts (or Deficit) before HUD Contributions (line 170 minus line 670)				

Name of Local Authority	Fiscal Year Ending (mm/dd/yyyy)

Line No.	Acct. No.	Description	Budget Amount	Budget PUM	Actual PUM	Actual Amount
HUD Contributions						
		Basic Annual Contribution Earned - Leased Projects, Sec 23/10(c)				
690	8010	Current Year				
700	8011	Prior Year Adjustments - (Debit) Credit				
710		**Total** Basic Annual Contribution (lines 690 and 700)				
Contributions Earned - Operating Subsidy						
720	8020	Current Year				
750		**Total** HUD Contributions (lines 710 and 720)				
760		Residual Receipts (or Deficit) (lines 680 and 750)				

Other Financial Data

790		Operating reserve - Balance at end of fiscal year (account 2820, 2821, or 2823 as applicable)	$
810		**Accounts receivable** - Balance at end of fiscal year (account 1122, or 1124 as applicable) For tenants and homebuyers in occupancy	$
820		For vacated tenants or homebuyers	$

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Prepared by:

Name

Title

Signature Date (mm/dd/yyyy)

Approved by:

Name

Title

Signature Date (mm/dd/yyyy)

Instructions

General:

1. This statement shall be prepared annually (at fiscal year-end) unless a semiannual report is requested in writing by the local HUD office. This statement shall report total operating receipts and expenditures for the period covered. An original copy of the statement is to be submitted to the local HUD office not later than 45 days following the end of the period for which the statement is prepared as required in Chapter 3 of the Low-Rent Technical Accounting Guide, 7510.1.

2. At the end of each reporting period, a separate form shall be prepared for: (1) PHA-Owned Rental Projects (including conveyed projects) under the same Annual Contributions Contract, (2) each PHA Owned Homeownership Project, and (3) PHA Leased Rental Projects under the same Annual Contributions Contract.

Headings:

Most headings are self-explanatory.

1. Type of HUD assisted Project(s). Check only one block.

2. Project Number. Enter the Project Number in the form XX99P999999. This is the two letter state abbreviation, the local field office code, P designating public housing and the HA code and project number. For reports covering two or more projects, enter the lowest numbered project.

3. Report for Period Ended. Enter the ending date for the period that this statement is being prepared for.

4. Fiscal Year Ending. Enter the year (e.g. 1999) and check the appropriate block to indicate the month of the PHA's fiscal year.

6. No. of Projects. Enter the number of projects for which this statement is prepared.

7. No. of Dwelling Units. Enter total number of dwelling units included in the project(s) for which this statement is prepared. For leased project(s), enter total number of dwelling units authorized by the Annual Contributions Contract even though all such units have not been rented from owners.

8. No. of Dwelling Units under Lease. Enter the number of dwelling units under lease from owners by the PHA (Sec 23/10(c).

9. No. of Unit Months Availability or Under Lease. For Owned Projects (rental or homeownership) the "number of unit months availability" is determined by multiplying the "No. of Dwelling Units" by the cumulative period of the report (usually twelve months). If the report includes a project(s) which has been in operation for only a portion of the period, the "number of unit months availability" shall be computed on the basis of the actual number of months such project was in operation during the period.

For PHA Leased Projects, the "No. of Unit Months Availability" may be determined by dividing the "No. of Unit Days Under Lease" by 30.4.

10. No. of Unit Days Under Lease. Enter the total of column "Actual Number of Unit Days Under Lease" of form HUD-52981, Statement and Voucher for Basic Annual Contribution - Leased Housing.

11. Columns headed "Budget Amount" and "Budget PUM." For each line item, enter in the appropriate column the amount budgeted and the PUM amount as shown on the operating budget for the fiscal year. For many line items, this information must be obtained from the supporting schedules to form HUD-52564, Operating Budget.

12. Column headed "Actual PUM." After completing the column "Actual Amount," as provided below, complete this column by dividing the "actual amount" by the "No. of Unit Months Availability or Under Lease," as applicable, and entering the result on the appropriate line.

13. Column headed "Actual Amount."

a. Lines 010 thorough 050 are to be used only for a homeownership project. Enter in this column, by account classification, total monthly payments charged to home buyers for the period covered by the report.

b. Lines 060 through 620 are to be used to report total operating receipts and expenditures, by account classification, for the period covered by the report.

c. Line 630 is to be used to enter the net debit or credit balances of prior year adjustments affecting residual receipts.

d. Line 640. No entry is to be made on this line without approval from HUD.

e. Lines 670 through 820 are self-explanatory.

[FR Doc. 01–7180 Filed 3–22–01; 8:45 am]

BILLING CODE 4210–33–C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–20]

Notice of Submission of Proposed Information Collection to OMB; Financial Standards for Housing Agency-Owned Insurance Entities

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* April 23, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2577–0186) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Financial Standards for Housing Agency-Owned Insurance Entities.

OMB Approval Number: 2577–0186.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: Housing Authorities (HAs) can purchase insurance coverage when purchased from a nonprofit insurance entity owned and controlled by HAs which are approved by HUD. HA-owned insurance entities must submit certain documentation to HUD and also submit audit and actuarial reviews to HUD.

Respondents: Business or other for-profit, State, Local or Tribal Government.

Frequency of Submission: Annually.

	Number of respondents	x	Frequency response	x	Hours per response	=	Burden hours
Reporting burden	19		1		10		190

Total Estimated Burden Hours: 190.

Status: Reinstatement, without change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: March 15, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–7178 Filed 3–22–01; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4644–n–12]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property review by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: March 23, 2001.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW, Washington, DC 20410; telephone (202–708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (those telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December12, 1998 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real Property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: March 16, 2001.

John D. Garrity,

Director, Office of Special Needs Assistant Programs.

[FR Doc. 01–6932 Filed 3–22–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that a proposed consent decree, in *United States* v. *Petroleum Specialties, Inc., et al.,* Civil No. 99–72421 (E.D. Mich.), was lodged with the United States District Court for the Eastern District of Michigan on March 13, 2001, pertaining to the Petroleum Specialties, Inc. Site (the ''Site''), located in Flat Rock, Wayne County, Michigan. The proposed consent decree would resolve the United States' civil claims against Sharon Fleischman, Fannie Robinson and Rose Liebergott (collectively, the ''Settling Defendants''), under sections

107(a) and 113(g) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9607(a) and 9613(g), in connection with the Site.

Under the proposed ability to pay consent decree, each Settling Defendant will make payments totaling $25,000 to the United States following entry of the proposed consent decree for federal Response Costs incurred at the Site. The Consent Decree includes, *inter alia,* a covenant not to sue by the United States under sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, contribution protection as provided by section 113(f)(2) of CERCLA, 42 U.S.C. 9613(f)(2), and reservations of United States' rights for, among other things, failure to comply with any requirement of the Consent Decree, claims for natural resource damages, and claims for false certifications by Settling Defendants under the Consent Decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Petroleum Specialties, Inc., et al.,* Civil No. 99–72421 (E.D. Mich), and DOJ Reference No. 90–11–2–1374.

The proposed consent decree may be examined at: (1) The Office of the United States Attorney for the Eastern District of Michigan, Suite 2001, 211 West Fort Street, Detroit, Michigan 48226–3211 (313–226–9790); and (2) the United States Environmental Protection Agency (Region 5), 77 West Jackson Boulevard, Chicago, Illinois 60604–3590 (contact: Diana Embil (312–886–7889)). A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044–7611. In requesting a copy, please refer to the referenced case and DOJ Reference Number and enclose a check in the amount of $6.00 for the consent decree and one appendix (24 pages at 25 cents per page reproduction costs), made payable to the Consent Decree Library.

William Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–7191 Filed 3–22–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Lead-Acid Battery Consortium

Notice is hereby given that, on December 28, 2000, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Advanced Lead-Acid Battery Consortium (''ALABC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Power Battery Co., Inc., Paterson, NJ has been added as a party to this venture. Also, Yuasa, Inc., Reading, PA has changed its name to EnerSys, Inc., and Exide Europe, Azuqueca De Henares, SPAIN has changed its name to Exide Technologies.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Advanced Lead-Acid Battery Consortium (ALABC) intends to file additional written notification disclosing all changes in membership.

On June 15, 1992, ALABC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on July 29, 1992 (57 FR 33522).

The last notification was filed with the Department on September 29, 2000. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on November 2, 2000 (65 FR 65880).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–7192 Filed 3–22–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—HDP User Group International, Inc.

Notice is hereby given that, on February 20, 2001, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), HDP User Group International, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 3M, Austin, TX; Fujitsu, Richardson, TX; and Dexter Electronic Materials, Industry, CA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and HDP User Group International intends to file additional written notification disclosing all changes in membership.

On September 14, 1994, HDP User Group International filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 23, 1995 (60 FR 15306).

The last notification was filed with the Department on August 30, 2000. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on October 6, 2000 (65 FR 59874).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–7194 Filed 3–22–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Multiservice Switching Forum

Notice is hereby given that, on April 6, 2000, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Multiservice Switching Forum (''MSF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 2nd Century Communications, Tampa, FL; ADC Telecommunications, Richardson, TX; Daewoo Telecom,

Middletown, NJ; Intel, Santa Clara, CA; PairGain Technologies, Tustin, CA; Santera Systems, Plano, TX; Tachion Networks, Eatontown, NJ; Vertex Networks, San Jose, CA; and Vivace Networks, San Jose, CA have been added as parties to this venture. Also, Abrizio, Mountain View, CA; AT&T, San Jose, CA; Bosch, Stuttgart, Germany; Convergent Communications, Englewood, CO; Data Connection, Enfield, England, United Kingdom; IBM, Armonk, NY; Mariner Networks, Anaheim, CA; Motorola, Mansfield, MA; NetCore Systems, Wilmington, MA; Net Insight AB, Stockholm, Sweden; Newbridge Networks, Kanata, Ontario, Canada; Oresis Communications, Beaverton, OR; SK Telecom, Seoul, Republic of Korea; and Sprint, Overland Park, KS have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MSF intends to file additional written notifications disclosing all changes in membership.

On January 22, 1999, MSF filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on May 26, 1999 (64 FR 28519).

The last notification was filed with the Department on October 12, 1999. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on May 12, 2000 (65 FR 30611).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–7195 Filed 3–22–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Personalization Consortium, Inc.

Notice is hereby given that, on December 12, 2000, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Personalization Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Netcentives, San Francisco, CA; Response Logic, Inc., New York, NY; Zero Knowledge Systems, Inc., Montreal, Quebec, CANADA; and ePresence, Westboro, MA have been added as parties to this venture. Also, the following members have changed their names: !hey software inc. to !hey inc., North Andover, MA; Chell.com to Chell Merchant Capital Group, Calgary, Alberta, CANADA; and CustomerAnalytics to Xchange, Inc., Boston, MA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Personalization Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On June 15, 2000, Personalization Consortium, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on August 11, 2000 (65 FR 49266).

The last notification was filed with the Department on September 13, 2000. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on October 10, 2000 (65 FR 60212).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–7193 Filed 3–22–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Telemanagement Forum

Notice is hereby given that, on September 11, 2000, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Telemanagement Forum (''the Forum'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Vodafone AirTouch plc, Newbury, Berkshire, England, United Kingdom; E-Plus Mobilfunk GmbH, Dusseldorf, Germany; WatchMark Corp., Bellevue, WA; American Management Systems, Minnetonka, MN; NetNumber, Lowell, MA; and Redback Networks, San Jose, CA have become Corporate Members. PeopleSoft Inc., Pleasanton, CA; Applied Innovation Inc., Dublin, OH; Acanthis, Les Algorithmes-Bat. Aristote, Cedex, France; Quallaby Corporation, Lowell, MA; Metro-Optix, Inc., Plano, TX; LightSand Communications, Inc., Milpitas, CA; WebMethods, Inc., Fairfax, VA; Cable & Wireless Optus, Chatswood, New South Wales, Australia; Blue Band, Inc., Broomfield, CO; PrismTech Limited, Tyne & Wear, England, United Kingdom; Passport Corporation, Paramus, NJ; Photonex Corporation, Bedford, MA; Digital Fuel Technologies Ltd., Jerusalem, Israel; Digital Fairway Corp., Kanata, Ontario, Canada; Escosoft Technologies Ltd., New Delhi, India; Traian Internet Products AG, Cologne, Germany; Africa, Hertzelia, Israel; A 1 Metrix, Inc., El Dorado Hills, CA; Sigma Exallon Systems, Malmo, Sweden; Riversoft, San Francisco, CA; Monfox, LLC, Alpharetta, GA; Valtech, Addison, TX; Auspice Inc., Framingham, MA; CoManage, Wexford, PA; General Bandwidth, Austin, TX; Laurel Networks, Sewickley, PA; Maple Networks, San Jose, CA; Netscient Ltd., Redditch, Worcestershire, England, United Kingdom; Precision Software, Irving, TX; Zaffire, Inc., San Jose, CA; MDSI Mobile Data Solutions Inc., Richmond, British Columbia, Canada; Smallworld Systems, Inc., Englewood, CO; Appian Communications, Inc., Boxborough, MA; Bluespring Software, Cincinnati, OH; Telecom Mgmt. Consulting Group, New York, NY; Insight Systems, Inc., Atlanta, GA; Netro Corporation, San Jose, CA; Astral Point, Chelmsford, MA; and Virtual Access, Ascot, Berkshire, England, United Kingdom have become Associate Members. Logan-Orvis International, Valbonne, France; Kanazia Telecommunication Development Centre, Mubai, India; GuideComm Systems, Herndon, VA; Institut National Des Telecommunications (INT), Cedex, France; Technology Research Institute, Sudbury, MA; Renaissance Strategy Worldwide, Inc., San Francisco, CA; and TMNG-The Management Network Group, Overland Park, KS have become Affiliate Members.

The following members have changed their names: MCI Worldcom, Inc. is now called Worldcom, Inc., Clinton, MS; Corvia Networks Inc. is now called BrightLink Networks, Sunnyvale, CA; Ernst & Young is now called Cap Gemini Ernst & Young, Clark, NJ; Telecommunications Management Solutions is now called

Telecommunications Management Networks de Mexico, S.A. de C.V., Mexico City, Mexico; Bull is now called EVIDIAN, Billerica, MA; Metamor is now called PSINet Consulting Solutions, Houston, TX; and Tycom Submarine Systems is now called TyCom, Ltd., Eatontown, NJ.

The following companies have cancelled their membership: Newbridge Networks Corporation, Kanata, Ontario, Canada; Corporate Renaissance, Inc., Concord, MA; Pluris, Inc., Cupertino, CA; IEL, Windsor, Berkshire, England, United Kingdom; ITS, Inc., Piscataway, NJ; National Communications Systems, Arlington, VA; Informix Software, Inc., Menlo Park, CA; Citizens Communications, Dallas, TX; RELTEC, Dorval, Quebec, Canada; Videotron, Montreal, Quebec, Canada; GE Capital Consulting, Somerset, NJ; and Hughes Network Systems, Germantown, MD.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the Forum intends to file additional written notifications disclosing all changes in membership.

On October 21, 1988, the Forum filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on December 8, 1988 (53 FR 49615).

The last notification was filed with the Department on June 1, 2000. A notice for this filing has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 01–7196 Filed 3–22–01; 8:45 am]

BILLING CODE 4410–11–M

PAROLE COMMISSION

Sunshine Act Meeting: Public Announcement

Pursuant to the Government in the Sunshine Act (Public Law 94–409) [5 U.S.C. Section 552b]

AGENCY HOLDING MEETING: Department of Justice, United States Parole Commission.

TIME AND DATE: 9:30 a.m., Wednesday, March 28, 2001.

PLACE: 5550 Friendship Blvd., Fourth Floor, Chevy Chase, MD 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the open Parole Commission meeting:

1. Approval of minutes of previous Commission meeting.

2. Reports from the Chairman, Commissioners, Legal, Chief of Staff, Case Operations, and Administrative Sections.

AGENCY CONTACT: Sam Robertson, Case Operations, United States Parole Commission, (301) 492–5962.

Dated: March 20, 2001.

Michael A. Stover,

General Counsel, U.S. Parole Commission,

[FR Doc. 01–7342 Filed 3–21–01; 10:16 am]

BILLING CODE 4410–31–M

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting

Public Announcement

Pursuant To The Government In the Sunshine Act (Public Law 94–409) [5 U.S.C. Section 552b]

AGENCY HOLDING MEETING: Department of Justice, United States Parole Commission.

DATE AND TIME: 10:30 a.m., Wednesday, March 28, 2001.

PLACE: U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815.

STATUS: Closed—Meeting.

MATTERS CONSIDERED: The following matter will be considered during the closed portion of the Commission's Business Meeting: Appeals to the Commission involving approximately two cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.27. These cases were originally heard by an examiner panel wherein inmates of Federal prisons have applied for parole and are contesting revocation of parole or mandatory release.

AGENCY CONTACT: Sam Robertson, Case Operations, United States Parole Commission, (301) 492–5962.

Dated: March 20, 2001.

Michael A. Stover,

General Counsel, Parole Commission.

[FR Doc. 01–7343 Filed 3–21–01; 10:32 am]

BILLING CODE 4410–31–M

DEPARTMENT OF LABOR

Employment and Training Administration

Apprenticeship Training, Employer and Labor Services; Proposed Collection; Equal Employment Opportunity in Apprenticeship and Training Comment Request

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension of the collection of the registered apprenticeship programs under Title 29 CFR part 30 (Equal Employment Opportunity in Apprenticeship and Training). A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before May 22, 2001.

ADDRESSES: Anthony Swoope, Administrator, Office of Apprenticeship Training, Employer and Labor Services, 200 Constitution Ave., NW. Room S–1310, Washington, DC 20210; E-mail Internet address: *aswoope@doleta.gov*; Telephone number: (202) 693–2796 (this is not a toll-free number); Fax number: (202) 693–2808 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The National Apprenticeship Act of 1937 authorizes and direct the Secretary of Labor ''to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices, to extend the application of such

standards by encouraging the inclusion thereof in contracts of apprenticeship, to bring together employers and labor for the formulation of programs of apprenticeship, to cooperate with State agencies engaged in the formulation and promotion of standards of apprenticeship, and to cooperate with the Secretary of Education * * *'' (29 U.S.C. 50). Section 50a of the Act authorizes the Secretary of Labor to ''publish information relating to existing and proposed labor standards of apprenticeship,'' and to ''appoint national advisory committees * * *'' (29 U.S.C. 50a).

Title 29 CFR Part 30 sets forth policies and procedures to promote equality of opportunity in apprenticeship programs registered with the U.S. Department of Labor and recognized State apprenticeship agencies. These policies and procedures apply to recruitment and selection of apprentices, and to all conditions of employment and training during apprenticeship. The procedures provide for review of apprenticeship programs, for registering apprenticeship programs, for processing complaints, and for deregistering noncomplying apprenticeship programs. This part also provides policies and procedures for continuation or withdrawal of recognition of State agencies which register apprenticeship programs for Federal purposes.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarify of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions

Recordkeeping and data collection activities regarding registered apprenticeship are by-products of the registration system. Organizations which apply for apprenticeship sponsorship enter into an agreement with the Federal Government or cognizant State government to operate their proposed programs consistent with 29 CFR part 30. Apprenticeship sponsors are not required to file reports regarding their apprentices other than individual registration and update information as an apprentice moves through their program.

Type of Review: Extension.

Agency: Employment and Training Administration.

Title: Title 29 CFR part 30, Equal Employment Opportunity in Apprenticeship and Training.

OMB Number: 1205–0224 for 29 CFR part 30.

Affected Public: Apprentices, Sponsors, State Apprenticeship Councils or Agencies.

Form: ETA Form 9039.

Total Respondents: See Chart.

Frequency: 1-time basis.

Total Responses: See Chart.

Average Time per Response: See Chart.

Estimated Total Burden Hours: 6,264.

Recordkeeping: Apprenticeship sponsors are required to keep accurate records on recruitment, selection, employment and training activities related to the applicant and/or apprentice and the qualifications of each applicant/apprentice pertaining to determination of compliance with these regulations. Records must be retained, where appropriate, regarding affirmative action plans and evidence that qualification standards have been validated. State Apprenticeship Councils are also obligated to keep adequate records pertaining to determination of compliance with these regulations. All of the above records are required to be maintained for five years. If this information was not required, there would be no documentation that the apprenticeship programs were being operated in a nondiscriminatory manner. Many apprenticeship programs are 4 years or more in duration; therefore, it is important to maintain the records for at least 5 years.

SUMMARY OF BURDEN FOR 29 CFR PART 30

Section	Total respondents	Frequency	Total responses	Average time/response	Burden
Sec. 30.3	1,497 spon.	1-time	1,497	½ hr./spon.	749 hrs.
Sec. 30.4	112 spon.	1-time	112	1 hr./spon.	112 hrs.
Sec. 30.5	5,589 spon.	1-time/applicant	5,589	½ hr./spon.	2,945 hrs.
30.6	50 spon.	1-time	50	5 hrs./spon.	250 hrs.
30.8	37,425 spon.	1-time	37,425	1 min./spon	624 hrs.
30.8	30 State Agencies	1-time/program	18,713	5 min./spon.	1,559 hrs.
30.11	37,425 spon.	1-time	37,425	Handout	
ETA 9039	50 appl/appr	1-time	50	½ hr.	25 hrs.
30.15	30 State Agencies	1-time	Completed		
30.19	30 State Agencies	varies.			
Total			6,051		6,264 hrs.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining): 0.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: March 19, 2001.

Anthony Swoope,

Administrator, Office of Apprenticeship Training, Employer and Labor Services.

[FR Doc. 01–7322 Filed 3–22–01; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon And Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

Pennsylvania
PA010001 (Mar. 02, 2001)
PA010002 (Mar. 02, 2001)
PA010004 (Mar. 02, 2001)
PA010042 (Mar. 02, 2001)

Volume III

Kentucky
KY010002 (Mar. 02, 2001)
KY010004 (Mar. 02, 2001)
KY010027 (Mar. 02, 2001)
KY010028 (Mar. 02, 2001)
KY010029 (Mar. 02, 2001)

Volume IV

Michigan
MI010052 (Mar. 02, 2001)
MI010060 (Mar. 02, 2001)
MI010062 (Mar. 02, 2001)
MI010063 (Mar. 02, 2001)
MI010064 (Mar. 02, 2001)
MI010065 (Mar. 02, 2001)
MI010066 (Mar. 02, 2001)
MI010067 (Mar. 02, 2001)
MI010068 (Mar. 02, 2001)
MI010069 (Mar. 02, 2001)
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MI010071 (Mar. 02, 2001)
MI010072 (Mar. 02, 2001)
MI010073 (Mar. 02, 2001)
MI010074 (Mar. 02, 2001)

Ohio
OH010001 (Mar. 02, 2001)
OH010002 (Mar. 02, 2001)
OH010009 (Mar. 02, 2001)
OH010023 (Mar. 02, 2001)
OH010029 (Mar. 02, 2001)

Volume V

Iowa
IA010004 (Mar. 02, 2001)
IA010006 (Mar. 02, 2001)
IA010007 (Mar. 02, 2001)
IA010008 (Mar. 02, 2001)
IA010009 (Mar. 02, 2001)
IA010014 (Mar. 02, 2001)
IA010029 (Mar. 02, 2001)
IA010032 (Mar. 02, 2001)
IA010056 (Mar. 02, 2001)
IA010059 (Mar. 02, 2001)
IA010067 (Mar. 02, 2001)
IA010070 (Mar. 02, 2001)

Volume VI

Montana
MT010001 (Mar. 02, 2001)

Volume VII

California
CA010001 (Mar. 02, 2001)
CA010002 (Mar. 02, 2001)
CA010004 (Mar. 02, 2001)
CA010009 (Mar. 02, 2001)
CA010027 (Mar. 02, 2001)
CA010028 (Mar. 02, 2001)
CA010029 (Mar. 02, 2001)
CA010030 (Mar. 02, 2001)
CA010031 (Mar. 02, 2001)
CA010032 (Mar. 02, 2001)
CA010033 (Mar. 02, 2001)
CA010034 (Mar. 02, 2001)
CA010035 (Mar. 02, 2001)
CA010036 (Mar. 02, 2001)
CA010037 (Mar. 02, 2001)
CA010038 (Mar. 02, 2001)
CA010039 (Mar. 02, 2001)
CA010040 (Mar. 02, 2001)
CA010041 (Mar. 02, 2001)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

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Signed at Washington, DC this 15 day of March, 2001.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 01–6986 Filed 3–22–01; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Advanced Networking and Infrastructure Research; Notice of Meetings

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 Networking and Infrastructure Research (#1207):

Date/time	Place
April 9–10, 2001; 8 a.m.–5 p.m.	National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.
April 17–18, 2001; 8 a.m.–5 p.m.	Catamaran Resort Hotel, San Diego, CA.
April 18–19, 2001; 8 a.m.–5 p.m.	Catamaran Resort Hotel, San Diego, CA.
April 30–May 1, 2001; 8 a.m.–5 p.m.	National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meetings: Closed.

Contact Person: Taieb Znati, National Science Foundation, 4201 Wilson Boulevard, Room 1175, Arlington, VA 22230, (703) 292–8949.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate information Technology Research 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: March 20, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–7303 Filed 3–22–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Bioengineering and Environmental 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 meetings:

Name: Special Emphasis Panel in Bioengineering and Environmental Systems (1189).

Date/Time: May 3–4, 2001; 8 a.m.–5 p.m. and May 25, 2001 8 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Leon Esterowitz, Program Director, Biomedical Engineering and Research to Aid Persons with Disabilities, Division of Bioengineering and Environmental Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–8320.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate unsolicited proposals and proposals received under the Major Research Instrumentation (MRI) Program Solicitation (Announcement Number NSF 01–7), and the Biophotonics Partnership Initiative II Program Solicitation (Announcement Number NSF 01–30), 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 person 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: March 20, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–7300 Filed 3–22–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological Infrastructure; 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 Biological Infrastructure (1215)

Date/Time: April 10–12, 2001, 8 a.m.–6:30 p.m.

Place: Room 370, NSF, 4201 Wilson Boulevard, Arlington, Virginia.

Type of Meeting: Closed.

Contact Person: Dr. Jane Silverthrone, Program Director and Dr. Chris Cullis, Program Director, Plant Genome Program, Division of Biological Infrastructure, Room 615, NSF, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 292–8470.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate Plant Genome 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 Sunshine Act.

Dated: March 20, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–7296 Filed 3–22–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Business and Operations Advisory Committee

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Business and Operations Advisory Committee (9556).

Date/Time: April 26, 2001; 8:30 a.m. to 5 p.m.; April 27, 2001; 8:30 a.m. to 3 p.m.

Place: National Science Foundation, 4121 Wilson Boulevard, Arlington, VA (Stafford II Conference Center, Room 555).

Type of Meeting: Open.

Contact Person: Louise McIntire, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230 (703) 292–8200.

Purpose of Meeting: To provide advice concerning issues related to the oversight, integrity, development and enhancement of NSF's business operations.

Agenda:

April 26, 2001

AM: Introductions: Briefings on CIO and CFO functions

PM: Discussion: Strategic planning for business and operations

April 27, 2001

AM: Discussion: Planning for an NSF Academy; meeting with NSF Director

PM: Discussion: Risk assessment planning; wrap up

Dated: March 20, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–7295 Filed 3–22–01; 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/Time: May 14–16, 2001 8 a.m.–6 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Joan M. Frye, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone (703) 292–4953.

Purpose of Meeting: To provide advice and recommendations concerning Chemistry-related Major Research Instrumentation proposals.

Agenda: Discuss merits of proposals.

Reason for Closing: The proposals being reviewed include 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: March 20, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–7293 Filed 3–22–01; 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 Physical Chemistry (#1191).

Date/Time: May 17–18, 2001, 8 a.m.–5 p.m.

Place: Rooms 1060, 1020 and 330, NSF, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Janice Hicks, Program Officer, Experimental Physical Office, Chemistry Division, Room 1055, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703/292–4956.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for Physical Chemistry as part of the selection process for awards.

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: March 20, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–7297 Filed 3–22–01; 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/Time: May 22 and 23, 2001.

Place: Room 1060, NSF, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Katharine Covert, Program Officer, Special Projects Office, Chemistry Division, Room 1055, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703)292–4950.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for Collaborative Research in Chemistry (CRC) 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: March 20, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–7298 Filed 3–22–01; 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/Time: Monday, April 23, 2001, 8:30 a.m. to 5 p.m.; Tuesday, April 24, 2001, 8:30 a.m. to 5 p.m.; (Previously scheduled for April 2 and April 3, 2001).

Place: National Science Foundation, 4201 Wilson Blvd. Room 310, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Jorn Larsen-Basse, National Science Foundation, 4201 Wilson Blvd. Rm 545, Arlington, VA 22230 (703) 292–8360.

Purpose of Meeting: To provide advice and recommendation concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate nominations for the FY'01 Surface Engineering and Material Design 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: March 20, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–7294 Filed 3–22–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Computing-Communications Research; Notice of Meetings

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 Computing-Communications Research (#1192):

Date/Time/Place

April 9–10, 2001; 8 a.m.-5 p.m.—National Science Foundations, 4201 Wilson Boulevard, Arlington, VA

April 23–24, 2001 8 a.m.-5 p.m.—National Science Foundation, 4201 Wilson Boulevard, Arlington, VA

April 26–27, 2001 8 a.m.-5 p.m.—Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, DC

April 30—May 1, 2001 8 a.m.-5 p.m.—National Science Foundation, 4201 Wilson Boulevard, Arlington, VA

Type of Meetings: Closed.

Contact Person: Frank Anger, National Science Foundation, 4201 Wilson Boulevard, Room 1145, Arlington, VA 22230, (703) 292–8911.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Information Technology Research 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: March 20, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–7305 Filed 3–22–01; 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 (NSF) announces the following meeting:

Name: Advisory Panel for Ecological Studies (1751).

Date/Time: April 11–13, 2001, 8 a.m.–5 p.m.

Place: Room 360, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Part-Open.

Contact Persons: Dr. Kimberly Sullivan, and Dr. Stephen Vessey, Program Directors, Animal Behavior Program, Physiology and Ethology Cluster, Division of Integrative Biology and Neuroscience, Suite 685, 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 the NSF for financial support.

Minutes: May be obtained from the contact person(s) listed above.

Agenda: Open Session: April 13, 2001, 10 a.m. to 11 a.m.—discussion on research trends, opportunities and assessment procedures in Integrative Biology and Neuroscience with Dr. Mary Clutter, Assistant Director, Directorate for Biological Sciences.

Closed Session; April 11, 2001, 8 a.m. to 5 p.m.; April 12, 2001, 8 a.m. to 4 p.m.; April 13, 2001, 8 a.m. to 5 p.m. To review and evaluate research 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: March 20, 2001.

Susanne Bolton,

Committee Meeting Officer.

[FR Doc. 01–7302 Filed 3–22–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Experimental and Integrative Activities; Notice of Meetings

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 Experimental and Integrative Activities (#1193):

Date/time	Place
April 17–18, 2001; 8 a.m.–5 p.m.	Catamaran Resort Hotel Diego, CA.
April 18–19, 2001; 8 a.m.–5 p.m.	Catamaran Resort Hotel Diego, CA.
April 23–24, 2001; 8 a.m.–5 p.m.	National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.
April 26–27, 2001; 8 a.m.–5 p.m.	Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza SW. Washington, D.C.

Type of Meetings: Closed.

Contact Person: Gary Strong, National Science Foundation, 4201 Wilson Boulevard, Room 1160, Arlington, VA 22230, (703) 292–8980.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Information Technology Research 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: March 20, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–7304 Filed 3–22–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Materials 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:

Name: Special Emphasis Panel in Materials Research (1203).

Date/Time: April 12 and 13, 2001; 8 a.m.–6 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Guebre X. Tessema, Program Director, National Facilities and Instrumentation, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4943.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Review and evaluate proposals as part of the selection process to determine finalists considered for the FY2001 Instrumentation for Materials Research (IMR) and Major Research Instrumentation (MRI) Programs.

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: March 20, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–7299 Filed 3–22–01; 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/Time: April 26–27, 2001, 8:30 a.m.–5 p.m.

Place: Room 1020, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. William B. Smith, Program Director, National Science Foundation, 4201 Wilson Boulevard, Room 1025, Arlington, VA 22230. Telephone: (703) 292–4882.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals concerning the Information Technology Research (ITRDMS), 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: March 20, 2001.

Susanne Bolton,

Committee Manager Officer.

[FR Doc. 01–7301 Filed 3–22–01; 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/Time: May 21–24, 200a; 8 a.m. to 5 p.m.

Place: Rooms 130, 220, 360, 365, 370 and 380 National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Lee L. Zia, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–8670.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate NSDL 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 individual 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: March 20, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–7306 Filed 3–22–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–353]

Exelon Generation Company, Limerick Generating Station, Unit 2

1.0 Background

The Exelon Generation Company (Exelon, the licensee) is the holder of Facility Operating License No. NPF–85 which authorizes operation of the Limerick Generating Station, Unit 2 (Limerick Unit 2). The license provides, among others things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a boiling water reactor located in Montgomery and Chester Counties in Pennsylvania.

2.0 Purpose

Title 10 of the Code of Federal Regulations (10 CFR) Part 50, Appendix G, requires that pressure-temperature (P–T) limits be established for reactor pressure vessels (RPVs) for normal operating and hydrostatic or leak rate testing conditions. Specifically, 10 CFR Part 50, Appendix G, section IV.A.2.a, states, ''The appropriate requirements on both the pressure-temperature limits and the minimum permissible temperature must be met for all conditions.'' Appendix G of 10 CFR Part 50 specifies that the P–T limits identified as ''ASME [American Society of Mechanical Engineering Pressure and Vessel Code (ASME Code)] Appendix G limits'' in Table 1 require that the limits must be at least as conservative as the limits obtained by following the methods of analysis and the margins of safety of Appendix G of section XI of the ASME Code.

To address provisions of a proposed license amendment to the technical specification P–T limits for the Limerick facility, the licensee requested in its submittal of November 20, 2000, as supplemented December 20, 2000, that the staff exempt Limerick Unit 2 from application of specific requirements of Appendix G to 10 CFR Part 50, and substitute use of ASME Code Case N–640. Code Case N–640 permits the use of an alternate reference fracture toughness (K_{Ic} fracture toughness curve instead of K_{Ia} fracture toughness curve) for reactor vessel materials in determining the P–T limits. Since the K_{Ic} fracture toughness curve of ASME Section XI, Appendix A, Figure A–2200–1 (the K_{Ic} fracture toughness curve, K_{Ic} curve) provides greater allowable fracture toughness than the corresponding K_{Ia} fracture toughness curve of ASME Section XI, Appendix G, Figure G–2210–1 (the K_{Ia} curve), using Code Case N–640 for establishing the P–T limits would be less conservative than the methodology currently endorsed by 10 CFR Part 50, Appendix G. The regulations (10 CFR 50.60(b)) state that proposed alternatives to the requirements in Appendix G to 10 CFR Part 50 may be used when an exemption is granted by the Commission under 10 CFR 50.12.

3.0 Discussion

Code Case N–640 (formerly Code Case N–626)

The licensee has proposed an exemption to allow use of ASME Code Case N–640 in conjunction with ASME section XI, 10 CFR 50.60(a) and 10 CFR Part 50, Appendix G, to determine P–T limits.

The proposed license amendment to revise the P–T limits for Limerick Unit 2 relies in part on the requested exemption. These revised P–T limits have been developed using the K_{Ic} fracture toughness curve, in lieu of the K_{Ia} fracture toughness curve, as the lower bound for fracture toughness.

Use of the K_{Ic} curve in determining the lower bound fracture toughness in the development of P–T operating limits curve is more technically correct than use of the K_{Ia} curve, since the rate of loading during a heatup or cooldown is slow and is more representative of a static condition than a dynamic condition. The K_{Ic} curve appropriately

implements the use of static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process of a reactor vessel. The NRC staff has required use of the initial conservatism of the K_{Ia} curve since 1974 when the curve was codified. This initial conservatism was necessary due to the limited knowledge of RPV materials. Since 1974, additional knowledge has been gained about RPV materials which demonstrates that the lower bound on fracture toughness provided by the K_{Ia} curve is well beyond the margin of safety required to protect the public health and safety from potential RPV failure. In addition, P–T curves based on the K_{Ic} curve will enhance overall plant safety by opening the P–T operating window with the greatest safety benefit in the region of low-temperature operations.

Since the reactor coolant system P–T operating window is defined by the P–T operating and test limit curves developed in accordance with ASME section XI, Appendix G, continued operation of Limerick Unit 2 with these P–T curves without the relief provided by ASME Code Case N–640 would unnecessarily require the licensee to maintain the RPV at a temperature exceeding 212 °F in a limited operating window during pressure tests. Consequently, steam vapor hazards would continue to be one of the safety concerns for personnel conducting inspections in primary containment. Implementation of the proposed P–T curves, as allowed by ASME Code Case N–640, continues to maintain an adequate margin of safety and would eliminate steam vapor hazards by allowing inspections in primary containment to be conducted at a lower coolant temperature. Thus, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the regulation will continue to be served.

Pursuant to 10 CFR 50.12(a), the Commission may, upon application by an interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, when: (1) The exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. As stated in 10 CFR 50.12(a)(2)(ii), these special circumstances include situations in which ''Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule; * * *'' The staff examined the licensee's rationale to support the exemption request and determined that the use of the code case would meet the underlying purpose of 10 CFR Part 50, Appendix G; therefore, application of the assumed flaw types and the K_{Ia} equation in Appendix G to section XI of the ASME Code, as invoked by the rule, is not necessary to meet the underlying purpose of the regulation, and thus meets the special circumstance criterion of 10 CFR 50.12(a)(2)(ii) for granting the exemption request. Based upon a consideration of the conservatism that is explicitly incorporated into the methodologies of 10 CFR Part 50, Appendix G; Appendix G of the ASME Code; and Regulatory Guide 1.99, Revision 2; the staff concludes that application of the code case as described would provide an adequate margin of safety against brittle failure of the RPV. This is also consistent with the determination that the NRC staff has reached for other licensees under similar conditions based on the same considerations, including Quad Cities Nuclear Power Station, Units 1 and 2, exemption dated February 4, 2000. Therefore, the staff concludes that granting an exemption under the special circumstances provision of 10 CFR 50.12(a)(2)(ii) is appropriate, and that the methodology contained in Code Case N–640 would serve the underlying purpose of the rule for Limerick Unit 2.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a): (1) The exemption is authorized by law, will not endanger life or property or common defense and security, and is otherwise in the public interest; and (2) special circumstances are present. Therefore, the Commission hereby grants Exelon Generation Company an exemption from the requirements of 10 CFR Part 50, Appendix G, for Limerick Unit 2.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 15913).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 21st day of March 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–7350 Filed 3–22–01; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Notice of Public Meeting; Sunshine Act

Notice was previously published at 66 FR 14944 on March 14, 2001, that the Railroad Retirement Board would hold a meeting on March 20, 2001, 10 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois 60611. This meeting has been rescheduled to March 27, 2001, at 10 a.m. The agenda remains the same.

The entire meeting will be closed to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, Phone No. 312–751–4920.

Dated: March 20, 2001.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 01–7344 Filed 3–21–01; 10:44 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27359]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

March 19, 2001.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 12, 2001, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or laws that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After April 12, 2001, the

application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Northeast Utilities, et al. (70–9839)

Northeast Utilities (''NU''), a registered public utility holding company, Western Massachusetts Electric Company (''WEMCO''), an electric utility subsidiary of NU, both located at 174 Brush Hill Avenue, West Springfield, Massachusetts 01090 and Connecticut Light and Power Company (''CL&P''), an electric utility subsidiary of NU located at 107 Selden Street, Berlin, Connecticut 06037 (collectively, ''Applicants'') have filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(c) and rules 42, 43, 44, 46(a) and 54.

Applicants request authorization, through December 31, 2004, for: (1) CL&P to pay dividends to and/or repurchase stock from NU out of capital or unearned surplus in an amount not to exceed $100 million in using the proceeds from the sale of nuclear generating facilities (''Millstone''); (2) CL&P to pay dividends and/or repurchase stock in accordance with the provisions of CL&P's dividend covenant under its first mortgage indenture and deed of trust (''Mortgage Indenture'') [1] dated May 1, 1921 to the Bankers Trust Company as trustee; and (3) WMECO to pay dividends to and/or repurchase stock from NU out of capital or unearned surplus in an amount not to exceed $21 million using proceeds from the sale of nuclear generating facilities.

Applicants note that each of the states in which CL&P and WMECO (collectively, ''Utilities'') operate, Connecticut and Massachusetts, has enacted restructuring legislation (''Restructuring Legislation'') that is intended to deregulate the electric utility industry and provide retail customers with a choice of electricity providers. The Restructuring Legislation strongly encourages the Utilities to, among other things, divest their nuclear and non-nuclear generating assets. The non-nuclear electric generating assets of CL&P and WMECO have been sold. The Utilities are in the process of selling Millstone, a nuclear generating asset. In addition to the proceeds raised from these sales of generating assets, CL&P and WMECO will also receive proceeds from the issuance of rate reduction bonds (''RRBs'') as part of the restructuring process. This application only deals with the use of proceeds from the sale of Millstone.

By order dated March 7, 2000 (HCAR No. 27147), the utility subsidiaries [2] sought and were granted authorization, among other things, to pay dividends to, and/or repurchase shares of their respective stock from NU out of capital or unearned surplus using the proceeds from the sale of non-nuclear generating assets and the issuance of RRBs, despite the lack of sufficient retained earnings. Applicants state that the sale of nuclear assets was not foreseen at the time of the previous filing as resulting in any substantial net cash to the Utilities. However, as a result of the proposed sale of Millstone, the Utilities will experience a significant influx of cash without a corresponding increase in retained earnings. To achieve the cost reduction goals of the Restructuring Legislation, Applicants propose to reduce their common equity capitalizations using a portion of such proceeds.

Applicants state the payment of dividends would not impair the financial integrity of CL&P or WMECO because, after the payment of these dividends, each Utility will still have adequate cash to operate its substantially smaller business. The senior debt ratings of CL&P and WMECO issued by Standard & Poor's were upgraded to ''BBB+'' on January 31, 2001 while the senior debt ratings of CL&P and WMECO issued by Moody's Investor Service Inc. were upgraded to ''Baa1'' on January 23, 2001.

Applicants note that as a result of the proposed transactions, the issuance of rate reduction bonds, and the accounting treatment of the debt relating to the rate reduction bonds, the equity-to-capitalization ratio of CL&P and of NU on a consolidated basis, is expected to fall below the Commission's 30% equity standard. Applicant represents that the companies will adhere to any state commission order requiring a higher equity ratio.[3]

[1] The Mortgage Indenture provides, among other things, that cash dividends may not be paid on the capital stock of CL&P, or distributions made, or capital stock purchased by CL&P, in an aggregate amount which exceeds CL&P's earned surplus after December 31, 1966, plus the earned surplus of CL&P accumulated prior to January 1, 1967 in amount not exceeding $13,500,000, plus such additional amount as may be authorized or approved by the Commission under the Act.

[2] In addition to CL&P and WMECO, North Atlantic Energy Corporation and Public Service Company of New Hampshire also requested authorization in HCAR No. 27147.

[3] On March 16, 2001, the Connecticut Department of Public Utility Control issued a temporary order requiring CL&P to use the proceeds in a way to result in a common equity ratio for CL&P between 45% and 50% (not including the rate reduction bonds as debt).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–7256 Filed 3–22–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44085; File No. SR–CHX–01–05]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Incorporated, Relating to the Exchange's SuperMAX 2000 Price Improvement Program

March 19, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 16, 2001, the Chicago Stock Exchange, Incorporated (''CHX'') or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and 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 proposes to amend the CHX rules governing its voluntary price improvement program. Specifically, the Exchange proposes to amend Article XX, Rule 37(h) to reduce the determinative spread from $.03 to $.02, thereby increasing the opportunities for price improvement. The text of the proposed rule change is below. Additions are in italic. Deletions are in brackets.

ARTICLE XX

Regular Trading Sessions

* * * * *

Guaranteed Execution System and Midwest Automated Execution System

Rule 37

* * * * *

(h) SuperMax 2000

SuperMAX 2000 shall be a voluntary automatic execution program within the MAX System. SuperMAX 2000 shall be

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

available for any security trading on the Exchange in decimal price increments. A specialist may choose to enable this voluntary program within the MAX System on a security-by-security basis.

(1) Pricing

(i) In the event that an order to buy or sell at least 100 shares is received in a security in which SuperMAX 2000 has been enabled, such order shall be executed at the ITS Best Offer or NBO (for a buy order) or the ITS Best Bid or NBB (for a sell order) if the spread between the ITS Best Bid and the ITS Best Offer (or NBB and NBO, for Nasdaq/NM issues) in such security at the time the order is received is less than $*.02* [.03].

(ii) In the event that an order to buy or sell 100 shares is received in a security in which SuperMAX 2000 has been enabled, and the spread between the ITS Best Bid and the ITS Best Offer (or NBB and NBO, for Nasdaq/NM issues) in such security at the time the order is received is $*.02* [.03] or greater, such order shall be executed (subject to the short sale rule) at a price at least $.01 lower than the ITS Best Offer or NBO (for a buy order) or at least $.01 higher than the ITS Best Bid or NBB (for a sell order).

(iii) In the event that an order to buy or sell more than 100 shares is received in a security in which SuperMAX 2000 has been enabled, such order shall be executed at the ITS Best Offer or NBO, or better (for a buy order) or the ITS Best Bid or NBB, or better (for a sell order) as the specialist may designate and as is approved by the Exchange.

* * * * *

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. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

According to the CHX, the primary purpose of the proposed rule change is to increase the number of orders that are eligible for automated price improvement. To this end, the CHX proposes to amend the CHX rules governing its voluntary automated price improvement program, known as SuperMAX 2000, for issues quoting in decimal price increments. Specifically, the Exchange proposes to amend Article XX, Rule 37(h) to reduce the determinative spread from $.03 to $.02, thereby increasing the opportunities for price improvement.

On December 19, 2000, the Commission approved (SR–CHX–00–37),[3] implementing SuperMAX 2000, the CHX's new price improvement program, which will govern price improvement of all orders for issues quoting in decimal price increments. SuperMAX 2000 was designed to afford specialists the flexibility to provide a wide variety of price improvement alternatives, all of which will be equal to or more favorable than alternatives that existed previously. SuperMAX 2000 originally provided for price improvement of at least $.01 on orders of 100 shares where the spread between the national best bid and offer (''NBBO'') was $.03 or greater.

In assessing price improvement offered by other members of the securities industry, the Exchange believes that, in order to be competitive, its specialists must be permitted (but not obligated) to offer price improvement of $.01 or better where the NBBO spread is $.02 or greater. The proposal would not impact orders for more than 100 shares, in which case the specialist's price improvement options are not contingent on a determinative NBBO spread.

The Exchange believes that the proposal will ensure that SuperMAX 2000 provides CHX specialists with the requisite flexibility to respond to customer price improvement requirements in a decimal environment. The CHX also believes that, in a decimal trading environment, where spreads are anticipated to narrow significantly, the proposal will operate to increase the opportunities for price improvement. The proposal contemplates equality among order-sending firms (and their customers) by mandating that additional price improvement be provided by CHX specialists on an issue-by-issue basis; specialists would not be permitted to distinguish among order-sending firms when designating price improvement levels. Moreover, SuperMAX 2000 remains a strictly voluntary price improvement program; specialists who do not wish to participate are not obligated to enable SuperMAX 2000 for any or all issues traded by such specialists.

2. Statutory Basis

The CHX believes the proposed rule change is consistent with Section 6(b)(5) of the Act[4] in that it is designed to promote just and equitable principles of trade, to remove impediments and to 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 inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

The CHX has requested accelerated approval of the proposed rule change. While the Commission will not grant accelerated approval at this time, the Commission will consider granting accelerated approval of the proposal at the close of an abbreviated comment period of 15 days from the date of publication of the proposal in the **Federal Register**.

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

[3] Securities Exchange Act Release No. 43742 (December 19, 2000), 65 FR 83119 (December 29, 2000).

[4] 15 U.S.C. 78f(b)(5).

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. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to file number SR–CHX–01–05 and should be submitted by April 9, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–7255 Filed 3–22–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44082; File No. SR–ISE–01–05]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the International Securities Exchange LLC Relating to Minimum Activity Fees

March 15, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 2, 2001, the International Securities Exchange LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change. The Exchange submitted Amendment No. 1 to its proposed rule change on March 13, 2001.[3] The proposed rule change, as amended, is described in Items I, II, and 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 delay the effectiveness of its fee regarding inactive primary market maker (''PMM'') memberships.

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 by any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The ISE has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In November 2000, the Exchange adopted a change to its fee schedule that subjected PMMs to a $100,000 monthly fee if the group of options (''bins'') to which they are appointed has not been opened for trading. The purpose of this fee is to provide the Exchange with revenue that is foregone when a bin is inactive. In particular, the fee helps the Exchange recoup lost transaction and access charges. This inactive PMM fee became effective on January 1, 2001. At the time the fee was adopted, there were three PMM memberships that were inactive. Two of those memberships became active during January 2001, and accordingly were not subject to the $100,000 fee.

With respect to the one remaining inactive PMM membership, the Exchange proposes to delay application of the $100,000 fee until May 7, 2001 to give this membership additional time to begin trading. The two PMM memberships that began trading in January were owned or leased by ISE members that had been approved as market makers on the Exchange. Thus, the ability to initiate trading was completely within those members' control.

In contrast, the one PMM membership that remains inactive is owned by an entity that is not a registered broker-dealer and therefore, could not itself initiate trading activities on the ISE. Moreover, this owner is affiliated with a member that is currently operating two PMM memberships and would therefore, be prohibited under ISE's concentration limits for operating a third membership. Accordingly, the PMM membership must be leased or sold to a registered broker-dealer member of the ISE that is an approved market maker before trading activities with respect to the membership can be initiated.

The Exchange proposes to extend the effective date of the $100,000 inactive PMM fee to May 7, 2001 with respect to any PMM membership that is owned by a person or entity that is prohibited from conducting trading activities under ISE Rules and the membership has not been leased to a member that is approved as a market maker on the Exchange. The one currently inactive PMM membership is the only membership that would be affected by the delayed effective date. While the Exchange forgoes revenue with respect to this membership, the activation of the membership is not completely within the control of the owner, as a qualified buyer or lessee for the membership must be identified. The Exchange therefore believes that an owner in this circumstance should be given additional time to activate the membership as compared to an entity that chooses not to exercise its trading rights.[4]

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[5] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. In addition, the basis for the rule change is Section 6(b)(4)[6] of the Act that requires an exchange to have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

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[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange amended the proposal to submit the proposed rule change pursuant to Rule 19b–4(f)(1). *See* Letter from Michael Simon, Senior Vice President and General Counsel, ISE, to Kathy England, Assistant Director, Division of Market Regulation, Commission, dated March 12, 2001.

[4] This rule change will affect only PMMs on the exchange, and all PMMs whose trading activity either was affected by this fee or will be subject to the delay in the application of the fee have representatives on the Board of Directors. All such directors supported the adoption of this proposed rule change.

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(4).

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not 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 not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange, and therefore, has become effective pursuant to Section 19(b)(3)(A)(i) of the Act [7] and paragraph (f)(1) of Rule 19b–4.[8] At any time within 60 days of the filing of such 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, 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, 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of ISE. All submissions should refer to File No. SR–ISE–01–05 and should be submitted by April 13, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–7198 Filed 3–22–01; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78s(b)(3)(A)(i).

[8] 17 CFR 240.19b–4(f)(1).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44084; File No. SR–NYSE–01–06]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. To Amend NYSE Rule 60 Relating to the Dissemination of Depth Indications and Depth Conditions

March 16, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 15, 2001, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission.[5] 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 proposes to amend NYSE Rule 60 ''Dissemination of Quotations,'' to provide for the dissemination of a depth indication and a depth condition to reflect market interest in a security below the published bid and above the published offer. The Exchange has designated this proposal as non-controversial, rendering it effective upon filing with the Commission. The NYSE asks that the Commission waive the 30-day operative waiting period pursuant to SEC Rule 19b–4(f)(6)(iii),[6] so that the proposal may be implemented on March 19, 2001. The text of the proposed rule change is below. Proposed new language is in italics.

Rule 60 Dissemination of Quotations

* * * * *

* * * Supplementary Material

* * * * *

.30 (a) On a best efforts basis, the specialist may disseminate a depth indication and a depth condition in any security. Such depth indication and a depth condition may be disseminated for the purpose of indicating that there is additional market interest to buy below the current published bid, or additional market interest to sell above the current published offer, as described in paragraph (b) below. The depth indication shall be disseminated by means of an appropriate symbolic designation, appended to the current published bid and/or offer, as appropriate, but neither the depth indication nor the depth condition shall themselves be deemed to constitute a ''firm quotation'' for purposes of this Rule or Rule 11Ac1–1 of the Securities and Exchange Commission.

Phase 1

(b) The depth indication may be disseminated only when there is market interest, consisting of the specialist's proprietary interest as well as interest reflected by orders represented by the specialist as agent (including percentage orders), aggregating such minimum number of shares and range of prices below the published bid or above the published offers as the Exchange deems appropriate and communicates to its membership.

Phase 2

(b) In addition to the appropriate symbolic designation for the depth indication, the specialist may disseminate a depth condition, which shall specify the number of shares, consisting of the specialist's proprietary interest as well as interest reflected by orders represented by the specialist as agent (including percentage orders), that the specialist believes represents a reasonable reflection of the depth of the market at a particular price in a particular security, consistent with the usual trading characteristics of such security, or any unusual activity that may be present on any particular day.

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The NYSE has asked, and the Commission agreed, to waive the 5-day pre-filing notice requirement. *See* Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

[6] 17 CFR 240.19b–4(f)(6)(iii).

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 NYSE included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The NYSE proposes to add .30 to NYSE Rule 60 to permit a specialist to disseminate a depth indication and a depth condition to indicate that there is additional market interest in a security not shown in the published quotation—interest to buy below the current published bid, or interest to sell above the current published offer.

The additional market interest reflected in the depth indication and depth condition would include the specialist's proprietary interest as well as orders the specialist has on his or her book, and other orders, such as percentage orders, which the specialist is representing as agent.

A specialist would make such a depth indication and depth condition dissemination on a ''best efforts basis.'' The specialist would be allowed to use his or her professional judgment as to whether dissemination of the existence of additional market interest would be expected to be useful with respect to current conditions in the security or the market in general.

The depth indication and depth condition are simply informational in nature, and therefore, would not, in themselves, constitute a ''firm'' quotation for purposes of NYSE Rule 60 or Rule 11Ac1–1 [7] under the Act.

The Exchange proposes to institute the dissemination of this additional market information in two phases. In Phase 1, at the outset, a depth indication would be disseminated only in securities that are components of the Standard and Poor's 500 Stock Price Index and the 20 most active foreign stocks that are not components of that Index, and only to signify that there is additional market interest aggregating at least 20,000 shares within fifteen cents below the published bid or above the published offer. The Exchange may subsequently determine to extend the use of the depth indication to other securities, and to modify the share size and price range criteria as appropriate based on experience. Any such changes would be communicated to the Exchange's membership and to the Commission before they are implemented. The depth indication would be disseminated by means of Consolidated Quote System, which is under the auspices of the Consolidated Tape Association. In Phase 2, in addition to the depth indication, the specialist may also disseminate a depth condition showing the actual number of shares of additional market interest at a particular price below the published bid or above the published offer. There would be no specified minimum number of shares or range of prices below the published bid or above the published offer. Rather, the depth condition would constitute a reasonable reflection of the depth of the market in a particular security, consistent with the usual trading characteristics of such security, or any unusual activity that may be present on any particular day. The depth condition would be disseminated by means of the Exchange's proprietary distribution network. This network will disseminate the information to market data vendors and to the NYSE's own web site and data feeds. Subject to Commission approval, the Exchange intends to initiate the first Phase on March 19, 2001. The second Phase is intended to be initiated on April 16, 2001.

2. Statutory Basis

The Exchange believes that the proposed rule is consistent with the provisions of Section 6(b)(5) of the Act [8] that require an Exchange to have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The NYSE also believes the proposed rule change also is consistent with Section 11A(a)(1) of the Act [9] in that it seeks to assure the availability to market participants of information with respect to market interest in securities traded on the Exchange, and thereby promote economically efficient execution of securities transactions.

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 foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] 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 purpose of the Act.

The NYSE has requested that the Commission accelerate the operative date. The Commission finds good cause to waive the 30-day operative waiting period, because such designation is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow the NYSE to provide market participants with information regarding market interest in securities traded on the Exchange without further delay, as the transformation from quoting in fractions to quoting in decimals continues. For these reasons, the Commission finds good cause to waive both the 5-day pre-filing requirement and the 30-day operative waiting period.[12]

[7] 17 CFR 240.11Ac1–1.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78k–1(a)(1).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal 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 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 number SR–NYSE–01–06 and should be submitted by April 13, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–7197 Filed 3–22–01; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3318]

State of Mississippi; (Amendment #2)

In accordance with a notice received from the Federal Emergency Management Agency, dated March 15, 2001, the above-numbered Declaration is hereby amended to include Amite, Forrest, Franklin, Jones, Lamar, Lincoln, Marion, Neshoba, Pearl River, Perry, Pike, Scott, Tate, Walthall and Wilkinson counties in the State of Mississippi as disaster areas due to damages caused by severe storms and tornadoes. This notice also establishes the incident period for this disaster as beginning on February 16, 2001 and closing March 15, 2001.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Adams, Copiah, Covington, DeSoto, George, Greene, Hancock, Harrison, Jasper, Jefferson, Jefferson Davis, Lauderdale, Lawrence, Newton, Smith, Stone and Wayne in the State of Mississippi; Concordia, East Feliciana, St. Helena, St. Tammany, Tangipahoa, Washington and West Feliciana in the State of Louisiana. Any counties contiguous to the above named primary counties and not listed here have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is April 24, 2001 and for economic injury the deadline is November 23, 2001.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 16, 2001.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 01–7169 Filed 3–22–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3320]

State of Washington; (Amendment # 2)

In accordance with a notice received from the Federal Emergency Management Agency, dated March 16, 2001, the above-numbered Declaration is hereby amended to include Cowlitz, Island, Jefferson, Pacific, Skagit, Skamania, Wahkiakum, and Yakima counties in the State of Washington as disaster areas due to damages caused by the earthquake on February 28, 2001.

In addition, applications for economic injury loans from small businesses located in Benton, Clallam, Clark, Grant, Klickitat, Okanogan and Whatcom counties in the State of Washington; Clatsup, Columbia, Hood River, and Multnoman in the State of Oregon may be filed until the specified date at the previously designated location. Any counties contiguous to the above named primary counties and not listed here have been previously declared.

The number assigned for economic injury in the State of Oregon is 9L0200.

All other information remains the same, i.e., the deadline for filing applications for physical damage is April 30, 2001 and for economic injury the deadline is November 30, 2001.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 19, 2001.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 01–7170 Filed 3–21–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region II Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration Region II Advisory Council located in the geographical area of Buffalo, New York, will hold a public meeting at 10 a.m. on April 18, 2001, at the Erie County Industrial Development Agency, 275 Oak Street, Buffalo, New York to discuss matters that may be presented by members of the Advisory Council, staff of the U.S. Small Business Administration or others present. For further information, write or call: Franklin J. Sciortino, District Director, U.S. Small Business Administration, 111 West Huron Street, Suite 1311, Buffalo, New York 14202, (716) 551–4301.

Franklin J. Sciortino,

District Director, Small Business Administration.

[FR Doc. 01–7172 Filed 3–22–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Passsenger Manifest Information

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended), this notice announces the Department of Transportation's (DOT) intention to request the extension of a previously approved collection.

DATES: Comments on this notice must be received May 22, 2001.

ADDRESSES: Comments should be directed to the Competition and Policy Analysis Division (X–55), Office of Aviation Analysis, Office of the Secretary, US Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Jack Schmidt, Competition and Policy Analysis Division (X–55), Office of Aviation Analysis, Office of the Secretary, US Department of Transportation, 400 Seventh Street,

[13] 17 CFR 200.30–3(a)(12).

SW., Washington, DC 20590, (202) 366–5420.

SUPPLEMENTARY INFORMATION:

Title: Passenger Manifest Information.

Expiration Date: May 31, 2001.

OMB Control Number: 2106–0534.

Type of Request: Extension of a previously approved collection.

Abstract: Public Law 101–604 (entitled the Aviation Security Improvement Act of 1990, or ''ASIA 90,'' and which was later codified as 49 U.S.C. 44909) requires that certificated air carriers and large foreign air carriers collect the full name of each U.S. citizen traveling on flight segments to or from the United States and solicit a contact name and telephone number. In case of an aviation disaster, airlines would be required to provide the information to the Department of State and, in certain instances, to the National Transportation Safety Board. Each carrier would develop its own collection system. The Passenger Manifest Information; Final Rule (14 CFR 243) was published in the **Federal Register** 63 FR 8257, February 18, 1998. The rule was effective March 20, 1998.

Respondents: U.S. and foreign air carriers.

Estimated Number of Respondents: 23,245.

Total Annual Responses: 53.8 million.

Estimated Total Burden on Respondents: 1.05 million hours.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected, and (d) ways to minimize the burden of the collection of information of respondents, including the use of automated collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Issued in Washington DC on March 19, 2001.

Randall D. Bennett,

Director, Office of Aviation Analysis.

[FR Doc. 01–7269 Filed 3–22–01; 8:45 am]

BILLING CODE 4910–62–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–9194]

National Boating Safety Advisory Council

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The National Boating Safety Advisory Council (NBSAC) and its subcommittees on boat occupant protection, navigation lights, and prevention through people will meet to discuss various issues relating to recreational boating safety. All meetings will be open to the public.

DATES: NBSAC will meet on Monday, April 23, 2001, from 8:30 a.m. to 5 p.m. and Tuesday, April 24 from 8:30 a.m. to noon. The Prevention Through People Subcommittee will meet on Saturday, April 21, 2001 from 1:30 p.m. to 3:30 p.m.; and the Navigation Light Subcommittee will meet from 3:30 p.m. to 5:30 p.m. The Boat Occupant Protection Subcommittee will meet on Sunday, April 22, 2001, from 9 a.m. to noon. These meetings may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before April 13, 2001. Requests to have a copy of your material distributed to each member of the committee or subcommittees should reach the Coast Guard on or before April 6, 2001.

ADDRESSES: NBSAC will meet at the Holiday Inn Select-City Centre Lakeshore Hotel, 1111 Lakeside Avenue, Cleveland, Ohio. The subcommittee meetings will be held at the same address. Send written material and requests to make oral presentations to Mr. Albert J. Marmo, Commandant (G–OPB–1), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. You may obtain a copy of this notice by calling the U.S. Coast Guard Infoline at 1–800–368–5647. This notice is available on the Internet at *http://dms.dot.gov* or at the Web Site for the Office of Boating Safety at URL address *www.uscgboating.org.*

FOR FURTHER INFORMATION CONTACT: Albert J. Marmo, Executive Director of NBSAC, telephone 202–267–0950, fax 202–267–4285.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agendas of Meetings

National Boating Safety Advisory Council (NBSAC). The agenda includes the following:

(1) Executive Director's report.
(2) Chairman's session.
(3) Prevention Through People Subcommittee report.
(4) Navigation Light Subcommittee report.
(5) Boat Occupant Protection Subcommittee report.
(6) Recreational Boating Safety Program report.
(7) Canadian Coast Guard report.
(8) Discussion of petition to establish national standards for radar reflectors.
(9) Discussion on high-speed recreational vessels.
(10) Report on propeller protection issues.
(11) Carbon monoxide issues status report.
(12) Report on the Marine Transportation System.
(13) Report on ''Operation BoatSmart.''
(14) Report on national industry boating education opportunities.
(15) Update on personal flotation device issues.
(16) Update on the boat factory visit program.

Prevention Through People Subcommittee. The agenda includes the following:

(1) Discuss changes to the ''Federal Requirements and Safety Tips for Recreational Boats'' brochure.
(2) Discuss current regulatory projects, grants and contracts dealing with personal flotation devices.

Boat Occupant Protection Subcommittee. The agenda includes the following:

(1) Discuss weight and horsepower compliance issues related to 4-stroke engines.
(2) Discuss current regulatory projects, grants and contracts impacting boat occupant protection.

Navigation Light Subcommittee. The agenda includes the following:

(1) Discuss issues coordinated with the Navigation Safety Advisory Council.
(2) Discuss navigation light certification rulemaking.
(3) Discuss navigation light grant projects.

Procedural

All meetings are open to the public. Please note that the meetings may close early if all business is finished. At the Chairs' discretion, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at a meeting, please notify the Executive Director no later than April 13, 2001. Written material for distribution at a meeting should reach the Coast Guard no later than April 13, 2001. If you

would like a copy of your material distributed to each member of the committee or subcommittee in advance of a meeting, please submit 25 copies to the Executive Director no later than April 6, 2001.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: March 19, 2001.

Kenneth T. Venuto,

Rear Admiral, U.S. Coast Guard, Director of Operations Policy.

[FR Doc. 01–7318 Filed 3–22–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance General Mitchell International Airport, Milwaukee, WI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is giving notice that a portion of the airport property containing 2.12 acres located in the south edge of the airport along Rawson Ave is not needed for aeronautical use as currently identified on the Airport Layout Plan.

This parcel was originally acquired through Grant No. FAAP–9–42–032–5912 in 1959. The parcel is presently open and undeveloped. The land comprising this parcel is, therefore, no longer needed for aeronautical purposes. The airport wishes to transfer ownership of the land to facilitate future noise compatible development in the vicinity of the airport. Income from the sale will be used to improve the airport. There are no impacts to the airport by allowing the airport to dispose of the property.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before April 23, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra E. DePottey, Program Manager, Federal Aviation Administration, Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, MN 55450–2706. Telephone Number (612) 713–4363/FAX Number (612) 713–4364. Documents reflecting this FAA action may be reviewed at this same location or at the General Mitchell International Airport, Milwaukee, WI.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA intends to authorize the disposal of the subject airport property at General Mitchell International Airport, Milwaukee, WI. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination that all measures covered by the program are eligible for Airport Improvement Program funding from the FAA. The disposition of proceeds from the disposal of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

Issued in Minneapolis, MN on March 2, 2001.

Nancy M. Nistler,

Manager, Minneapolis Airports District Office, FAA, Great Lake Region.

[FR Doc. 01–7275 Filed 3–22–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Intelligent Transportation Society of America; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The Intelligent Transportation Society of America (ITS AMERICA) will hold a meeting of its Coordinating Council on Tuesday, April 17, 2001. The meeting begins at 8 am. The letter designations that follow each item mean the following: (I) Is an information item; (A) is an action item; (D) is a discussion item. The General Session includes the following items: (1) Housekeeping items—introductions, antitrust, previous minutes, etc.; (2) Federal Report (I/D); (3) President's Report (I/D); (4) Council Membership Issues Discussion, SAE & APTA Ex-Officio with Voting Rights designation (D/A); (5) Annual Meeting 2001 Update (I/D); (6) 511 Update (I/D); (7) Break (20 minutes); (8) Joint Task Force on Deployment Strategy (I/D/A); (9) Weather Information Applications Task Force, Position Paper on Environmental Information in the ITS Architecture (D/A); (10) Data Security & Privacy Task Force, Standards & Protocol Committee (I/D); (11) APTS Committee Report, Bus & Paratransit Research Program Advice (D/A); (12) IVI Advice Letter (D/A); (13) Closing Housekeeping—next meeting dates/locations, adjourn.

ITS AMERICA provides a forum for national discussion and recommendations on ITS activities including programs, research needs, strategic planning, standards, international liaison, and priorities.

The charter for the utilization of ITS AMERICA establishes this organization as an advisory committee under the Federal Advisory Committee Act (FACA) 5 U.S.C. app. 2, when it provides advice or recommendations to DOT officials on ITS policies and programs. (56 FR 9400, March 6, 1991).

DATES: The Coordinating Council of ITS AMERICA will meet on Tuesday, April 17, 2001, from 8 a.m.–noon.

ADDRESSES: Hilton Crystal City at National Airport, 2399 Jefferson Davis Highway, Arlington, VA 22202; Phone: (703) 418–6800; Fax: (703) 418–3763.

FOR FURTHER INFORMATION CONTACT: Materials associated with this meeting may be examined at the offices of ITS AMERICA, 400 Virginia Avenue SW., Suite 800, Washington, DC 20024. Persons needing further information or who request to speak at this meeting should contact Debbie M. Busch at ITS AMERICA by telephone at (202) 484–2904 or by FAX at (202) 484–3483. The DOT contact is Kristy Frizzell, FHWA, HOIT, Washington, DC 20590, (202) 366–9536. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except for legal holidays.

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: March 20, 2001.

Jeffrey Paniati,

ITS Program Manager, ITS Joint Program Office.

[FR Doc. 01–7268 Filed 3–22–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2001–8398]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of final disposition.

SUMMARY: The FMCSA announces its decision to exempt 35 individuals from

the vision requirement in 49 CFR 391.41(b)(10).

DATES: March 23, 2001.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987; for information about legal issues related to this notice, Mr. Joe Solomey, Office of the Chief Counsel, (202) 366–1374, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 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

You may see all the comments online through the Document Management System (DMS) at: *http://dmses.dot.gov.*

Background

Thirty-five individuals petitioned the FMCSA for an exemption of the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are: Carl W. Adams, David F. Bardsley, William E. Beckley, Joseph M. Blankenship, Willie Burnett, Awilda S. Colon, Robert P. Conrad, Jerald O. Edwards, William W. Ferrell, Marion R. Fox, Jr., Thomas E. Howard, James L. Johnson, Spencer E. Leonard, John K. Love, Robert C. Lueders, Thomas F. Marczewski, Samson B. Margison, Velmer L. McClelland, Duane A. McCord, Gene L. Miller, John E. Musick, Bobby G. Pool, Sr., Robert Radcliff, Jr., Randolph M. Riffey, Billy G. Saunders, George D. Schell, Gerald L. Smith, Scottie Stewart, Clarence L. Swann, Jr., Robert Tatum, Thaddeus E. Temoney, Roberto R. Turpaud, Roy B. Waggoner, Harry C. Weber, and Yu Weng.

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a renewable 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' Accordingly, the FMCSA has evaluated the 35 petitions on their merits and made a determination to grant the exemptions to all of them. On December 14, 2000, the agency published notice of its receipt of applications from these 35 individuals, and requested comments from the public (65 FR 78256). The comment period closed on January 16, 2001. Two comments were received, and their contents were carefully considered by the FMCSA in reaching the final decision to grant the petitions.

Vision and Driving Experience of the Applicants

The vision requirement provides:

> A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber. 49 CFR 391.41(b)(10)

Since 1992, the Federal Highway Administration (FHWA) has undertaken studies to determine if this vision standard should be amended. The final report from our medical panel recommends changing the field of vision standard from 70° to 120°, while leaving the visual acuity standard unchanged. (See Frank C. Berson, M.D., Mark C. Kuperwaser, M.D., Lloyd Paul Aiello, M.D., and James W. Rosenberg, M.D., ''Visual Requirements and Commercial Drivers,'' October 16, 1998, filed in the docket, FHWA–98–4334.) The panel's conclusion supports the FMCSA's (and previously the FHWA's) view that the present standard is reasonable and necessary as a general standard to ensure highway safety. The FMCSA also recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 35 applicants fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, corneal and macular scars, and loss of an eye due to trauma. In most cases, their eye conditions were not recently developed. All but 26 of the applicants were either born with their vision impairments or have had them since childhood. The 9 individuals who sustained their vision conditions as adults have had them for periods ranging from 4 to 51 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye and, in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. The doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and performance tests designed to evaluate their qualifications to operate a CMV. All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State. The Federal interstate qualification standards, however, require more.

While possessing a valid CDL or non-CDL, these 35 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualifies them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 4 to 45 years. In the past 3 years, the 35 drivers had 11 convictions for traffic violations among them. Seven of these convictions were for speeding. The other convictions consisted of: ''Driver Failure to Obey All Trucks Stop at Scales''; ''Failure to Stop''; ''Failure to Obey Stop Sign''; and ''Failure to [Use Chains] When Required.'' One driver was involved in an accident in a CMV, but did not receive a citation.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in a December 14, 2000, notice (65 FR 78256). Since the docket comments did not focus on the specific merits or qualifications of any applicant, we have not repeated the individual profiles here. Our summary analysis of the applicants as a group is supported by the information published at 65 FR 78256.

Basis for Exemption Determination

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting these drivers to drive in interstate commerce as opposed to restricting them to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, the FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency. To qualify for an exemption from the vision standard, the FMCSA requires a person

to present verifiable evidence that he or she has driven a commercial vehicle safely with the vision deficiency for 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of accidents and traffic violations. Copies of the studies have been added to the docket. (FHWA–98–3637)

We believe we can properly apply the principle to monocular drivers, because data from the vision waiver program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively. (See 61 FR 13338, 13345, March 26, 1996.) The fact that experienced monocular drivers with good driving records in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that accident rates for the same individual exposed to certain risks for two different time periods vary only slightly. (See Bates and Neyman, University of California Publications in Statistics, April 1952.) Other studies demonstrated theories of predicting accident proneness from accident history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future accidents. (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971.) A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall accident predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 35 applicants receiving an exemption, we note that cumulatively the applicants have had only one accident and 11 traffic violations in the last 3 years. That single accident did not result in the issuance of a citation against the applicant. The applicants achieved this record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, the FMCSA concludes their ability to drive safely can be projected into the future.

We believe the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances are more compact than on highways. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he or she has been performing in intrastate commerce. Consequently, the FMCSA finds that exempting these applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the agency will grant the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e).

We recognize that the vision of an applicant may change and affect his/her ability to operate a commercial vehicle as safely as in the past. As a condition of the exemption, therefore, the FMCSA will impose requirements on the 35 individuals consistent with the grandfathering provisions applied to drivers who participated in the agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

The FMCSA received two comments in this proceeding. The comments were considered and are discussed below.

James L. Johnson, one of the applicants under consideration, wrote encouraging the FMCSA to approve his application for an exemption.

Advocates for Highway and Auto Safety (AHAS) expresses continued opposition to the FMCSA's policy to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs), including the driver qualification standards. Specifically, the AHAS: (1) Objects to the manner in which the FMCSA presents driver information to the public and makes safety determinations; (2) objects to the agency's reliance on conclusions drawn from the vision waiver program; (3) claims the agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31315 and 31136(e)), and finally; (4) suggests that a recent Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by the AHAS were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), 65 FR 57230 (September 21, 2000), and 66 FR 13825 (March 7, 2001). We will not address these points again here, but refer interested parties to those earlier discussions.

Notwithstanding the FMCSA's ongoing review of the vision standard, as evidenced by the medical panel's report dated October 16, 1998, and filed in this docket, the FMCSA must comply with *Rauenhorst* v. *United States Department of Transportation, Federal Highway Administration*, 95 F.3d 715 (8th Cir. 1996), and grant individual exemptions under standards that are consistent with public safety. Meeting those standards, the 35 veteran drivers

in this case have demonstrated to our satisfaction that they can continue to operate a CMV with their current vision safely in interstate commerce, because they have demonstrated their ability in intrastate commerce. Accordingly, they qualify for an exemption under 49 U.S.C. 31315 and 31136(e).

Conclusion

After considering the comments to the docket and based upon its evaluation of the 35 exemption applications in accordance with the *Rauenhorst* decision, the FMCSA exempts Carl W. Adams, David F. Bardsley, William E. Beckley, Joseph M. Blankenship, Willie Burnett, Awilda S. Colon, Robert P. Conrad, Jerald O. Edwards, William W. Ferrell, Marion R. Fox, Jr., Thomas E. Howard, James L. Johnson, Spencer E. Leonard, John K. Love, Robert C. Lueders, Thomas F. Marczewski, Samson B. Margison, Velmer L. McClelland, Duane A. McCord, Gene L. Miller, John E. Musick, Bobby G. Pool, Sr., Robert Radcliff, Jr., Randolph M. Riffey, Billy G. Saunders, George D. Schell, Gerald L. Smith, Scottie Stewart, Clarence L. Swann, Jr., Robert Tatum, Thaddeus E. Temoney, Roberto R. Turpaud, Roy B. Waggoner, Harry C. Weber, and Yu Weng from the vision requirement in 49 CFR 391.41(b)(10), subject to the following conditions: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, so it may be presented to a duly authorized Federal, State, or local enforcement official.

In accordance with 49 U.S.C. 31315 and 31136(e), each exemption will be valid for 2 years unless revoked earlier by the FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136. If the exemption is still effective at the end of the 2-year period, the person may apply to the FMCSA for a renewal under procedures in effect at that time.

Authority: 49 U.S.C. 322, 31315 and 31136; 49 CFR 1.73.

Issued on: March 16, 2001.

Stephen E. Barber,

Acting Deputy Administrator, Federal Motor Carrier Safety Administration.

[FR Doc. 01–7279 Filed 3–22–01; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 290 (Sub No. 5) (2001–2)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved the second quarter 2001 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The second quarter 2001 RCAF (Unadjusted) is 1.076. The second quarter 2001 RCAF (Adjusted) is 0.588. The second quarter 2001 RCAF–5 is 0.565.

EFFECTIVE DATE: April 1, 2001.

FOR FURTHER INFORMATION CONTACT: H. Jeff Warren, (202) 565–1533. Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DA•TO•DA OFFICE SOLUTIONS, Suite 405, 1925 K Street, NW., Washington, DC 20423–0001, telephone (202) 466–5530. (Assistance for the hearing impaired is available through FIRS: 1–800–877–8339.)

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: March 19, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 01–7270 Filed 3–22–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 16, 2001.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before April 23, 2001 to be assured of consideration.

Financial Management Service (FMS)

OMB Number: 1510–0012.

Form Number: FMS Form 6314.

Type of Review: Extension.

Title: Annual Financial Statements of Surety Companies—Schedule F

Description: The information is obtained from Surety and Insurance Companies. It is used to compute the amount of unauthorized reinsurance in determining Treasury Certified Companies' underwriting limitations which are published in Treasury Circular 570 for use by Federal bond approving officers.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 368.

Estimated Burden Hours Per Respondent: 48 hours, 45 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 15,635 hours.

Clearance Officer: Juanita Holder, Financial Management Service 3700 East West Highway, Room 144, PGP II, Hyattsville, MD 20782,

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New

Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 01–7175 Filed 3–22–01; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 15, 2001.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before April 23, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0092.

Form Number: IRS Form 1041 and related Schedules D, J, and K–1.

Type of Review: Revision.

Title: U.S. Income Tax Return for Estates and Trusts.

Description: Internal Revenue Code (IRC) section 6012 requires that an annual income tax return be filed for estates and trusts. Data is used to determine that the estates, trusts, and beneficiaries filed the proper returns and paid the correct tax. IRC section 59 requires the fiduciary to recompute the distributable net income on a minimum tax basis.

Respondents: Business or other for-profit, individuals or households.

Estimated Number of Respondents/Recordkeepers: 3,496,119.

Estimated Burden Hours Per Respondent/Recordkeeper:

	Form 1041	Schedule D	Schedule J	Schedule K–1
Recordkeeping	46 hr., 37 min.	29 hr., 53 min.	39 hr., 27 min	8 hr., 51 min.
Learning about the law or the form	18 hr., 36 min.	2 hr., 34 min.	1 hr., 17 min.	1 hr., 17 min.
Preparing the form	35 hr., 4 min.	3 hr., 10 min.	1 hr., 59 min.	1 hr., 29 min.
Copying, assembling, and sending the form to the IRS.	4 hr., 17 min.			

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 364,219,012 hours.

OMB Number: 1545–1529.

Form Number: None.

Type of Review: Extension.

Title: Tip Reporting Alternative Commitment (Hairstyling Industry).

Description: Information is required by the Internal Revenue Service in its compliance efforts to assist employers and their employees in understanding and complying with section 6053(a), which requires employees to report all their tips monthly to their employers.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 4,600.

Estimated Burden Hours Per Respondent/Recordkeeper: 9 hours, 22 minutes.

Frequency of Response: On occasion

Estimated Total Reporting/Recordkeeping Burden: 43,073 hours.

OMB Number: 1545–1710.

Revenue Procedure Number: Revenue Procedure 2001–9.

Type of Review: Extension.

Title: Form 940 e-file Program.

Description: Revenue Procedure 2001–9 provides guidance and the requirements for participating in the Form 940 e-file Program.

Respondents: Business or other for-profit, not-for-profit institutions, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents/Recordkeepers: 390,685.

Estimated Burden Hours Per Respondent/Recordkeeper: 32 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 207,125 hours.

OMB Number: 1545–1717.

Form Number: None.

Type of Review: Extension.

Title: Tip Rate Determination Agreement (TRDA) for Most Industries.

Description: Information is required by the Internal Revenue Service in its tax compliance efforts to assist employers and their employees in understanding and complying with section 6053(a), which requires employees to report all their tips monthly to their employers.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 100.

Estimated Burden Hours Per Respondent/Recordkeeper: 58 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 1,897.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 01–7176 Filed 3–22–01; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 66, No. 57

Friday, March 23, 2001

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.

GENERAL SERVICES ADMINISTRATION

Proposed Modification: Catalog of Federal Domestic Assistance Publication Policy

Correction

In notice document 01–6675 beginning on page 15480 in the issue of Monday, March 19, 2001, make the following corrections:

1. On page 15481, in the first column, under the heading **SUMMARY**, in the sixth line, ''verity'' should read ''verify''.

2. On the same page, in the second column, in the signature, the name ''David A. Bradkin'' should read ''David A. Drabkin''.

[FR Doc. C1–6675 Filed 3–22–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. FAA-2000-8552 Amendment No. 91-265]

RIN 2120-AH16

Emergency Locator Transmitters

Correction

In rule document 00–32511 beginning on page 81316 in the issue of Friday, December 22, 2000, make the following correction:

§91.207 [Corrected]

On page 81319, in §91.207(f)(1), in the third column, in the first line, ''turbo-powered'' should read ''turbojet-powered''.

[FR Doc. C0–32511 Filed 3–22–01; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,
March 23, 2001

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions and Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j); Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6949–7]

RIN 2060–AF31

National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions; and Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed amendments.

SUMMARY: *General Provisions (Subpart A).* On March 16, 1994, the EPA promulgated General Provisions for national emission standards for hazardous air pollutants (NESHAP) and other regulatory requirements that are established under section 112 of the Clean Air Act as amended in 1990 (CAA or Act) (59 FR 12408). In today's action, we are proposing amendments to the General Provisions that would revise and clarify several of the current provisions.

We are proposing these amendments, in part, as a result of decisions reached in settlement negotiations conducted between petitioners, who filed for review of the General Provisions, and the EPA. The proposed amendments also reflect internal EPA discussions on issues regarding implementation of the General Provisions.

Section 112(j) Provisions (Subpart B). In addition, in today's action, we are proposing amendments to rules that establish equivalent emission limitations by permit under section 112(j) of the Act. The ''section 112(j)'' rule establishes requirements and procedures for owners or operators of major sources of hazardous air pollutants (HAP), and permitting authorities, to comply with section 112(j). The section 112(j) rule was promulgated on May 20, 1994 (59 FR 26429).

These proposed amendments have been developed in response to settlement negotiations conducted between petitioners, who filed for review of the section 112(j) rule, and the EPA. The proposed amendments also reflect internal EPA discussions regarding implementation of the section 112(j) rule.

DATES: *Comments.* Submit comments on or before May 22, 2001.

Public Hearing. If anyone contacts us requesting to speak at a public hearing by April 2, 2001, a public hearing will be held on April 23, 2001.

ADDRESSES: *Comments.* Written comments should be submitted (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–2001–02, Part 63 General Provisions (Subpart A) and Section 112(j) Regulations (Subpart B) Litigation Settlement Amendments, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460. We request a separate copy also be sent to the appropriate contact person listed below in the **FOR FURTHER INFORMATION CONTACT** section.

Public Hearing. If a public hearing is held, it will be held at 10:00 a.m. on April 23, 2001 in our Office of Administration Auditorium, Research Triangle Park, North Carolina, or at an alternate site nearby.

Docket. Docket No. A–2001–02, Part 63 General Provisions (Subpart A) and Section 112(j) Regulations (Subpart B) Litigation Settlement Amendments, contains information relevant to today's proposed rulemaking. This 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 is available for public inspection and copying from 8:30 a.m. and 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For further information about the proposed rule amendments, contact Mr. James Szykman, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5469, E-mail szykman.jim@epa.gov; or Mr. Rick Colyer, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5262, E-mail colyer.rick@epa.gov.

For questions about the public hearing, contact Ms. Dorothy Apple, Policy, Planning and Standards Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–4487, E-mail *apple.dorothy@epa.gov.*

SUPPLEMENTARY INFORMATION:

Comments. Comments and data may be submitted by electronic mail (e-mail) to: a-and-r-docket@epa.gov. Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems and will also be accepted on disks in WordPerfect® version 5.1, 6.1 or Corel 8 file format. All comments and data submitted in electronic form must note the docket number A–2001–02, Part 63 General Provisions (Subpart A) and section 112(j) Regulations (Subpart B) Litigation Settlement Amendments. 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. Rick Colyer, c/o OAQPS Document Control Officer (Room 740B), U.S. Environmental Protection Agency, 411 W. Chapel Hill Street, Durham, NC 27701. We 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 we receive it, the information may be made available to the public without further notice to the commenter.

Public Hearing. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. Dorothy Apple at least 2 days in advance of the public hearing. Persons interested in attending such a public hearing must also contact Ms. Apple to verify the time, date, and location of the hearing. The address, telephone number, and e-mail address for Ms. Apple are listed in the preceding **FOR FURTHER INFORMATION CONTACT SECTION.** If a public hearing is held, it will provide interested parties the opportunity to present data, views, or arguments concerning these proposed amendments.

Docket. The docket is an organized and complete file of all the information considered by us 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.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's proposed rule amendments 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 all section 112 source categories listed under section 112(c) of the CAA.

Industry Group: Source Category

Fuel Combustion:
- Combustion Turbines
- Engine Test Facilities
- Industrial Boilers
- Institutional/Commercial Boilers
- Process Heaters
- Reciprocating Internal Combustion Engines
- Rocket Testing Facilities

Non-Ferrous Metals Processing:
- Primary Aluminum Production
- Primary Copper Smelting
- Primary Lead Smelting
- Primary Magnesium Refining
- Secondary Aluminum Production
- Secondary Lead Smelting

Ferrous Metals Processing:
- Coke By-Product Plants
- Coke Ovens: Charging, Top Side, and Door Leaks
- Coke Ovens: Pushing, Quenching, Battery Stacks
- Ferroalloys Production: Silicomanganese and Ferromanganese
- Integrated Iron and Steel Manufacturing
- Iron Foundries Electric Arc Furnace (EAF) Operation
- Steel Foundries
- Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration

Mineral Products Processing:
- Alumina Processing
- Asphalt Concrete Manufacturing
- Asphalt Processing
- Asphalt Roofing Manufacturing
- Asphalt/Coal Tar Application—Metal Pipes
- Clay Products Manufacturing
- Lime Manufacturing
- Mineral Wool Production
- Portland Cement Manufacturing
- Refractories Manufacturing
- Taconite Iron Ore Processing
- Wool Fiberglass Manufacturing

Petroleum and Natural Gas Production and Refining:
- Oil and Natural Gas Production
- Natural Gas Transmission and Storage
- Petroleum Refineries—Catalytic Cracking (Fluid and other) Units, Catalytic Reforming Units, and Sulfur Plant Units
- Petroleum Refineries—Other Sources Not Distinctly Listed

Liquids Distribution:
- Gasoline Distribution (Stage 1)
- Marine Vessel Loading Operations
- Organic Liquids Distribution (Non-Gasoline)

Surface Coating Processes:
- Aerospace Industries
- Auto and Light Duty Truck
- Large Appliance
- Magnetic Tapes
- Manufacture of Paints, Coatings, and Adhesives
- Metal Can
- Metal Coil
- Metal Furniture
- Miscellaneous Metal Parts and Products
- Paper and Other Webs
- Plastic Parts and Products
- Printing, Coating, and Dyeing of Fabrics
- Printing/Publishing
- Shipbuilding and Ship
- Wood Building Products
- Wood Furniture

Waste Treatment and Disposal:
- Hazardous Waste Incineration
- Municipal Landfills
- Off-Site Waste and Recovery Operations
- Publicly Owned Treatment Works (POTW) Emissions
- Sewage Sludge Incineration
- Site Remediation
- Solid Waste Treatment, Storage and Disposal Facilities (TSDF)

Agricultural Chemicals Production:
- Pesticide Active Ingredient Production

Fibers Production Processes:
- Acrylic Fibers/Modacrylic Fibers Production
- Rayon Production
- Spandex Production

Food and Agriculture Processes:
- Manufacturing of Nutritional Yeast
- Cellulose Food Casing Manufacturing
- Vegetable Oil Production

Pharmaceutical Production Processes:
- Pharmaceuticals Production

Polymers and Resins Production:
- Acetal Resins Production
- Acrylonitrile-Butadiene-Styrene Production
- Alkyd Resins Production
- Amino Resins Production
- Boat Manufacturing
- Butyl Rubber Production
- Carboxymethylcellulose Production
- Cellophane Production
- Cellulose Ethers Production
- Epichlorohydrin Elastomers Production
- Epoxy Resins Production
- Ethylene-Propylene Rubber Production
- Flexible Polyurethane Foam Production
- Hypalon (tm) Production
- Maleic Anhydride Copolymers Production
- Methylcellulose Production
- Methyl Methacrylate-Acrylonitrile-Butadiene-Styrene Production
- Methyl Methacrylate-Butadiene-Styrene Terpolymers Production
- Neoprene Production
- Nitrile Butadiene Rubber Production
- Nitrile Resins Production
- Non-Nylon Polyamides Production
- Phenolic Resins Production
- Polybutadiene Rubber Production
- Polycarbonates Production
- Polyester Resins Production
- Polyether Polyols Production
- Polyethylene Terephthalate Production
- Polymerized Vinylidene Chloride Production
- Polymethyl Methacrylate Resins Production
- Polystyrene Production
- Polysulfide Rubber Production
- Polyvinyl Acetate Emulsions Production
- Polyvinyl Alcohol Production
- Polyvinyl Butyral Production
- Polyvinyl Chloride and Copolymers Production
- Reinforced Plastic Composites Production
- Styrene-Acrylonitrile Production
- Styrene-Butadiene Rubber and Latex Production

Production of Inorganic Chemicals:
- Ammonium Sulfate Production—Caprolactam By-Product Plants
- Carbon Black Production
- Chlorine Production
- Cyanide Chemicals Manufacturing
- Fumed Silica Production
- Hydrochloric Acid Production
- Hydrogen Fluoride Production
- Phosphate Fertilizers Production
- Phosphoric Acid Manufacturing
- Uranium Hexafluoride Production

Production of Organic Chemicals:
- Ethylene Processes
- Quaternary Ammonium Compounds Production
- Synthetic Organic Chemical

Miscellaneous Processes:
- Benzyltrimethylammonium Chloride Production
- Butadiene Dimers Production
- Carbonyl Sulfide Production
- Cellulosic Sponge Manufacturing
- Chelating Agents Production
- Chlorinated Paraffins
- Chromic Acid Anodizing
- Commercial Dry Cleaning (Perchloroethylene)—Transfer Machines
- Commercial Sterilization Facilities
- Decorative Chromium Electroplating
- Dry Cleaning (Petroleum Solvent)
- Ethylidene Norbornene Production
- Explosives Production
- Flexible Polyurethane Foam Fabrication Operations
- Friction Products Manufacturing
- Halogenated Solvent Cleaners
- Hard Chromium Electroplating
- Hydrazine Production
- Industrial Cleaning (Perchloroethylene)—Dry-to-dry Machines
- Industrial Dry Cleaning (Perchloroethylene)—Transfer Machines
- Industrial Process Cooling Towers
- Leather Tanning and Finishing Operations
- OBPA/1,3-Diisocyanate Production
- Paint Stripping Operations
- Photographic Chemicals Production
- Phthalate Plasticizers Production
- Plywood and Composite Wood Products
- Polyether Polyols Production

Pulp and Paper Production
Rubber Chemicals Manufacturing
Rubber Tire Manufacturing
Semiconductor Manufacturing
Symmetrical Tetrachloropyridine Production
Categories of Area Sources:
Chromic Acid Anodizing
Commercial Dry Cleaning (Perchloroethylene)—Dry-to-Dry Machines
Commercial Dry Cleaning (Perchloroethylene)—Transfer Machines
Commercial Sterilization Facilities
Decorative Chromium Electroplating
Halogenated Solvent Cleaners
Hard Chromium Electroplating
Secondary Lead Smelting

This list is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether you are regulated by this action, you should examine your source category specific section 112 regulation. 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. General Provisions
B. Section 112(j) Provisions
II. Proposed Amendments to the General Provisions
A. Presumptive Applicability of the General Provisions
B. Definition of Affected Source
C. Other Definitions
D. Prohibited Activities and Circumvention
E. Preconstruction Review
F. Startup, Shutdown and Malfunction Plans
G. Compliance Provisions
H. Test Methods
I. Monitoring Requirements
J. Notification Requirements
K. Recordkeeping and Reporting Requirements
L. Lesser Quantity
M. Clarification and Consistency
III. Proposed Amendments to the Section 112(j) Provisions
A. Applicability
B. Definitions
C. Approval Process
D. Application Content
E. Preconstruction Review
F. Enforcement Liability
G. MACT Determinations
H. Case-by-Case MACT Requirements after Promulgation of a Subsequent MACT Standard
I. Section 112(j) Guidelines Document
IV. Additional Issues
A. Discussion of the Relationship Among Requirements Under Section 112(d), (g), and (j)
B. Potential to Emit
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 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. General Provisions

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. Major sources of HAP are those that have the potential to emit greater than 10 tons/yr of any one HAP or 25 tons/yr of any combination of HAP. Area sources of HAP are those sources that do not have potential to emit greater than 10 tons/yr of any one HAP and 25 tons/yr of any combination of HAP. The General Provisions to 40 CFR part 63 establish the framework for emission standards and other requirements developed pursuant to section 112 of the Act. The General Provisions eliminate the repetition of general information and requirements in individual NESHAP by consolidating all generally applicable information in one location. They include sections on applicability, definitions, compliance dates and requirements, monitoring, recordkeeping and reporting, among others. In addition, they include administrative sections concerning actions that the EPA (or delegated authorities) must take, such as making determinations of applicability, reviewing applications for approval of new construction, responding to requests for extensions or waivers of applicable requirements, and generally enforcing national air toxics standards. The General Provisions become applicable to a section 112(d) source category rule when the source category rule is promulgated and becomes effective.

The General Provisions to part 63 were developed in a collaborative process that included input from industry and other interested parties. On August 11, 1993, we proposed the General Provisions in the **Federal Register** (58 FR 42760). We received numerous comments on that proposal from industry groups, environmental groups, and State and local agencies, and those comments addressed a wide range of issues and requirements in the proposed rulemaking. We published our final decisions regarding the General Provisions in the **Federal Register** on March 16, 1994 (59 FR 12408). In the preamble to the promulgated rule, we discussed major comments on the proposal and our responses to those comments. We addressed other comments in the Background Information Document (BID) for the promulgated rulemaking (EPA–450/3–91–019b). In responding to comments, we made some changes and some clarifications to the final package and retained other provisions where the Agency believed it was appropriate to do so. On May 16, 1994, six petitioners filed for review of the General Provisions. They cited a variety of issues raised in comments on the proposed rule whose resolution they believed to be inappropriate. In addition, we have identified other changes that would clarify the EPA's original intent. The amendments to the General Provisions being proposed today constitute the outcome of settlement negotiations between the EPA and the petitioners and internal Agency discussions.

The amendments proposed in today's action would have the effect of clarifying certain sections of the General Provisions and of altering other sections.

B. Section 112(j) Provisions

The 1990 Amendments to section 112 of the CAA include a new section 112(j), which is entitled ''Equivalent Emission Limitation by Permit.'' Section 112(j)(2) provides that the provisions of section 112(j) apply if the EPA misses a deadline for promulgation of a standard under section 112(d) established in the source category schedule for standards. After the effective date of a title V permit program in a State, section 112(j)(3) requires the owner or operator of a major source in a source category, for which the EPA failed to promulgate a section 112(d) standard, to submit a permit application 18 months after the missed promulgation deadline. Section 112(j)(5) also specifies that if the applicable criteria for voluntary early reductions established under section 112(i)(5) are met, then this alternative emission limit satisfies the requirements of section 112(j), provided that the emission reductions are achieved by the missed promulgation date.

The proposed rule implementing section 112(j) of the CAA was published on July 13, 1993 (58 FR 37778). The public comments were considered, and changes we deemed appropriate were made in developing a final rule.

On May 20, 1994 (59 FR 26429), we issued a final rule for implementing section 112(j). That rule requires major source owners or operators to submit a permit application by the date 18 months after a missed date on the regulatory schedule. As required under section 112(j) of the Act, the section 112(j) rule establishes requirements for the content of permit applications, contains provisions governing the establishment of the maximum achievable control technology (MACT)-equivalent emission limitations by the permitting authority, includes the criteria for the reviewing authority to determine completeness, and allows the applicant up to 6 months to revise and resubmit the application. As required in subsection 112(j)(5) of the Act, the rule also establishes compliance dates:

> No such pollutant may be emitted in amounts exceeding an emission limitation contained in a permit immediately for new sources and, as expeditiously as practicable, but not later than the date 3 years after the permit is issued for existing sources or such other compliance date as would apply under subsection (i).

Several petitioners filed for review of several provisions of the section 112(j) rule that they believed needed to be clarified or streamlined. The amendments to the section 112(j) rule being proposed today constitute the outcome of settlement negotiations between the EPA and the litigants. In addition, we have made other clarifying changes we consider to be appropriate.

II. Proposed Amendments to the General Provisions

A. Presumptive Applicability of the General Provisions

We are proposing to amend the presumptive applicability of 40 CFR part 63, subpart A (General Provisions). The promulgated rule applies, in its entirety (§§ 63.1 through 63.15), to owners or operators of an affected source subject to a relevant subpart established under 40 CFR part 63, unless otherwise indicated in the subpart. This presumption was intended to eliminate the repetition of requirements that would be applicable to all owners or operators affected by the General Provisions. To date, relevant subparts typically include a General Provisions applicability table that delineates the provisions that apply and do not apply.

We recognized concern that potential confusion could result by applying the General Provisions presumptively when they are not tailored to the circumstances of each relevant subpart. For example, a relevant subpart could indicate that all of the monitoring requirements of § 63.8 of the General Provisions apply. Some of the requirements in § 63.8 are inappropriate for some sources and may confuse an owner or operator (e.g., requirements for continuous opacity monitoring systems (COMS) in § 63.8 are not appropriate for all sources).

The objective of the General Provisions, i.e., to avoid repetitive redrafting of common provisions in each subpart of the part, is valid and should be preserved. Therefore, today we are proposing a revised applicability of the General Provisions that would retain the benefits and reduce or eliminate the potential for confusion. This proposed action would not reduce or narrow the scope of applicable requirements. Instead, it would reduce the confusion as to the actual requirements of each applicable subpart.

We have determined that the dual objectives of efficiency and clarity can best be met by including in each part 63 subpart a table that specifies precisely which subpart A General Provisions are and are not included in such subpart. Many existing part 63 subparts already include such a table, and this has been very helpful for both the regulatory authorities and the regulated community. These tables specify applicability down to the subparagraph level of detail so that there is no doubt as to the total universe of applicable General Provisions. In some instances, we have determined that a general provision should apply but that a very minor change to that provision is appropriate for a specific standard. In such cases, we may indicate in the table that the general provision does apply but with that minor change, or we may indicate in the table that the general provision does not apply. In the latter case, the appropriate requirement would be set out in its entirety in the subpart. Either approach is acceptable provided there is no compromise to clarity.

To streamline part 63 subparts and to avoid imposing conflicting requirements on sources subject to more than one part 63 subpart or to subparts under other parts, we have often allowed compliance with one subpart (sometimes with some changes) to constitute compliance with the other(s). We recognize that each subpart incorporates some or all of the General Provisions of the part under which it is promulgated. Therefore, if a part 63 subpart incorporates portions of other subparts, we will clarify the precise extent to which the General Provisions that are incorporated in other subparts become incorporated in the part 63 subpart in a table of General Provision applicability for each part, and we will explicitly state the resolution of any conflicts between applicable General Provisions of the various parts. It is important to note that, in addition to the changes to the presumptive applicability of the General Provisions, today's proposal includes changes to a number of other sections of the General Provisions (e.g., definitions). The effect of the proposed changes on relevant subparts that have already been promulgated depends on the manner in which the General Provisions were incorporated into the relevant subparts. If a relevant subpart specifically set out General Provisions that are subject to today's proposal (i.e., wrote the relevant General Provision in the relevant subpart itself), then that subpart is not affected since today's proposal pertains only to the General Provisions and does not include a proposal to change the specific provisions of promulgated subparts.

However, if a relevant subpart incorporates by reference General Provisions that are subject to today's proposal or if the General Provisions presumptively applied to a relevant subpart, then the changes to the General Provisions being proposed today would apply to the extent that the changed provisions are incorporated by reference into, or presumptively apply to, the existing relevant subpart. Based on an analysis of the potential impact of these proposed changes on promulgated subparts, we do not believe they have disrupted the integrity of the promulgated subparts. We have not identified any conflicts that would result in contradictory or incompatible effects from the promulgation of today's proposed amendments. Also, we identified no cross-reference conflicts due to adding or deleting paragraphs or subparagraphs that were cross-referenced by previously promulgated part 63 subparts. However, we are requesting comment on any conflicts identified by others that result solely from applying these proposed amendments to the General Provisions to promulgated part 63 subparts.

B. Definition of Affected Source

1. Background on the Term ''Affected Source''

The General Provisions define the term ''affected source'' to be ''* * * the stationary source, the group of stationary sources, or the portion of a stationary source that is regulated by a relevant standard or other requirement established pursuant to section 112 of the Act.'' (40 CFR 63.2). We have defined and used this term primarily as

a means of specifying for each part 63 subpart what equipment or activities are affected. In practice, each source-category-specific section 112(d) or (h) standard (MACT standard) promulgated to date has either directly or implicitly defined affected source to be the collection of processes, activities, or equipment to which a specific MACT standard applies. Thus, the term ''affected source'' has been principally used to define the applicability of MACT standards.

The term ''affected source'' also serves a second purpose in conjunction with other terms and provisions contained in the General Provisions; it defines where new source MACT applies under a relevant standard. Specifically, the General Provisions define the terms ''construction'' and ''reconstruction'' with reference to the term ''affected source'' (40 CFR 63.2) and provide that new source MACT applies when construction and reconstruction occur (40 CFR 63.5). For example, if an affected source is defined in a relevant standard to be an integrated process unit, then new source MACT would be triggered under that relevant standard by constructing a new integrated process unit or reconstructing an existing integrated process unit, unless that relevant standard provides otherwise.

It is important to note that, while the term ''affected source'' currently functions both to define the applicability of relevant standards and to specify where new source MACT applies, it has not had a significant bearing on the process of determining the MACT floor or establishing MACT emission limitations. Specifically, our practice in developing MACT standards for source categories or subcategories is to organize, as appropriate, the available information for the HAP-emitting equipment and activities within the category or subcategory and to perform the analyses to determine MACT for the category or subcategory. Available information leads us to organize equipment and activities within source categories into related groups (i.e., tanks, process vents, equipment leaks) and to determine the MACT floor and MACT for each group. In other situations, we are able to use available information collectively for all the HAP-emitting equipment and activities within the source category or subcategory in determining the MACT floor and MACT. In either situation, we ensure that MACT is at least as stringent as the MACT floor for the HAP-emitting equipment and activities fulfilling the requirements of CAA section 112(d)(2) and (3).

2. Questions Raised by the Petitioners

The principal concerns of the petitioners regarding the definition and use of the term ''affected source'' relate to its role in defining the scope of a section 112(c) source category or subcategory covered by a MACT standard, determining where new source MACT applies, and certain reporting obligations (e.g., notifications and approvals under § 63.5). For example, the petitioners contend that new source MACT should only be triggered by constructing or reconstructing significant collections of equipment. In other words, they believe that new source MACT should not be triggered by the installation of small sources, such as a single valve or a single reactor that is part of a larger, integrated process. Instead, they believe that the applicability of new source MACT should be guided by consideration of size, functional relationship, and other factors that would prescribe a measure of significance in the new source MACT applicability analysis.

The petitioners' specific concerns relate to the fact that the existing definition of ''affected source'' provides, without limitation, that the affected source may be defined to be any size, even as small as a piece of a stationary source (e.g., a single pump or valve). Since ''construction'' and ''reconstruction'' are defined with reference to ''affected source,'' the possible result is that new source MACT may be prescribed inappropriately for small activities, a result that is contrary to the petitioners' legal and practical view as to where new source MACT should apply.

Moreover, the petitioners are concerned that the dual roles of the term ''affected source'' (i.e., defining the applicability of relevant standards and prescribing where new source MACT applies) are confusing and potentially inconsistent. For example, when considering the role of ''affected source'' in defining the applicability of relevant standards, it may be useful to define the term broadly so that all the equipment in the section 112(c) source category or subcategory can be accommodated within a single unified subpart. However, when considering the role of ''affected source'' in determining where new and existing source MACT apply, circumstances may dictate that new source MACT should apply to a collection of equipment that is smaller than the entire collection subject to the subpart. In such a case, the use of the one term ''affected source'' for two roles is potentially irreconcilable.

3. Discussion of Affected Source

Although our interpretation of the statute differs from the petitioners' interpretation, we agree that new source MACT should be applied to units for which new source MACT is reasonable. We believe that using tools available under the statute, such as applicability cutoffs, subcategorization, and emission averaging, achieves this result. However, as a first step toward addressing the petitioners' concerns, we and the petitioners reviewed promulgated subparts to determine how ''affected source'' was defined and to assess whether new source MACT has been applied reasonably to these affected sources.

We found that our decisions on affected sources have appropriately considered the application of MACT to new sources. We believe we have reasonably determined when construction of a collection of equipment should be subject to new source MACT. Specifically, where we have determined that new source MACT should apply to less than the entire collection of regulated equipment, the results have not produced the kind of unreasonable outcomes that were expressed by the petitioners.

As noted above, in selecting the affected source(s) for particular MACT standards, our primary task is to ensure that MACT is applied to all the HAP-emitting equipment within the source category being regulated and, therefore, affected by the MACT standards for that source category. The collection of equipment evaluated in determining MACT (including the MACT floor) is usually the collection of equipment used in defining the affected source. Because of the data structures for estimating the MACT floor and the interactions of equipment types within the source category, we have occasionally performed the MACT floor analysis on subsets of all the equipment in the category. While available data requires us to evaluate such subsets of equipment, the overall result of this evaluation is that MACT can be determined. Accordingly, the aggregated collection of equipment would constitute the affected source for the MACT standards. For example, MACT for equipment leaks of organic chemicals is based on an overall program of leak detection and repair that is not practicable for single pieces of equipment. Similarly, many process vents are controlled after they are brought together by a collection system. Such engineering solutions are common throughout the source categories for which MACT standards have been or

are being developed. For such situations, it is necessary to define the affected source broadly to address these practical considerations in determining and implementing MACT. We have occasionally defined the affected source differently for equipment affected by existing source MACT and equipment affected by new source MACT. This has resulted from the differences in existing source MACT and new source MACT, as well as a desire to provide owners with flexibility through emissions averaging across a broad array of existing equipment at plant sites. Some source categories are essentially comprised of a small number of independent HAP-emitting equipment that has no functional interactions at the process level and is controlled separately. In such cases, it may be reasonable from a MACT implementation perspective to have separate affected sources for purposes of focusing new source MACT applicability.

When a MACT standard is based on total emissions from all the equipment in a source category, we select an affected source based on such equipment. This approach makes sense for industries where a categorywide emission standard provides the opportunity and incentive for owners and operators to utilize control strategies that are significantly more cost effective than if standards were established for each emission point within a plant. In selecting such an affected source, we ensure that the overall emission reduction is equivalent to that obtained through a MACT standard established for each emission point within a plant. Examples of where we have adopted this approach include the standards for Wood Furniture Operations (40 CFR part 63, subpart JJ) and Polymers and Resins II (40 CFR part 63, subpart W).

In other situations, we have designated all or a portion of the collection of equipment within the source category or subcategory as the affected source. For example, in the NESHAP for Halogenated Solvent Cleaning (degreasing) (part 63, subpart T), the affected source is defined as each individual batch vapor, in-line vapor, in-line cold, and batch cold solvent cleaning machine that uses specified solvents. However, in the Hazardous Organic NESHAP (HON) (part 63, subparts F, G, and H), we selected an aggregate of all equipment in the chemical manufacturing process units (CMPU) at a major source in the synthetic organic chemical manufacturing industry as the affected source for existing source MACT. In this case, we developed MACT after evaluating equipment in groups (*e.g.*, tanks, process vents, and equipment leaks) with the affected source as the aggregated equipment, allowing emissions averaging provisions to be implemented. At the same time, we selected a major emitting CMPU as the basis for the affected source for new source MACT.

We recognize that an implication of selecting a narrow definition of affected source (*e.g.*, a dry cleaning tank and associated equipment) is that new source MACT requirements could be triggered more easily than if the affected source were defined as a plant or a collection of equipment. We believe that this is appropriate where the emission reduction and cost impacts are reasonable. For example, under the perchloroethylene dry cleaning standards, a new cleaning machine added to an existing facility in the source category would be a new source, subject to new source MACT. We determined that new source MACT controls were readily available and economically feasible for major source dry cleaners.

In most NESHAP promulgated thus far, existing source MACT and new source MACT have been determined to be equivalent or only slightly different in terms of the emission reduction that must be achieved. This is also the case in the degreasing and chrome electroplating NESHAP. Thus, as a practical matter, the control requirements for a new electroplating tank would have been the same, regardless of whether that tank was considered a separate new affected source or an addition to an affected source. However, we recognize that there is an additional burden on owners and operators attributable to a narrower definition of affected source, mainly associated with reporting requirements. The General Provisions already address this burden by requiring only a routine notification when adding a new nonmajor-emitting affected source and not the preconstruction review required for major new affected sources.

As indicated in the above discussion, we believe we have followed a reasonable decision-making process in developing all NESHAP under section 112(d) while appropriately exercising our discretion based on industry-specific circumstances. Furthermore, we believe that our approach has not resulted in significant inconsistencies in how new source MACT is applied and the burden that may be imposed. However, in light of concerns raised by the petitioners, we agree that the potential for such inconsistencies to arise in future relevant standards is greater if the decision-making process is not more formally defined. Accordingly, we agreed to clarify the basis for selecting affected sources. In addition, we are proposing a minor amendment to the General Provisions to address this concern. We are proposing that for each future relevant standard we develop, we will explicitly define the terms ''affected source'' and ''new affected source.'' The use of two terms will clarify the applicability of existing source MACT and determine where new source MACT should apply. As a general matter, we are proposing that the affected source for a particular relevant standard will consist of all existing HAP-emitting equipment and activities at a single contiguous site which are within a specific section 112(c) source category or subcategory. During the standards-setting process, we may find it appropriate, after gathering sufficient information, to combine several listed categories into one, or to further divide the category into subcategories. This does not affect our authority to distinguish among classes, types, and sizes of sources in establishing emission standards. The statute and associated legislative history afford us substantial latitude in defining an affected source, but we are electing to adopt this general approach to the affected source definition because it is responsive to the concerns articulated by the petitioners, and it will foster greater predictability and consistency of regulatory outcomes. As noted above, combining disparate types of equipment and activities within a single affected source does not preclude a separate assessment of the emissions from particular types of equipment or activities. Moreover, a standard for a larger affected source may still be a composite of sublimits or other elements expressly directed at particular types of equipment or activities.

Although we have decided that it is generally sensible to define an affected source broadly, our experience in developing and promulgating NESHAP indicates that there will be instances where a broad definition will result in significant administrative, practical, or implementation problems, and a narrower definition would resolve those problems. Thus, today's proposal would allow us to more narrowly define affected source in a particular MACT standard, but the MACT standard must be accompanied by a justification of why defining the affected source as all equipment in the section 112(c) source category or subcategory would result in significant administrative, practical, or implementation problems, and why the

narrower definition would resolve the problems.

Defining the ''new affected source'' for each relevant standard will ensure a more formal consideration of the implications of applying new source MACT to affected sources potentially subject to new source MACT. The ''new affected source'' is a collection of equipment or activities that, if constructed, would be required to comply with new source MACT. In deciding what will constitute the new affected source for MACT applicability purposes, we would consider the following factors: (1) Emission reduction impacts of controlling individual sources versus groups of sources; (2) cost effectiveness of controlling individual equipment; (3) flexibility to accommodate common control strategies; (4) cost/benefits of emissions averaging; (5) incentives for pollution prevention; (6) feasibility and cost of controlling processes that share common equipment (e.g. product recovery devices); (7) feasibility and cost of monitoring; and (8) other relevant factors.

When new source MACT can reasonably be applied considering the eight factors in the definition of ''new affected source,'' this collection may be different from the affected source. Accordingly, in selecting the new affected source, we would have considered whether an appropriate basis exists for establishing a definition for the new affected source that differs from the affected source definition. In selecting the new affected source, we will explain our basis for this selection. We will also consider the information and analyses that are offered by interested persons.

The new affected source definition will differ from the affected source definition in a particular MACT standard only where a distinction is warranted based on the foregoing identified factors. As discussed above, the proposal also affords us discretion to define affected source as different from all of the equipment in the source category or subcategory for a particular MACT standard where warranted based on special circumstances. Any exercise of our discretion with regard to the affected source definition is distinct from the question of the new affected source definition. Thus, even where we define affected source differently, we do not intend thereby to alter in any way the manner in which the foregoing specified factors will be applied to select an appropriate definition for new affected sources.

We believe that ''new affected sources'' defined in previously promulgated NESHAP are consistent with this new process. We are proposing the new process to ensure openness to the decisions on where to apply new source MACT. For example, in the HON rule, the affected source definition broadly encompasses a number of discrete processes at a facility. In this situation, it was reasonable to require new source MACT when a major-emitting chemical manufacturing process unit is constructed. The openness and consideration of relevant factors resulted in the reasonable application of new source MACT.

In setting a MACT standard, we will also consider whether a sufficient reason exists for defining ''reconstruction'' differently from the definition currently found in the General Provisions. The generic definition looks primarily to whether replaced equipment exceeds 50 percent of the fixed capital cost of an affected source, but also allows for consideration of technical and economic feasibility. We propose to amend the General Provisions to allow a different definition of ''reconstruction'' for specific MACT standards where warranted by technical and economic considerations. For example, we may find that because of the functional interrelationship of equipment encompassed by the affected source, it is reasonable to provide that new source MACT will apply only where 75 percent of the fixed capital cost of the source is replaced. We would then codify this definition of ''reconstruction'' into that specific MACT standard.

An explicit discussion of this decision-making process and the factors considered in developing standards under section 112(d) will also guide States in developing section 112(j) MACT determinations. In addition, we would also like to clarify that, if a State defines the new affected source in a section 112(j) determination as adding a major-emitting process or production unit (such as in 40 CFR 63.41), we would not object to such an approach.

C. Other Definitions

1. Construction

We are proposing to clarify in today's amendments the effect of relocating an existing source subject to MACT. The issue is whether or not a relocated source is ''constructed,'' and thus subject to new source MACT. In the Background Information Document for the Promulgated General Provisions Regulations for 40 CFR Part 63 (EPA 450/3–91–019b, Feb 94), which contains our response to comments for the part 63 General Provisions, we stated our intended outcome on the issue of relocation. In general, we stated that when an existing source relocates and no other changes are made to the source, the source retains its existing source status. Changes to the source means any changes to the source's process or control equipment, method of operation, or emissions. The source would be subject to new source requirements if, in the process of relocating, the source was reconstructed, i.e., significant replacement of components.

However, the definition of construction in the General Provisions does not lead to our intended outcome. The definition states that construction is ''* * * the on-site fabrication, erection, or installation of an affected source.''

We are proposing to amend the definition of construction in § 63.2 by adding: ''Construction does not include the removal of all equipment comprising an affected source from an existing location and reinstallation of such equipment at a new location. However, removal and reinstallation of an affected source will be construed as reconstruction if it satisfies the criteria for reconstruction as set forth below.'' Adding this language to the definition of construction will achieve our original intent.

2. Major Source

We are proposing to clarify the definition of a ''major source'' in the General Provisions, specifically pertaining to the effect of a public right of way through a major source. If a source would be a major source, except for the fact that it is intersected by a public right of way, such as a public road, it will still be considered a major source. However, if the sources would be considered separate plant sites without the public right of way, then the public right of way in and of itself does not create a single (possibly major) source.

The following examples illustrate this clarification. Suppose a plant site is a major source and a public road is built that intersects the plant site. Even though the public road may divide the plant site into two potentially nonmajor sources, the plant site will still be considered a major source because the source was considered a single plant site before the public right of way was built.

Suppose a nonmajor source, located along a public road, decides to build a new nonmajor source directly across the road. Even though the public road divides these two potentially nonmajor sources, they will be considered a single major source as long as the two sources are under common control and together

equal more than the major source threshold.

Finally, suppose a nonmajor source located along a public road decides to build a new nonmajor source down the road from the nonmajor source (the two sources are on tracts of land that are offset along the public right of way, such that they do not touch). If, without the public road (public right of way), there would be two noncontiguous plant sites and not a single plant site, the public right of way in and of itself would not create a major source. Therefore, both plant sites are considered nonmajor sources.

3. Working Day

We propose to add a definition for ''working day'' to clarify timeline requirements expressed in working days within the General Provisions. For example, § 63.6(e)(3) (startup, shutdown and malfunction plan requirements) requires that an owner or operator record actions taken during a startup, shutdown, or malfunction that are inconsistent with a startup, shutdown and malfunction plan within 2 working days after commencing the inconsistent actions. We are proposing to add a definition to clarify that a ''working day'' is any day on which Federal government offices (or State government offices for a State that has obtained delegation under section 112(l)) are open for normal business. Saturdays, Sundays, and official Federal (or where delegated, State) holidays would not constitute a ''working day.''

4. Compliance Plan

We are proposing to delete the ''compliance plan'' definition from the General Provisions. Representatives of sources have commented that compliance plans were required under title V and not under section 112 of the CAA. We assessed and agreed that there would not be an adverse or unintended effect from its deletion.

5. Part 70 Permit

We are proposing to delete the definition of ''part 70 permit'' because the definition of ''title V permit'' is more generic and deletion is consistent with other streamlining efforts in this proposal to remove unnecessary references to other authorities.

D. Prohibited Activities and Circumvention

We are proposing to delete § 63.4(b)(3) and create a new § 63.4(c) that clarifies our position on ''fragmentation.'' Section 63.4(b)(3) of the General Provisions prohibits circumvention of relevant standards by fragmenting an operation. Some have suggested that dividing production between various manufacturing facilities to reduce the potential to emit below regulatory thresholds at one or more facilities and, thus, avoid control requirements or permitting obligations, should be considered a legitimate compliance strategy. The prohibition against fragmentation is intended to prevent dividing an operation within the same facility among various owners and, thus, avoid applicability where there is no real change in control. Merely changing the name of the owner of a portion of a facility to a new corporate entity which is nonetheless still under common control should not be a compliance strategy that would legitimately avoid compliance.

Sources also cannot phase reconstruction activities to avoid applicable new source requirements. While we do not intend to circumscribe legitimate business or compliance strategies, we are proposing that activities that are fragmented or phased to stay within the 50 percent of fixed capital cost criteria in item (1) of the definition of ''reconstruction'' in § 63.2 shall be considered together for applying that criteria. Periodic replacement of equipment to maintain production to meet product demands should not be aggregated for determining whether reconstruction has occurred. To illustrate, if a process modernization project involves a new reactor, heat exchange system, separation devices and storage vessels, and separate contracts are awarded for various portions of the project, limiting each one to less than 50 percent of the replacement cost of a comparable new affected source, these contracts should be considered together in applying that 50 percent criteria. However, if the same process unit were expanded, debottlenecked, or upgraded over time by replacing these various components, the projects should not be considered together to determine whether the 50 percent of fixed capital cost is eventually exceeded since the projects were not phased (or fragmented) to avoid new source MACT.

E. Preconstruction Review

We are also proposing to amend the requirements for preconstruction review. We are proposing to amend the title of § 63.5 to more accurately reflect the contents of the section. The proposed title is ''Preconstruction Review and Notification Requirements.'' The following paragraphs discuss the more substantive proposed amendments.

1. Preconstruction Review Applicability

Under the current General Provisions, owners or operators of sources that commence construction or reconstruction after the proposal date of a relevant standard, but do not start up before the effective date of such standard, are required to undergo preconstruction review. We recognize that this requirement could cause costly delays as the owner or operator may be forced to cease construction or delay startup until a preconstruction review is completed.

We have concluded that sources commencing construction prior to the effective date of a relevant standard should not have to undergo preconstruction review under the General Provisions. We are proposing to amend § 63.5(a) of the General Provisions to exempt these sources from the requirement for preconstruction review. Thus, only sources that commence construction or reconstruction after the effective date of a relevant standard would be required to undergo such preconstruction review. However, regardless of whether preconstruction review is required, sources that commence construction or reconstruction after the proposal date of a relevant standard are subject to new source MACT requirements, and they must be in compliance at startup, or by the promulgation date of the NESHAP, if startup occurs prior to the promulgation date.

Similarly, we are proposing to amend § 63.5(a) to require preconstruction notification only for nonmajor-emitting affected sources that commence construction or reconstruction after the effective date (even though all affected sources commencing construction and reconstruction after proposal must meet new source MACT). The owners or operators of these sources, while not subject to preconstruction review, are subject to notification requirements. We are proposing to revise the related notification requirements in § 63.9(b)(5) to allow the source to request a reduction in the information required in the application to construct or reconstruct (§ 63.9(b)(5)(iii)). This flexibility should reduce the burden on smaller sources to comply with the notification requirements. However, in the event the permitting authority grants the source permission to not submit portions or all of the standard information, the source would still be required to keep this information on file and available for inspection.

We note that some owners and operators will be otherwise required to apply for and obtain a case-by-case

MACT determination under section 112(g) before commencing construction or reconstruction of a process or production unit. The proposed revisions of the preconstruction review requirements in the General Provisions do not alter in any way the obligation of an owner or operator to meet the separate requirements established by the EPA under section 112(g).

2. State Preconstruction Review

We evaluated the State preconstruction review requirements and recognized that owners or operators may object to another approval process when a source has already gone through a similar State preconstruction review process. We are proposing to allow States that have taken delegation of the General Provisions and of a relevant subpart to use their preconstruction review procedures to meet the preconstruction review requirements of § 63.5 when they are substantially equivalent (§ 63.5(f)(1)).

Under this proposal, we would allow owners or operators of affected sources to notify the Regional Office of a State's finding that their preconstruction review program requirements are substantially equivalent to the General Provision's preconstruction review requirements.This proposed change would allow States with existing programs for review of new sources for toxics to utilize their programs as long as they are ''substantially equivalent'' to those required under § 63.5 of the General Provisions. For an owner or operator of an affected source, it would also eliminate the burden of having to go through two similar preconstruction review procedures. This proposed change provides flexibility and reduces the potential burden for both the permitting authority and owners and operators of affected sources.

F. Startup, Shutdown, and Malfunction Plans

1. Incorporation in Title V Permit

The current General Provisions include a requirement that an affected source's startup, shutdown, and malfunction (SSM) plan ''be incorporated by reference into the source's title V permit.'' Some of the litigants, as well as some others in the regulated community, have expressed concern that this language could be construed to require permit revision procedures to be followed each time that an SSM plan is revised. We believe that it would be unduly burdensome and inappropriate to require that permit revision procedures be utilized each time an affected source revises its SSM plan.

We are proposing to delete the current language concerning ''incorporation by reference,'' replacing it with new language stating that the title V permit for an affected source must require that the owner or operator adopt a SSM plan and operate and maintain the source in accordance with the procedures specified in the plan. The new language makes it clear that, unless the permitting authority provides otherwise, an affected source may make appropriate revisions to a SSM plan without prior approval by the Administrator or the permitting authority. Further, because there are no requirements for prior review and approval of a SSM plan, permit revision procedures are not required in connection with revising the SSM plan, and the permit shield in CAA section 504(f) does not apply to the contents of a SSM plan.

In developing the new language, it became apparent that the current General Provisions do not adequately describe the procedures to be followed when an affected source revises its SSM plan. Accordingly, we are proposing to add new language requiring each affected source to report each revision to its SSM plan in the semiannual report required by § 63.10(d)(5). Moreover, the proposed language would require prior written notice to the permitting authority if an affected source intends to revise its SSM plan in a manner which would alter the scope of the activities that are deemed to be a startup, shutdown, or malfunction, or would otherwise modify the applicability of MACT requirements to the source.

Petitioners also expressed concern that the SSM plans must be submitted with the permit application because they are voluminous and may contain confidential information. Extracting the confidential business information parts of the plan for public submission would be a burdensome and needless exercise. If the permit writer deems it appropriate, then the SSM plan must be submitted. Additionally, the title V program requires the permit writer to make publicly available all parts of the permit, including plans, under 40 CFR 70.4(b)(3)(viii), which also limits confidential matters to those specified in CAA section 114(c). Thus, to minimize the unnecessary production of the SSM plan, the permit authority must require that the SSM plan be made publicly available only if requested by any person. However, if no person seeks a copy of the SSM plan, then there is no need for a source to submit it.

The source must develop, operate, maintain, and report according to such a plan. The owner or operator of an affected source must keep a copy of the SSM plan on record and available for inspection upon request by the Administrator. The Administrator may also request a copy of the SSM plan with confidential business information removed to provide to interested members of the public. In addition, the owner or operator is required to report on a semiannual basis that actions taken in response to SSM events were consistent with the SSM plan. If the owner or operator takes actions inconsistent with the SSM plan and the source exceeds the relevant emission standards, the owner or operator must report such actions periodically. An initial report is required within 2 working days after commencing actions inconsistent with the plan, and a followup letter is required within 7 working days after the end of the startup, shutdown, or malfunction event. We believe that the reporting and recordkeeping requirements associated with the SSM plan will ensure that owners and operators comply with the intent of the plan.

2. Enforceability of Operation and Maintenance Requirements

Section 63.6(e) of the General Provisions establishes the requirement for good operation and maintenance of air pollution control and monitoring equipment. We do not see this requirement as exposing a source to enforcement liability every time a source fails to follow an instruction in an owner's manual that has a zero or negligible impact on actually minimizing emissions. For example, if a control equipment manufacturer recommends that lubricants be changed on a regular schedule, and the source is late in making the change, we are not suggesting that this is inconsistent with good air pollution control practices for minimizing emissions. Vendor specifications are not necessarily the best or only indication of good operating practices. Where appropriate, sources may alter their operation and maintenance practices to accommodate their actual situation. We expect to use this section to control bad practices where there is an indication of an actual increase in emissions or a significant risk of the same.

We do not intend to seek double penalties for situations that involve simultaneous violations of the good operations and maintenance requirements and any otherwise applicable emission standard, including work practice requirements. We may

allege both violations in the alternative, but do not intend to seek double penalties. If a source has proof that it has complied with the emissions standard, then there should be no allegation of bad operation and maintenance during such period.

We are proposing to amend § 63.6(e)(1)(i) to clarify the ''general duty'' of owners or operators to ''operate and maintain any affected source, including associated air pollution control and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions to the levels required by the relevant standards.'' However, this general duty does not require a source to reduce emissions below the level required by the standard. Furthermore, when the source is in a period such that the SSM plan applies, this general duty would not necessarily require the source to meet the standard so long as the source is in compliance with the plan.

We are proposing to amend language in § 63.6(e)(1)(ii) of the General Provisions by adding language to recognize that there will inevitably be situations at facilities that were not contemplated when the SSM plan was developed. Because there is no protocol in the SSM plan for such a situation, it would be impossible for a source to follow the plan. During such circumstances, a source must do the best it can, consistent with safety and good air pollution control practices, to minimize emissions, relying on its best engineering judgment, expertise and familiarity with the equipment, as well as on the protocols for similar malfunctions that are in the SSM plan, if any. Conversely, compliance with an inadequate or improperly developed SSM plan is no defense for failing to minimize emissions.

We also acknowledge that there may be situations that cannot be prevented by owners or operators through better design or preventive maintenance. Some petitioners commented that there may be instances that require an owner or operator to bypass emission control devices until emissions can be vented to other control equipment to avert personal injury, equipment failure, or property damages. It was always our intent to consider safety in addition to good air pollution control practices when operating and maintaining affected sources. Therefore, where appropriate, we are proposing to clarify this intent in the General Provisions.

As noted in the regulatory text, where such unusual situations arise, a report justifying the procedure followed must be filed. If the Administrator or designee responds to this report by requiring a revision to the SSM plan, then the source must do so. The incident may be minor in its consequences or unlikely to arise again, in which case the Administrator may determine that it is not necessary to revise the SSM plan. However, sources are not excused from exerting best efforts to minimize emissions merely because there is no protocol listed in the SSM plan for the unique circumstances. Failure to minimize emissions is a violation of operation and maintenance requirements established under section 112 of the CAA.

3. Report Submittal Requirements

We have identified reporting requirements in the current General Provisions that establish different timelines for related reporting requirements associated with the SSM plans. In order to facilitate reporting for the owner or operator, we are proposing to amend these timelines to make them consistent with each other.

Section 63.8(c)(1)(ii) requires that for those malfunctions (or other events) that affect the continuous monitoring system (CMS), the owner or operator must report actions not consistent with the SSM plans if the relevant standard is exceeded, within 24 hours after commencing actions inconsistent with the plan. A followup report is required within 2 weeks after commencing actions inconsistent with the plan. Section 63.6(e)(3)(iv) requires that an owner or operator who takes an action inconsistent with the SSM plan report such actions within 2 days after commencing such actions. This must be followed by a letter within 7 working days after the end of the event.

We have considered these provisions and agree that it is reasonable to require these reports on the same schedule. We are proposing to revise the requirements in § 63.8(c)(1) to ensure that SSM monitoring reports are filed consistently with the timeframes of reports required in § 63.6(e)(3)(iv), which would require an initial report within 2 working days and a followup report within 7 working days. Consistency in these provisions should have the effect of simplifying reporting requirements for owners and operators.

4. Applicability of the Startup, Shutdown and Malfunction Plan

We are proposing to clarify that the SSM plan includes procedures for operating and maintaining both air pollution control devices and monitoring equipment. Although the intent of coverage of the plan is explicitly stated at the beginning of § 63.6, we recognize that it is unclear that the provisions also apply to monitoring equipment in other parts of the section. Therefore, we are proposing to clarify where necessary that the SSM plan provisions apply to monitoring equipment, as well as control device equipment.

5. Routine Maintenance

We recognize that routine maintenance of air pollution control devices is essential to ensure that control devices function properly on a long-term basis and achieve the emissions reductions that they can achieve. Many facilities can plan and schedule the routine maintenance in conjunction with scheduled downtime of the process equipment that generates the streams being treated by the air pollution control device. In these instances, no compliance issues are raised by the outage of the control device for planned routine maintenance. We believe that this is the case for the majority of facilities that have emission sources subject to MACT standards.

However, we also recognize that there are times when planned routine maintenance of an air pollution control device cannot be scheduled to coincide with scheduled downtime of the process equipment. In these instances, the facility would have to shutdown the process equipment or install redundant air pollution controls. In some circumstances, shutdown to perform planned routine maintenance and subsequent startup would generate greater emissions than allowing some level of emissions to continue to be emitted from the source, either at a reduced control efficiency or uncontrolled.

We believe that relevant standards should incorporate flexibility as necessary to assure that emission control equipment is properly maintained without causing inappropriate disruptions of source operations or unnecessary increases in HAP emissions. There is no uniform approach to this issue which will be appropriate for every MACT standard. We encourage affected sources to suggest potential allowances for routine maintenance in each instance where it would be helpful for the relevant standard to expressly address this issue. We will consider all such suggestions, incorporate provisions addressing routine maintenance into MACT standards where we conclude that flexibility is appropriate, and explain our decision not to incorporate such provisions in circumstances where we conclude that it is not appropriate.

G. Compliance Provisions

1. Compliance Extensions

The petitioners requested us to provide additional opportunities for owners and operators to request compliance extensions under CAA section 112(i)(3). The General Provisions require an owner or operator to make such requests 12 months before the compliance date for a relevant standard. The petitioners pointed out that events could happen within the 12-month period before a compliance date that would warrant a compliance extension.

In general, we anticipate that most sources will have ample time to achieve compliance given the 3-year compliance period for many requirements. The compliance extension under section 112(i)(3) is available for adding controls and other compliance measures requiring time beyond that which we anticipated in establishing the compliance date for NESHAP. For example, other compliance measures may include obtaining or implementing technology hardware or software systems and process changes to accommodate pollution prevention or other emission reduction measures.

Such a compliance extension is not appropriate for the failure of an owner or operator to properly plan and carry out the installation by the compliance date. However, there may be situations where sources acting in good faith to anticipate and fulfill their compliance obligations can still not achieve compliance in a timely manner because of circumstances or events not entirely of their own making. Work stoppages at a control equipment supplier's factory are cited as one example of a reason that sources, acting in good faith, might not be able to achieve compliance on time. Shortages of skilled design and construction engineers who are needed to build new facilities to meet relevant standards, as well as shortages of available technology to meet the demand from sources who must comply with industry-specific MACT requirements, may also contribute to delays in achieving compliance. Based on the merits of such requests, we expect to issue compliance extensions.

We are proposing to revise this requirement, which is in § 63.6(i)(4)(i)(B), to allow requests up to 120 days before the compliance date. We are also proposing to add a new paragraph (C) to § 63.6(i)(4)(i) to allow requests during the last 120 days before the compliance date, if the need arose during that 120 days and if the need was due to circumstances beyond the reasonable control of the owner or operator.

We recognize that there may be some situations where applicants for a compliance extension recognize that, for the reasons stated above, they are unable to comply, and hence file an extension request shortly before the compliance date, as is now provided by the General Provisions. Operating affected sources after the compliance date of a NESHAP creates a potential enforcement situation for companies which, despite their best efforts, are unable to meet the deadlines for MACT compliance. As a practical matter, companies may choose to shut down operations rather than operate without a compliance extension. For sources who act in good faith in filing an extension request, we will try to act promptly. In the interim, we intend to use other temporary measures to address the situation. In such cases, we intend to be receptive to entering administrative consent orders without penalty during the pendency of the review if the company complies with such an order and cooperates by providing all requested information to us for processing the good faith extension request.

For a standard promulgated under CAA section 112(f), § 63.6(i)(4)(ii) requires a source to submit a request for compliance extension within 15 days after the effective date of the NESHAP. We are proposing to increase the time allowed for a source to submit a request for a compliance extension from 15 to 90 calendar days after the effective date of a relevant standard promulgated under CAA section 112(f). The longer time period appears needed and reasonable to allow source owners or operators sufficient time to prepare a complete request. We are also proposing to eliminate the requirement in § 63.6(i)(4)(i)(B) that establishes a different timeframe for sources that include emission points in an emissions average. We believe that this specific issue is better dealt with in the respective NESHAP.

We are proposing to delete the interim milestone information required in a § 63.6(i)(6) request for a compliance extension under § 63.6(i)(4) and direct the focus of the request toward supplying information on the date and manner in which final compliance would be achieved.

2. Title V Enforcement

Several sections in the current General Provisions refer to title V obligations and general compliance obligations. We are proposing to delete these cross references because they are redundant or unnecessary. For example, § 63.4(a)(5) requires an owner or operator of a source subject to a relevant standard to comply with the requirements of that standard regardless of whether a title V permit has been issued to the source incorporating the standard. It is clear from section 113(b)(2) and (c)(1) that standards promulgated under section 112 are enforceable apart from their incorporation into title V permits, and nothing in title V or the part 70 operating permits rules suggests the contrary. We are also proposing to delete the severability clause of § 63.4(c) because it is unnecessary.

We are proposing to delete § 63.5(b)(5), which states that no person may operate without complying with the General Provisions and the relevant standard unless that person has obtained a compliance extension or exemption under § 63.6. We believe the § 63.6 requirements are sufficient to define compliance obligations.

3. Area Sources That Become Major

We are proposing to revise § 63.6(b)(7) and (c)(5) of the General Provisions. These paragraphs address the compliance timing requirements that result when an area source subsequently increases emissions, thus becoming a major source after 1 or more applicable NESHAP have been proposed. These sections establish the timing requirements when a subsequently affected source at the former area source is considered a new source or an existing source under the relevant standard.

The current General Provisions require new source MACT for area sources that become major after the effective date of the relevant standard, regardless of when the portion of the source affected by the standard (the affected source) actually commenced construction (including those that commenced construction long before the proposal date of the NESHAP). This would cause affected sources to unnecessarily retrofit new source control measures on existing equipment not designed to accommodate such measures. We are proposing to revise § 63.6(b)(7) and (c)(5) to require new source MACT only on affected sources that commenced construction or reconstruction after the proposal date of the NESHAP. Those affected sources must comply with new source MACT upon startup. Affected sources at former area sources that become major that have not constructed or reconstructed after the proposal date of the NESHAP would be subject only to existing source MACT, and would comply by the date

specified in the standard for existing area sources that become major, or if no such compliance date is specified, be given the same amount of time to comply as specified for existing sources in the standard. These revisions are consistent with the definition of new source in section 112(a)(4) of the CAA, which defines a new source as one that commences construction or reconstruction after the Administrator first proposes NESHAP under section 112 establishing an emission standard applicable to such a source. Such a source would be able to reasonably anticipate control requirements and construct the source to include such controls as Congress intended in the CAA.

H. Test Methods

1. Performance Test Dates

We are proposing to streamline the performance test date requirements of § 63.7(a)(2). As currently written, the section outlines several different scenarios for establishing performance test dates. However, all are tied to a 180-day period of some triggering event, usually the compliance date. Upon review, these multiple scenarios add more confusion than clarity, and we propose to replace them with a blanket requirement that sources conduct their performance tests with 180 days of the compliance date. Section 63.7(a)(2)(i) through (viii) would be reserved as a result. However, we would retain § 63.7(a)(2)(ix) to address the scenario where a relevant standard is promulgated that is more stringent than the proposed standard.

2. Alternative Test Methods

We propose to amend § 63.7(c)(3)(ii)(B) to ensure that a request to use an alternative test method does not delay the performance test process. If amended, the section would authorize the owner or operator to conduct the performance test using an alternative method in the absence of notification of approval after submitting the site-specific test plan or the request to use an alternative method. The performance test would then be conducted within 60 days after authorization to conduct the test. A source owner or operator's decision to proceed with using an alternative method in the absence of a notification that the method is approved would not preclude the owner or operator's legal responsibility to comply with the applicable provisions of the relevant standard. We are also proposing conforming amendments in § 63.7(f), use of an alternative test method, to implement this approach.

3. Approval of Alternative Test Methods and Monitoring Requirements

In 1998, we issued guidance regarding delegation of the 40 CFR part 63 General Provisions authorities to State and local air pollution control agencies (Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, to Regional Air Division Directors, July 10, 1998). In our September 14, 2000, promulgation of revisions to 40 CFR part 63, subpart E (65 FR 55810), we have codified this guidance. We are now proposing a number of revisions to §§ 63.7 and 63.8 of the General Provisions, which cover performance testing and monitoring requirements, to harmonize these sections with the 1998 guidance and subpart E rulemaking, particularly in regard to Administrator approval of alternative test methods and monitoring requirements. The specific revisions and sections affected are explained below.

First, the 1998 guidance and subpart E rulemaking introduced a new category of changes or alternatives to test methods and monitoring referred to as ''intermediate changes.'' Because this new category modifies the major alternative category previously referred to in §§ 63.7 and 63.8, we are proposing to revise §§ 63.7(e)(2)(i) and (ii), 63.7(f)(1), 63.8(b)(1)(i) and (ii), and 63.8(f)(1) to cite the definitions for minor, intermediate, and major changes to test methods and monitoring requirements in § 63.90(a).

Second, we have noted recent confusion in distinguishing test methods from monitoring for the purposes of deciding who has the delegated authority for approving alternatives; consequently, we are proposing revisions to the language in § 63.8(f)(4)(iv) and (5)(i) to clarify this difference.

Third, we have also noticed significant inconsistencies regarding the instruments for requesting and granting approval of intermediate and major changes to test methods, in specific, the combination of the site-specific test plan/test plan approval versus a letter of request coupled with an official letter of approval. In consideration of the significance of approvals of major and intermediate changes on the compliance decision, and a level of documentation appropriate to the decision itself, we believe that only an official letter should be used to approve intermediate and major changes to test methods. Also, the potential delegated authorities for approval of test plans versus those for approval of intermediate or major changes to test methods are often not the same. We are, therefore, proposing revisions to § 63.7(c)(3)(ii), 63.7(e)(2)(i), and (e)(3) to clarify that major and intermediate changes to test methods cannot be requested through test plans nor approved in the course of test plan approval. To parallel this approach for monitoring, we are proposing the addition of language to § 63.8(f)(4)(iv) to allow requests for minor changes to monitoring to be submitted in the site-specific performance evaluation plan and for these changes, where appropriate, to be approved in conjunction with approval of this plan.

In addition, we are updating the information in § 63.7(c)(4)(i) regarding contacts for requesting performance audit materials. We are also clarifying the requirements for proposing an alternative monitoring system by citing in § 63.8(f)(4)(ii) and adding to § 63.2 a definition of the basic elements that constitute a monitoring system.

I. Monitoring Requirements

1. Combined Emission Streams

We are proposing to change the requirement that a continuous monitoring system be installed on each emission stream that is combined prior to release to the atmosphere or on each emission point for mass emissions standards. We recognize that there may be cases where a blanket requirement that each stream have a CMS may not add compliance assurance but would add costs and burden to the owner or operator. Therefore, we are proposing a change to § 63.8(b)(2) that would allow for the use of a single CMS for monitoring combined emission streams, provided that the monitoring is sufficient to demonstrate compliance with the relevant standard. This will be evaluated in the development of each standard.

For example, a relevant standard could specify the use of a condenser for which compliance could be demonstrated by monitoring and maintaining the temperature of the cooling coils below a specified level. The compliance temperature level would not be compromised by controlling one or more emission streams. Therefore, a single CMS for monitoring combined emission streams would be sufficient to demonstrate compliance.

Alternatively, the combination of emission streams for monitoring could result in the inadvertent averaging of affected and nonaffected sources. For example, if the CMS is designed to monitor the concentration of a compound in the stream, a nonaffected source stream with a low concentration of the compound would mask a high

concentration of the compound in the affected stream. Where the combined stream might meet the relevant standard, the single affected stream would not. In this case, the individual standard requirements might override the General Provisions to prevent the ''dilution'' of the streams from occurring.

2. Monitor Readouts

We are clarifying in the proposed amendments the owner or operator's obligation regarding the accessibility of readouts from monitoring systems required for compliance with emission standards. In today's proposed amendments, we are proposing language in § 63.8(c)(2) that requires monitor readouts to be ''readily accessible on site.'' This phrase ''readily accessible on site'' means the monitor readout must be in plain view or in close proximity where the operators normally are located when operating such equipment. This requirement does not mean that the monitor readout must be in plain view of the operator at all times, but that the device is readily or reasonably accessible so the operator or an inspector can view the readout without unnecessary delay.

J. Notification Requirements

1. Initial Notification Requirements

We are proposing to reduce the source description information that an owner or operator of an affected source subject to a relevant standard is required to submit in the initial notification under § 63.9(b). The intent of the initial notification is to identify and alert the EPA and/or delegated State agencies of those sources for which a relevant standard applies.

We have evaluated and decided that it was both unnecessary for us to receive and burdensome for sources to supply information regarding the operating design capacity of an affected source and the identity of each emission point for each emitted HAP in the initial notification. Therefore, we are proposing that the initial notification not require that an owner or operator report the operating design capacity of the source, and only require that the owner or operator identify the types of emission points and HAP emitted in lieu of each emission point for each emitted HAP.

As discussed in section II.E of this preamble, we are proposing to revise § 63.9(b)(5) to allow a nonmajor emitting source that is not subject to the requirements to submit an application for preconstruction review and approval and to request a reduction in the information required in the application to construct or reconstruct. This flexibility should reduce the burden on smaller sources to comply with the notification requirements.

In general, we propose to streamline the requirements of § 63.9(b), initial notifications, to eliminate duplicative or unnecessary information (e.g., § 63.9(b)(4)(ii) through (iv)). We are proposing to delete § 63.9(b)(3) and revise § 63.9(b)(4) and (5) to clarify the applicability and responsibility of sources under these requirements. In particular, we would clarify the responsibilities of sources that have an initial startup date before the effective date of the relevant standard, as well as sources that construct or reconstruct after the effective date of the relevant standard.

2. Performance Test Notification

Section 63.7(b) of the General Provisions provides performance test notification requirements that we and/or delegated State agencies be notified at least 60 calendar days before the scheduled date of the performance test. In cases where circumstances did not allow for such notice, the requirement was that the notice be submitted within 5 days of the date that an affected source intends to conduct the performance test.

Performance tests often are conducted by persons contracted to do the work, and an owner or operator may not be able to control when a performance test will be performed. We agree that if an owner or operator cannot inform the Administrator that it is unable to conduct a performance test because of unforeseeable circumstances, the intent of the provisions would be met as long as an owner or operator notifies the Administrator as soon as practicable and without delay of an intent to conduct a performance test. Therefore, we are proposing to amend § 63.7(b)(2) accordingly.

3. Area Source Analysis

We are proposing to eliminate the requirement in § 63.9(h)(2)(i)(E) that an owner or operator of an area source submit, as part of the Notification of Compliance Status when a relevant standard applies to both major and area sources, the analysis demonstrating that the source is an area source. After further review, we decided that submission of an analysis demonstrating that the source is not major is only necessary for enforcement purposes when a relevant standard applies to both major and area sources. The proposed change would eliminate the need for nonaffected area sources to submit an analysis, and the need for affected area sources to submit the analysis with their compliance notification. This proposed change does not relieve an owner or operator of a source from the responsibility to determine whether the source is a major source or an area source. Refer to section II.K of this preamble for the discussion on the applicability determination recordkeeping requirement for unaffected sources.

K. Recordkeeping and Reporting Requirements

1. Recordkeeping Requirement for Unaffected Sources

The current General Provisions include a requirement in §§ 63.1(b)(3) and 63.10(b)(3) for sources both to determine applicability and to keep a record of this determination if the source determines that it is not an affected source for a relevant standard. In enacting this provision, it was our intent to enable an owner or operator of a source in a given source category to document its determination that the source is not subject to a NESHAP promulgated for that source category. However, an unintended interpretation of the General Provisions could be to require owners and operators of any source, including facilities not in the source category being regulated, to perform applicability determinations each time any NESHAP are promulgated. It was not our intent that the General Provisions require owners and operators to make a determination that they are not subject to every NESHAP that is issued. In this proposal, we are clarifying our intent. We are proposing to revise the language in §§ 63.1(b)(3) and 63.10(b)(3) to limit requirements to the sources within the source category of the relevant standards. Area sources that would be required to retain a certified applicability determination include sources that are subject to limitations on the source's potential to emit; sources that are specifically excluded from the relevant standards (e.g., research and development facilities); and sources that are below applicability thresholds established in the source category-specific rule (e.g., annual raw material use, production thresholds, emissions). If a source has failed to retain the documentation of its original determination but can reestablish that documentation to the satisfaction of the Administrator and proves that it has not been and is not subject to the relevant standard affecting the source category, we will consider such a violation to be a low enforcement priority.

In addition, we are proposing to amend § 63.10(b)(3) to clarify that the requirements to determine the applicability of a relevant standard under § 63.1(b)(3) and to record the results of that determination under § 63.10(b)(3) do not by themselves create an obligation for the owner or operator to obtain a title V operating permit.

2. Preconstruction Review Application Submittal

We are proposing to change the submittal requirements for an application for approval of construction or reconstruction. The current General Provisions require owners or operators of an affected source to submit an application for approval of the construction of a new major affected source, the reconstruction of a major affected source, or the reconstruction of a major source such that the source becomes a major affected source subject to the relevant standard. The application submittal is required as soon as practicable before the date that construction or reconstruction is planned to commence, but no sooner than the effective date of a relevant standard. The application submittal for an affected source for which construction or reconstruction had commenced and initial startup had not occurred before the NESHAP effective date is required as soon as practicable before startup but no later than 60 days after the effective date.

The petitioners commented that specified time constraints for application submittal were unnecessary because an owner or operator would not risk constructing or reconstructing a source without receiving approval. We specified timeline submittal requirements to ensure that owners or operators proceeded through the preconstruction review application process in such a way as to allow us sufficient time for review. We agree that it is in an owner's or operator's best interest to obtain approval for construction or reconstruction before expending time and money, which should provide a sufficient incentive for sources to submit applications as early as possible. Therefore, we are proposing to require that the application be submitted as soon as practicable before construction or reconstruction is planned without specifying time constraints (§ 63.5(d)(1)(i)). However, even though we would not specify time constraints within the relevant standard, we would recommend that owners or operators allow us at least 90 days for the review process.

L. Lesser Quantity

The petitioners expressed concern that the definition of ''lesser quantity'' in § 63.2 could create serious compliance problems and inequities in situations where equipment/operations in more than one source category are present at a facility. For example, the petitioners have noted that equipment/operation in each of two or more source categories at an area source when a relevant section 112 standard is adopted would not be subject to the standard, unless the section 112 standard applied to area sources. However, if a lesser quantity determination is subsequently made for a HAP emitted by the equipment/operations in one of the source categories at the facility such that facility became a major source, the other regulated source categories would also then become major sources without regard to the HAP they emit.

As part of today's amendments, we are proposing to delete the definition of lesser quantity from § 63.2 of the General Provisions. It is not our intent by deleting the definition of ''lesser quantity,'' to indicate one way or other whether we agree with the litigants' concerns. It is our intent that, if a lesser quantity determination would affect the major/area source status of sources in categories for which a section 112 standard was previously promulgated, we would address appropriate applicability and compliance procedures when such a determination is made.

M. Clarification and Consistency

We are proposing other changes to the General Provisions where necessary for clarification and consistency. These are not substantive changes and do not change the requirements of the General Provisions. Instead, these proposed changes would make the General Provisions easier to understand and to use. Minor editorial and clarifying changes are discussed by way of example in the following paragraphs. More substantive changes are addressed in other sections of this preamble.

1. Preconstruction Review and Title V Interaction

In the current General Provisions, several paragraphs under § 63.5 (e.g., paragraphs (b)(3), (4), and (5)) include the phrase ''whether or not an approved permit program is effective in the State in which an affected source is (or would be) located.'' The intent of this phrase is to indicate that the preconstruction review provisions that are included in the General Provisions are established pursuant to section 112(i) of the CAA. These preconstruction review provisions do not rely upon a title V permit program for implementation; rather, they are completely independent and are implemented solely through the General Provisions. Consequently, this phrase does not affect the requirements for preconstruction review; it merely distinguishes those requirements from other requirements that may subsequently come into place under an approved title V program. Upon review, we have determined that this phrase may be confusing to owners or operators who must comply with the relevant standard or to State and local agencies required to implement the relevant standard. Therefore, we are proposing to delete this phrase from the General Provisions.

2. Continuous vs. Continuous Parameter Monitoring Systems

We are proposing clarifying changes to § 63.8(c)(6) to identify those requirements that are for continuous parameter monitoring systems (CPMS) versus those that apply to CMS. The change is intended to avoid possible confusion by the owner or operator as to which provisions apply when the requirements are not clearly delineated in a relevant standard.

3. Applicability of Standards Developed Under the CAA

We are proposing to clarify in § 63.1(a)(3) that the Administrator can specify in a relevant standard that an affected source subject to other provisions under the CAA need only comply with the provisions of that standard. This clarification reflects what is already being done in relevant standards. We do this in relevant standards so that an owner or operator of an affected source subject to other standards under the CAA is not burdened with the need to determine the ''more stringent'' requirements for compliance purposes or to duplicate recordkeeping and reporting for each standard. Both the HON and petroleum refineries NESHAP specify in the applicability section the requirements that would apply when there are overlapping requirements with other standards developed under the CAA. For example, in the Petroleum Refineries NESHAP (60 FR 43244), we specified that after the compliance dates for that NESHAP, a storage vessel that is part of an existing source that is subject to 40 CFR part 60, subpart Kb, would only be required to comply with 40 CFR part 60, subpart Kb.

4. Unnecessary Additional Information

We are proposing to delete unnecessary additional information from the General Provisions. For example, we are proposing to delete § 63.1(a)(7) and (8) because they discuss the content of 40 CFR part 63, subparts D and E, and do not provide information or requirements relevant for compliance with the General Provisions.

5. Actual Emissions or Control Efficiency Data

We are proposing to eliminate the requirement in § 63.5(d)(2) to submit ''actual'' emissions or control efficiency data with the Notification of Compliance Status when a relevant standard does not require this information to demonstrate compliance. We believe that this requirement as stated can cause confusion because it is often not feasible or required that ''actual'' emissions or control efficiency data be submitted for ''affected sources'' to demonstrate compliance.

6. Commence Versus Begin Actual Construction

Section 63.5(d) of the current General Provisions contains requirements for new and reconstructed affected sources. The petitioners commented that the use of the term ''commence construction'' as a trigger for submittal of the application was inappropriate. Similarly, they commented that the expectation that the notification of intent to construct a new major affected source include ''the expected commencement date of the construction or reconstruction'' was inappropriate. The General Provisions define ''commenced'' in such a way that an owner or operator would be obligated to submit an application for construction or reconstruction if they enter into a contractual obligation to undertake and complete a construction or reconstruction. Petitioners explained that such contractual obligations may be in place, but actual construction plans or design information necessary for completion of an application may be unknown.

We evaluated those places within the current General Provisions, § 63.5(d), where petitioners commented that the use of the terms ''commence'' or ''commencement'' are inappropriate. We are proposing to amend the regulatory language to specify the beginning of actual construction rather than the commencement of construction. This proposal reflects our original intent and addresses the petitioners' concerns.

7. Consistency With Statutory Language

In some cases, the current General Provisions contain terminology that is inconsistent with what is in the CAA. We have corrected inconsistent language where appropriate. For example, § 63.1(a)(3) contains language inconsistent with the parallel language of section 112(d)(7) of the CAA. We are proposing parallel regulatory language to match that of the CAA.

8. Use of Alternative Test Methods

We are proposing to amend § 63.7(f)(2)(ii) to clarify that the use of defined aspects of Method 301 procedures may be sufficient to validate the data and the test method used to obtain the data. Currently, the language implies that a complete Method 301 validation would be required to make this demonstration in all cases, which was not our intent.

Method 301 establishes acceptance criteria as well as a demonstration procedure for test method development and validation and alternative method demonstrations. Such criteria and procedures did not exist before Method 301; therefore, the many emission test methods in the United States and abroad did not have a standard procedure underlying their validation. Method 301 defines how good a proposed method is in terms of bias and precision either standing alone or compared to an existing (reference) method.

During the proposal and promulgation of Method 301, we recognized that other acceptable validation procedures for demonstrating a method's acceptance (precision and bias) do exist, e.g., ASTM. We acknowledged this in Sections 1.1.1 and 12 of Method 301, which allow different validation approaches under certain conditions, including other reasonable statistical approaches, ruggedness testing of method modifications, similar exhaust matrix demonstrations, etc.

III. Proposed Amendments to the Section 112(j) Provisions

We are proposing to clarify and correct the existing rules (59 FR 26429) (part 63, subpart B, §§ 63.50 through 63.56) promulgated May 20, 1994, implementing section 112(j) of the CAA to better address timing and applicability issues. A key point of clarification is how and when new source MACT and the associated new affected source are defined. The current rules establish the section 112(j) hammer date as the date for determining whether new source MACT should apply and what it should be. However, because this date could occur before a source had received a title V permit containing MACT emission limitation requirements for new sources, sources would be left to ''guess'' at what new source MACT would be. If the source didn't guess correctly, and new source MACT were different than anticipated at the commencement of construction, it may incur significant rebuilding expense or delays to accommodate new MACT controls when finally issued in a title V permit. Although we considered this difficulty in knowing the exact nature of new source MACT, and discussed it extensively in the promulgation preamble (59 FR 26435), the petitioners pointed out that our solution was unworkable.

With these amendments, we are proposing an alternative remedy to the timing requirements associated with new source MACT determinations. As discussed in section III.C of this preamble, we propose to change the new source MACT applicability date to the date on which an affected source is issued a title V permit containing requirements establishing new and existing source MACT for that affected source. From this date onward, future changes at the facility can be made with knowledge of what new source MACT is for that facility. This change in the applicability date also affects area sources (i.e., nonmajor sources) that become major sources. For example, an existing area source (in a category or subcategory for which the section 112(j) permit hammer date has passed) that increases emissions such that the source becomes a major source would be subject to existing source MACT because the new source MACT applicability date has not yet been established for the source.

The other major clarification we are proposing today is the creation of a two-part MACT application process. Part 1 would be a brief informational submittal, followed by a substantive application for MACT requirements, or Part 2. We discuss this process in more detail in section III.D of this preamble.

A. Applicability

We are proposing several changes to clarify § 63.50 applicability requirements. We have reorganized § 63.50(a) to clarify that the section 112(j) program places obligations on source owners and operators (§ 63.50(a)(2)(i)) and on permitting authorities (§ 63.50(a)(2)(ii)). We also propose to exempt research or laboratory activities whose primary purpose is to conduct research and development into new processes and products. This proposed exemption (§ 63.50(a)(1)) would remain until research and development activities are listed as a source category for regulation pursuant to section 112(c)(7) of the

CAA. We propose to add a definition to § 63.51 for research or laboratory facilities, which is discussed in more detail in section III.B of this preamble.

We are proposing to amend § 63.50(a)(2)(i) to clarify that only equipment or activities within the relevant source category or subcategory located at major sources are affected by the regulatory requirements implementing section 112(j). Currently, the rule could be interpreted to apply to emission sources at the facility but outside of the relevant category or subcategory, which was not our intent. For example, assume that a source is subject to section 112(j) emission limitations for operations in a relevant category or subcategory. Other operations at the same facility in a different category or subcategory would not be subject to section 112(j) emission limitations unless and until the section 112(j) deadline for this different category or subcategory passes.

We are also proposing to clarify the relationship of section 112(j) applicability to the effective date of the permitting authority's title V program in § 63.50(a)(2)(i). In particular, petitioners raised the concern that, in the case of a title V program that receives source category-limited interim approval, section 112(j) should apply only to those sources subject to permitting in that title V program, or should apply only to sources located in those geographic areas covered by the title V permit program receiving partial approval in a given State. We agree that if the approved title V program is limited to specific source categories or subcategories, then section 112(j) should not be triggered for sources in categories or subcategories not covered by the title V program.

The petitioners objected to the language in § 63.50(b) which states that the current rule does not prevent a State or local regulatory authority from imposing more stringent requirements than those contained in the rule. They contended that limitations established under section 112(j) must be equivalent to section 112(d) limitations, and that States can only be more stringent as a matter of State law. The petitioners interpreted the current language as articulating a State's ability to be more stringent than MACT as a matter of Federal law.

We plan to retain the current language. As noted in the promulgation preamble (59 FR 26433; May 20, 1994), many State and local regulatory authorities maintain regulatory programs that involve air toxic pollutant reviews for stationary sources. Section 63.50(b) clarifies that section 112(j) does not pre-empt any requirements of these programs that are at least as stringent as the current rule. However, we are requesting comment on this issue and will consider revising § 63.50(b) in the promulgated amendments if further clarification is needed.

Finally, we are proposing to delete § 63.50(c) because the requirement that States must have legal authority to incorporate and enforce requirements of section 112(j) is found in 40 CFR part 70. Deletion of this provision does not remove the obligation of a permitting authority to have section 112(j) authority as a prerequisite for title V permit program approval.

B. Definitions

We are proposing to amend several of the § 63.51 definitions for clarity and consistency. Other proposed changes are more substantive and, in some cases, are needed to implement broader concepts being addressed elsewhere in this preamble. For example, we are proposing to add or amend several definitions related to the concept of affected source as discussed in section II.B of this preamble. We are proposing to add definitions of ''affected source'' and ''new affected source'' to § 63.51 as they relate to implementation of this concept. We are proposing to revise the definition of ''similar source'' to be consistent with implementing the new affected source concept. We are proposing to define ''similar source'' as ''that equipment or collection of equipment that by virtue of its structure, operability, type of emissions and volume and concentration of emissions is substantially equivalent to the new affected source and employs control technology that is practical for use on the new affected source.'' ''Practical for use'' contemplates that the State permitting authority would consider whether the control technology would achieve similar efficiencies. We are proposing to delete the definitions of ''emission point,'' ''emissions unit,'' ''existing major source,'' ''new emission unit,'' and ''new major source'' in § 63.51 for consistency in implementing both subparts A and B proposed amendments. Where appropriate, we are proposing edits that reflect these proposed definition changes when these terms are used.

1. Available Information

We are proposing to revise the ''available information'' definition to specify the type and timing of information that the owner or operator must submit in an equivalent MACT determination application under the section 112(j) rule. As promulgated, the deadline for submission of this information is the section 112(j) deadline, which is the date on which the section 112(j) hammer falls. However, consistent with proposed changes in §§ 63.52 and 63.53 to make the permit application a two-part process, the substantive information required by the permitting authority to make its case-by-case MACT determination is now tied to submittal of the Part 2 MACT application.

As part of the section 112(j) MACT determination process, the proposed concept of ''available information'' is used in such a way as to limit the introduction of ''new'' information to the MACT determination process beyond the date on which the first Part 2 MACT application is filed for an equivalent emission limitation for a source in the relevant source category or subcategory in the State or jurisdiction. This approach of setting a date certain to limit the universe of ''available information'' is consistent with the approach being proposed in the new source review program. For example, the development of a new emission control technology after the date of the first Part 2 MACT application would not be considered ''available information'' for another source's MACT determination. However, if the technology were developed before the first Part 2 MACT application, but the information was only brought to the permitting authority's attention after that date, this information would be considered ''available,'' and it could be used in making the MACT determination. Also, we propose to add language to the definition of ''available information'' to make clear that permitting authorities can and should consider information from the public as well as from the applicant. The proposed definition would require the permitting authority to consider any information submitted by the applicant or others before or during the public comment period on the section 112(j) equivalent emission limitation.

We believe that both the States and the sources will have substantial incentive to identify and obtain the full body of information that should be considered in the case-by-case MACT determination as expeditiously as possible. We also note that available information includes, among other things, ''additional relevant information that can be expeditiously provided by the Administrator'' before the date on which the first Part 2 application is filed for a source in the relevant source category or subcategory in the State or jurisdiction. For example, such available information could include

relevant information provided on EPA's Air Toxics Home Page before the first Part 2 application date. The better supported a section 112(j) MACT determination is, the more likely it is that the effects of subsequent section 112(d), 112(h), and 112(g) standards on the affected source will be minimal.

We are proposing to move the content of items 6, 7, and 8 of the definition to the introductory text of the definition to clarify the role and timing of the more general types of ''available'' information that may be provided to the permitting authority. The intent of the current language is preserved with the change.

2. Research and Development Activities

We propose to add a definition of ''research or laboratory activities'' to clarify proposed language in § 63.50(a)(1) that certain research and development activities are exempt from this subpart. We would limit this exemption to sources that are not engaged in the manufacture of products for commercial sale, except in a de minimis manner, and where the source is not subject to a source category specifically addressing research or laboratory activities that is listed pursuant to section 112(c)(7) of the CAA. Section 112(c)(7) requires the Administrator to establish a separate category covering research or laboratory facilities, as necessary to assure the equitable treatment of such facilities.

3. Other Definition Changes

We propose to amend the definition of ''equivalent emission limitation.'' We are proposing to replace the phrase ''at least as stringent as'' with ''equivalent to'' so that the language in this definition is consistent with the language in the CAA. Similarly, the proposed definition of ''maximum achievable control technology (MACT) floor'' contains minor amendments to ensure consistency with the definition in the Act. We are also proposing a minor change to the definition of ''section 112(j) deadline'' to clarify that the deadline is the date 18 months after the date on which a relevant standard is scheduled to be promulgated. We are also proposing to delete the definition of ''United States,'' which is considered unnecessary in the context of the rule. Finally, we are proposing to amend the definition of ''permitting authority'' to clarify that this term means a permitting authority under either 40 CFR part 70 or part 71.

C. Approval Process

We are proposing to expand and modify § 63.52 with proposed new paragraphs (a) through (d) to clarify the obligations of owners or operators of major sources that include one or more sources in a category or subcategory for which the Administrator fails to promulgate an emission standard under this part on or before the applicable section 112(j) deadline. As discussed in section IV.A of this preamble, the purpose of some of these proposed changes is to ensure that existing MACT determinations (e.g., those developed under the section 112(g) program) are given appropriate consideration and weight in the section 112(j) MACT determination process.

We have identified three situations for major sources related to the timing of applicability of section 112(j) to a source and related to existing requirements in a source's permit that could be affected by the section 112(j) rule. Revised § 63.52(a) through (c) address each of these situations.

The first situation, described in proposed § 63.52(a), covers major sources that include, as of the section 112(j) deadline, one or more sources in a category or subcategory for which the Administrator has failed to promulgate an emission standard. Owners or operators of these sources would be required to submit a Part 1 MACT application to the permitting authority by the section 112(j) deadline if the owner or operator can reasonably determine that one or more sources at the major source belong to a category or subcategory that would be subject to the section 112(j) MACT requirements. We believe, in most cases, that it will be clear to owners or operators which affected sources are subject to section 112(j) MACT requirements. However, in a few instances, there may be legitimate confusion as to the applicability of the requirements. In these cases, proposed § 63.52(a)(2) would require the owner or operator to submit a Part 1 MACT application within 30 days of being notified in writing by the permitting authority that one or more sources at the major source belong to a section 112(j) category or subcategory.

The proposed language would require the permitting authority to notify the owner or operator within 120 days of the section 112(j) deadline that section 112(j) requirements apply to a facility. We believe that permitting authorities will have information available at the time of the section 112(j) deadline through existing title V permits and permit applications, as well as information from the EPA and other sources, to identify and notify owners or operators within a fairly short time period. The purpose of placing a cap on the notification period is to provide major sources with some certainty that, if they and the permitting authority both determine that their facilities are not subject to section 112(j), then they will not be brought into the section 112(j) process months or years after a good-faith determination was made. We request comment on whether the 120-day time period is sufficient for permitting authorities to act.

Also addressed in proposed § 63.52(a) is the case where an owner or operator has a title V permit that addresses the emission limitation requirements of section 112(g) by the section 112(j) deadline. Such an owner or operator would be required to submit a Part 1 MACT application, but additional provisions would allow the owner or operator to request a determination that the section 112(g) emission limitations already in its permit are ''substantially as effective as'' the requirements otherwise adopted under section 112(j) for the source. As discussed in section IV.A of this preamble, we believe that MACT determinations made under separate programs should be substantially equivalent when the same procedures for determining MACT are used. Therefore, an affected source with a section 112(g) new source MACT determination should, in most cases, already be subject to applicable requirements substantially as effective as those that would be required under section 112(j). In these cases, the source's title V permit must be revised to reflect that the source's continued compliance with the section 112(g) MACT determination satisfies the requirements of section 112(j).

The second situation, addressed in proposed § 63.52(b), covers owners or operators of sources in a category or subcategory affected by a section 112(j) deadline, but who were not subject to section 112(j) emission limitations at the time of the deadline. Proposed § 63.52(b)(1) would address sources that install equipment in a category or subcategory subject to section 112(j) requirements, and where the installation does not trigger the section 112(g) process (i.e., the new equipment is not a major-emitting source). These sources may be major sources before the installation, or they may become major sources as a result of the installation. In either case, the owner or operator must submit a Part 1 MACT application within 30 days after startup of the source.

Proposed § 63.52(b)(2) is similar to proposed § 63.52(a)(3) in that it addresses sources that have entered the section 112(g) process through installation of a major-emitting source. In the case of proposed § 63.52(b)(2), the source installs a major-emitting source

after the section 112(j) deadline for sources in the same category or subcategory. Where the source already has a title V permit addressing section 112(g) requirements, the owners or operators of these sources would be required to submit a Part 1 MACT application to revise the title V permit addressing section 112(g) requirements. The Part 1 MACT application must be submitted within 30 days after startup of the source. Where the source has applied for but not yet received a title V permit addressing section 112(g) requirements, the owners or operators of these sources would be required to submit a Part 1 MACT application to revise the title V permit to address section 112(j) requirements within 30 days after issuance of the title V permit addressing section 112(g) requirements. Once the Part 1 MACT application is submitted, the permitting authority would make an equivalency determination for the source as discussed above for sources subject to proposed § 63.52(a)(3).

The relevant provisions of current § 63.52(f), which address area (i.e., nonmajor) sources that become major sources, were incorporated and expanded in the proposed new § 63.52(b)(3) and (4) to consolidate in proposed § 63.52(b) the applicable requirements for sources that become subject to section 112(j) after the section 112(j) deadline. These provisions address the status of area sources that become major sources after the section 112(j) deadline either through the relaxation of a federally enforceable limitation on potential to emit or because the source becomes major because the EPA established a lesser quantity emission rate pursuant to section 112(a) of the CAA.

In one case, we are proposing to change the Part 1 MACT application submittal date from the current § 63.52(f) provisions. The current rule requires the source to comply with the section 112(j) emission limitations on or before the date of becoming a major source. Under today's proposal, if an area source increases its potential to emit HAP such that the source becomes a major source subject to subpart B, due to a relaxation in any federally enforceable emission limitation, then the owner or operator must submit a Part 1 MACT application within 30 days after the source becomes a major source. We are proposing this change to implement the concept discussed earlier that the resulting affected source is subject to existing source MACT and should have timing requirements similar to other sources that become subject to section 112(j) requirements after the section 112(j) deadline.

A similar situation exists for area sources that subsequently become major due to the establishment of a lesser quantity emissions rate under section 112(a) of the CAA for an affected source at the area source. Currently, owners or operators of sources in categories or subcategories subject to 112(j) requirements must submit a MACT application within 6 months of the date such a source becomes a major source. We solicit comments on whether this timeline should be retained, or whether it would be beneficial to make it more consistent with the application deadline requirements for other sources, i.e., 30 days from the triggering event.

The third situation is addressed in proposed § 63.52(c). This section covers owners or operators of sources who have a title V permit that addresses the requirements of section 112(j), and subsequent actions occur at the source that trigger section 112(j) requirements. In the simplest case, when events such as the addition of a new process unit occur, the permit already contains the relevant section 112(j) requirements, and the source complies with the permit conditions. In other cases, the permit may not contain sufficient requirements to address the section 112(j) requirements. For example, a source in a given category or subcategory may have a title V permit that addresses section 112(j) emission limitations for the production of chemical ''A.'' If the source then installs a new process unit to produce chemical ''B,'' and the new process unit includes equipment that is in the same source category but was not previously addressed in the source's title V permit, section 112(j) emission limitations would need to be developed to address this scenario. In this case, the owner or operator must submit a Part 1 MACT application within 30 days after beginning construction. In the case where a new affected source is constructed after the issuance of the permit, the owner or operator must obtain a title V permit revision with applicable limits prior to startup of the new affected source.

We are proposing to add § 63.52(d) to provide a process by which the owner or operator of a source could obtain up front determinations from the permitting authority. Proposed § 63.52(d)(1) would allow the owner or operator to request an applicability determination from the permitting authority in the case of uncertainty regarding the source's status with respect to section 112(j) requirements. The form of the request would be the submission of a Part 1 MACT application. Some sources might prefer to obtain an up front determination from the permitting authority rather than wait 120 days for the permitting authority to notify them of their applicability or in order to have documentation of their nonapplicability.

Proposed § 63.52(d)(2) provides that an owner or operator of a new affected source may submit an application for a Notice of MACT Approval before construction, under § 63.54. This provision is contained in the current rule as § 63.52(a)(4).

Proposed § 63.52(e) would incorporate the two-part permit application process. The rationale and content of each of the two applications are discussed in section III.D of this preamble. The timing of the submittal of the Part 1 application has already been addressed in the proposed changes to § 63.52, paragraphs (a) through (d). The focus of proposed § 63.52(e) is the review process for the Part 2 MACT application.

Proposed § 63.52(e)(1) would require submittal of the Part 2 MACT application within 6 months after submittal of the Part 1 MACT application. This timeline is analogous to the current rule, which allows a source 6 months to submit a revised application upon determination that the original application, submitted at the section 112(j) deadline, is incomplete. Today's proposal would provide this 6-month extension as a matter of course in recognition of the fact that the Part 1 MACT application is not required to be complete enough to support a MACT determination.

Proposed § 63.52(e)(2) would provide a process by which both equivalency determinations and applicability determinations can proceed. An owner or operator who requests an applicability determination under proposed § 63.52(d)(1) must comply with the remaining provisions of this subpart if the permitting authority determines the source is subject to section 112(j) requirements. If the permitting authority determines the section 112(j) requirements do not apply to the source, no further action by the owner or operator is necessary.

Given the importance of the outcome in an equivalency determination under proposed § 63.52(a)(3) or (b)(2), the proposed process for an equivalency determination includes the opportunity for full public, EPA, and affected State review. If the permitting authority determines that the existing section 112(g) permit terms and conditions satisfy the section 112(j) requirements, the requirements of section 112(j) are satisfied once the source's title V permit

is revised to reflect that the source's continued compliance with the section 112(g) MACT determination satisfies the requirements of section 112(j). If the permitting authority determines that the section 112(g) permit terms and conditions are not sufficient to satisfy the section 112(j) requirements, the source must proceed with submittal of a Part 2 MACT application.

Proposed application completeness provisions in § 63.52(e)(3) and (4) would provide that if the permitting authority fails to notify the source that the application is incomplete, in writing and within 60 days, the MACT application would be considered complete. A Part 2 MACT application is considered complete if the information is sufficient to begin or continue processing the application. Similarly, as provided in proposed § 63.52(e)(4), a completeness determination should not limit the permitting authority's ability to request additional information from the source owner or operator; such a request should receive a timely response.

We are proposing minor edits to § 63.52(c)(2) to use more generic terms when referring to the title V permit process. The use of these terms in this paragraph and throughout the rule is to ensure that the rules implementing the section 112(j) provisions of the CAA can be used in the context of the title V permitting process under parts 70 and 71.

Proposed amended § 63.52(e)(5) would clarify that, given timely submittal of a complete application, a failure to receive a permit under section 112(j) within 18 months would not be a violation of section 112(j).

We are proposing to retitle § 63.52(d) from ''Emission limitation'' to ''Permit content'' to more accurately reflect the contents of the section. In addition, we are proposing to clarify § 63.52(f) to ensure that the permit contains notification, operation and maintenance, performance testing, monitoring, and reporting and recordkeeping requirements consistent with the part 63, subpart A, General Provisions. In addition, proposed § 63.52(f)(2)(i) replaces the term ''Federal enforceability'' with ''practicable enforceability.'' The former term was borrowed from the EPA's June 28, 1989 **Federal Register** notice (54 FR 27274) on potential to emit. There, ''Federal enforceability'' was used as a short-hand reference to several attributes, including enforceability as a practical matter. Today's change would clarify the intent of this provision to ensure achievement of this goal.

We are proposing clarifications to make the compliance date for a new affected source the date of startup of the new affected source, as opposed to the date the title V permit is issued, as currently promulgated.

We are proposing § 63.52(f)(1) to implement the requirement for the permitting authority to include in each permit implementing section 112(j) the definition of affected source and new affected source arising from each case-by-case MACT determination. As discussed elsewhere, delineation of these terms is integral to the proposed changes to clarify the approval process for new and existing sources under the section 112(j) program.

We are proposing to add § 63.52(g) to clarify the dates by which a permit must be issued. In most cases, that date is within 24 months after submittal of the Part 1 MACT application. However, if the source's owner or operator requests an applicability or equivalency determination under proposed § 63.52(e)(2), the permitting authority must issue the permit within 18 months after receiving the Part 2 MACT application.

We propose to redesignate § 63.52(e) as § 63.52(h) and clarify its existing position on enhanced monitoring. In particular, we expect States to incorporate monitoring, recordkeeping and reporting mechanisms and other means of assuring compliance, such as posting all compliance reports on a publicly available electronic bulletin board, that comport with the enhanced monitoring approach in section 114(a)(3). This is the approach we endeavor to utilize in the development of new MACT standards under section 112(d). In many instances, this will require an improvement over existing compliance assurance provisions, if the source has such preexisting requirements, to provide the superior enforceability contemplated in the MACT program.

We are proposing to add § 63.52(i) to clarify for all affected sources which sources must comply with MACT for existing sources versus MACT for new sources. The application of new source MACT is limited to new affected sources, as defined in the title V permit addressing section 112(j) MACT emission limitations for those affected sources. This language reflects our proposed approach to implement the concepts of ''affected source'' and ''new affected source.''

For example, as currently promulgated, an existing area source could become a major source subject to new source MACT through the addition of a single piece or collection of equipment such that the source's potential to emit increases by only a small amount (e.g., from 9.9 tons/year to 10.1 tons/year). We agree with the petitioners that the possible costs and burdens faced by a source in this case could be unreasonable because the change in status could entail installation of new source MACT on existing equipment. Therefore, we are proposing to limit new source MACT to sources that become major emitters because they add a new affected source as defined by § 63.51; new source MACT would only apply to the new affected source. This approach is also consistent with the proposed definition of ''new affected source.''

D. Application Content

We are proposing to delete current § 63.53(a) because it is redundant given the provisions in § 63.55, which address MACT determinations for affected sources subject to case-by-case determination of equivalent emission limitations.

We are proposing to revise and move § 63.53(b) and proposing to add new § 63.53(b) to reflect the proposed change from a single MACT permit application due on the section 112(j) deadline to a 2-part MACT permit application due over a 6-month time period, as discussed in the previous section. However, the majority of currently required information is included in proposed new § 63.53(a) and (b).

Proposed § 63.53(a) describes the required content of the Part 1 MACT application, which includes basic information such as name, address, a brief description of the relevant major source, and an identification of the relevant source category and types of emission units belonging to the relevant source category. Sources for which a section 112(g) determination has been made should identify any relevant equipment or activities as well. The purpose of allowing the more streamlined Part 1 application at the section 112(j) deadline rather than a complete permit application is in acknowledgment that the source may require more time to compile the detailed information required for the permitting authority to make a MACT floor determination, and that the determination process is an iterative one with the permitting authority. The Part 1 application content is analogous to the § 63.9(b) initial notification content.

Proposed § 63.53(b) describes the contents of the Part 2 MACT application and lists additional relevant process, pollutant, and control information. Proposed § 63.53(b) incorporates the ''affected source'' language, where applicable. Requirements for new affected sources to report the expected

date of commencement of construction and the expected date of completion of construction were deleted because this information is irrelevant to the overall application review process. We are also proposing to add the phrase ''in the relevant source category'' in § 63.53(b)(1)(ii) to clarify that information is not required for HAP emissions from source categories other than the relevant source categories. We are also proposing to add the phrase ''estimated total uncontrolled and controlled emission rate'' to clarify that information on both uncontrolled and controlled emission rates is needed.

Proposed § 63.53(b)(1)(iii) language includes the phrase ''Federal, State, or local limitations or requirements'' to clarify the universe of potentially applicable requirements that could be considered by the permitting authority. Current § 63.53(b)(8), which includes a request for detailed capacity utilization information, would be eliminated because we believe this information would not be generally available at the time the permit application is due. However, the requirement to include information on uncontrolled emissions would be incorporated into the proposed § 63.53(b)(1)(ii) language. Similarly, we are proposing to delete the language regarding controlled emissions at maximum capacity from § 63.53(b)(9), but other required information would be retained in proposed § 63.53(b)(1)(iv) such as the requirement to include identification of control technology in place.

We are proposing to delete the current § 63.53(b)(10) requirement to include the MACT floor because the floor determination will be made by the permitting authority, thereby obviating the mandate for the source to report information on the floor to the permitting authority. This change is consistent with proposed changes to § 63.55, discussed in section III.F of this preamble. While a MACT floor determination is not required of the owner or operator, proposed § 63.53(b)(1)(v) would allow the owner or operator the option of recommending a MACT floor.

The information currently required in promulgated § 63.53(b)(11) through (13) would be retained in proposed § 63.53(b)(2), but only as optional information to be provided at the source's discretion. Proposed § 63.53(b)(1)(vi) mirrors the current § 63.53(b)(14) language allowing the permitting authority to request any other information reasonably needed in the permit application. The information provided under § 63.53(b)(1)(vi) is subject to the confidential business information protections provided under the CAA.

E. Preconstruction Review

We are proposing clarifying language to the introduction of § 63.54 to emphasize that the purpose of the section is to describe alternative review processes that the permitting authority may select from to make a MACT determination for new affected sources. We believe that preconstruction review, although optional in the context of section 112(j), is a useful tool for States and sources in making case-by-case MACT determinations for new affected sources. Therefore, we do not want to preclude the ability of the States to employ existing preconstruction review programs or to develop ''enhanced'' review programs using the § 63.54(b) optional administrative procedures for sources subject to the section 112(j) provisions.

We are proposing to delete § 63.54(e) and (f) because language in proposed § 63.52(f)(2)(iii) addresses the issues raised by these sections.

F. Enforcement Liability

Petitioners raised several questions regarding exposure to enforcement liability that relate to sources which have not been clearly identified as sources within the particular source category that are subject to section 112(j) requirements. We hope that all such questions of applicability for a source will be clarified before the section 112(j) permit application is due so that these issues will not arise. However, there may initially be a lack of clarity, and it is also possible that some applicability issues may not be resolved before a final section 112(d) MACT standard is issued. Accordingly, certain hypothetical situations are discussed below in order to provide guidance regarding our intent in implementing section 112(j).

The first situation involves a source that the permitting authority has identified in the section 112(j) process as not being a source covered by section 112(j). If a subsequently promulgated section 112(d) MACT standard clarifies that this source is indeed covered, does the source face liability for not complying with section 112(j) previously? We have concluded that such a source would not face any liability so long as it came into compliance with the section 112(d) standard as required, since it had no regulatory duty under section 112(j), and provided that the permitting authority actually identified the source in the section 112(j) process as not being a source covered by section 112(j).

A second situation involves a source that obtains assurance from the appropriate officials within the permitting authority that the source is not in the section 112(j) source category and is, thus, not covered by section 112(j). If a citizen disagrees and sues arguing that the source should be in the source category, what liability exposure does the source face? It is our position that the source should face no liability in such a circumstance, provided that the source did obtain assurances from the appropriate officials within the permitting authority that it is not in the section 112(j) source category. The source is only obligated to abide by the requirements under section 112(j) as articulated by the permitting authority. If a citizen wishes to assert that the section 112(j) applicability criteria are inappropriate, then the remedy is to convince or force the permitting authority to modify its regulatory requirements.

A third concern involves a situation where the permitting authority or EPA has not clearly defined the source category and the source does not submit an application by the deadline. If, however, the permitting authority later determines that the source is in the section 112(j) source category and, thus, an application is due, what enforcement liability does the source face for failing to submit the application by the deadline? Again, in all instances involving the section 112(j) program, either the permitting authority or the EPA should identify the source category with sufficient specificity to eliminate any such problem. But in case such a situation should arise, it is unreasonable to assert that a source is liable if the source was not provided sufficient notice that an application was due. In other words, the permitting authority and the EPA are responsible for defining the section 112(j) source category with sufficient clarity so that a source can reasonably determine whether it falls within that source category. Absent such clarity and adequate notice—provided within the original source category description, in subsequent EPA documents (either in the **Federal Register** or on EPA's Air Toxics Home Page, provided that specific notice is made in the **Federal Register** to the availability of such a document on the Air Toxics Home Page) or through subsequent notification by the permitting authority pursuant to proposed § 63.52(a)(2)—a source should not be liable for failing to submit a section 112(j) application. On the other hand, a source would be liable for failing to submit a section 112(j)

application if the section 112(j) source category was clearly defined.

G. MACT Determinations

In today's action, we are proposing to delete § 63.55(a) because it is redundant given the other changes proposed today, and it results in an unintended presumptive effect on the section 112(j) standard development process. For example, the contents of current § 63.55(a)(3) and (4) are found largely in the proposed Part 2 application requirements although the information may now be supplied on an optional basis unless specifically requested by the permitting authority. This movement from a requirement to an optional submission reflects the concept that the MACT determination process is iterative, and that the responsibility for determining MACT lies with the permitting authority.

We are proposing to delete § 63.55(a)(1) because it suggests that a proposed relevant emission standard is a presumptive MACT determination. While a proposed relevant standard should be given serious consideration in the MACT determination process, there have been instances where key elements of a proposed MACT standard change significantly between proposal and promulgation. Similarly, retaining the language in § 63.55(a)(2) would result in the presumptive use of any ''guidance or distributed information establishing a MACT floor finding for the source category or subcategory by the section 112(j) deadline.'' We agree that the quality of information embraced by this provision could vary widely and may not have been developed with the benefit of public notice and comment.

Proposed § 63.55(a) contains new language to ensure that there are no gaps in the MACT determination process between obtaining the application and making the determination. We are proposing to revise § 63.55(a)(2) and (3) to clarify that the MACT determination will be established according to the requirements of section 112(d)(3) of the CAA and based on available information. The revisions to the definition of ''available information,'' discussed in section III.B of this preamble, would ensure that the permitting authority has the needed information to make the MACT determination. The proposed deletion of the explicit consideration of ''information provided in public comments'' would eliminate redundant information. The section 112(j) process already requires the inclusion of provisions for notice and public comment. We are proposing to delete § 63.55(b)(4) and (5) consistent with deleting related requirements regarding the presumptive use of proposed rules and other MACT floor guidance in the current § 63.55(a)(1) and (2).

H. Case-by-case MACT Requirements After Promulgation of a Subsequent MACT Standard

Section 63.56 describes the case-by-case handling of requirements for determining equivalent emission limitations after promulgation of a subsequent MACT standard. We are proposing to amend § 63.56(a) to clarify the relevance of emission standards to affected sources. We are proposing to revise § 63.56(b) to clarify that the subsequently promulgated MACT standard will be incorporated into the title V permit upon its renewal. Section 63.56(b) would also assure affected sources that the period for compliance for existing sources would be no shorter than the time provided in the promulgated MACT standard.

We are proposing to amend the introductory text to § 63.56(c) by revising § 63.56(c)(1) and adding § 63.56(c)(2). Section 63.56(c)(1) would clarify that the permitting authority does not need to change the emission level in the permit to the promulgated MACT standard level of control if the level of control in the permit is substantially as effective as the level of control in the promulgated MACT standard. This language implements the concepts discussed in section IV.A of this preamble. We are proposing to add § 63.56(c)(2) to state that the permitting authority must not incorporate any less stringent emission limitation of the promulgated standard in the title V permit and may consider more stringent terms due to the requirements of section 112(d) and (h). This section precludes the possibility of sources being required to change previously approved control technologies when the ''new'' standard is found to be as substantially as effective as the previous MACT determination, but it also precludes sources from changing controls in the case the ''new'' standard is less stringent than the previous MACT determination. Taken together, § 63.56(c)(1) and (2) maintains the status quo of previous MACT determinations that are found to be substantially as effective as a subsequent MACT.

I. Section 112(j) Guidelines Document

We have published a guidance document titled ''Guidelines for MACT Determinations under Section 112(j),'' EPA 453/R–94–026, May 1994. The purpose of the document is to give permitting authorities additional guidance in making MACT determinations based on the principles established in proposed § 63.55. We have revised this document to incorporate relevant clarifications and revisions proposed today. The draft revised document is available on the TTN (**SUPPLEMENTARY INFORMATION**). Comments on the draft revised document should be submitted together with comments on today's proposed rule changes. The guidance document contains procedures for evaluating whether a control technology is consistent with the minimum requirements established in section 112(d) of the CAA. Because section 112(j)(5) requires that case-by-case MACT determinations be ''equivalent to the limitation that would apply to such source if an emission standard had been promulgated in a timely manner under subsection (d),'' we believe that consideration of this guidance document is a crucial component of the section 112(j) case-by-case MACT determination process.

IV. Additional Issues

A. Discussion of the Relationship Among Requirements Under Section 112(d), (g), (h), and (j)

1. Background and Summary of Issue

One area of concern the petitioners identified involves the substantive relationship between a case-by-case MACT emission limitation issued under section 112(j) and a MACT standard subsequently issued under section 112(d) or (h). Petitioners are also concerned regarding the relationship between a case-by-case MACT determination under section 112(g) and a subsequently issued case-by-case MACT emission limitation under section 112(j), or MACT standard under section 112(d) or (h). In general, the petitioners believe that compliance with a case-by-case MACT determination should constitute compliance with a subsequent case-by-case MACT determination or MACT standard.

Throughout the development of the section 112 program, we have maintained as one of our primary goals consistency among the different section 112 requirements of the CAA. As stated in the final section 112(j) rule, ''EPA's primary goal is to create as much consistency as possible between case-by-case MACT determinations under section 112(j) and implementation of subsequent 112(d) standards * * * the agency intends to ensure the greatest possible consistency among section 112(d), (g), and (j) provisions.''

In general, we do not disagree with the petitioners in that if the four MACT standard setting provisions of the CAA

are appropriately implemented, they will be based on substantially similar types of information concerning emission controls and will reflect similar regulatory policies concerning the feasibility of further emission reductions. However, we do not agree that it would be appropriate to conclude that a previous case-by-case MACT limitation automatically satisfies subsequent section 112 MACT requirements.

With respect to the subsequent applicability of a section 112(d) or (h) standard or a section 112(j) MACT determination to a source for which a section 112(g) MACT determination has been made, this issue is resolved by the section 112(g) regulations and accompanying preamble, promulgated on December 27, 1996 at 61 FR 68399. Consistent with that **Federal Register** action, a source that receives a case-by-case MACT determination under section 112(g) must comply with the subsequent case-by-case MACT determination or MACT standard, although the source may have a period of up to 8 years to achieve such compliance. The subsequent case-by-case MACT determination or MACT standard may stipulate that compliance with the prior case-by-case MACT constitutes compliance with the subsequent determination or standard.

In general, we believe that requiring a source that has received a case-by-case MACT determination under section 112(g) to comply with subsequently adopted MACT requirements will not result in any inappropriate regulatory burden. This is primarily because we have required the implementation of section 112(g) only with respect to construction or reconstruction of major sources of HAP, and the resultant case-by-case determination would require new source MACT. Even though any section 112(g) MACT determination will incorporate MACT for new sources, the major source in question will likely be considered an existing source by the time of issuance of any subsequent MACT limitation for the source under section 112(j) or MACT standard applicable to the source under section 112(d) or (h).

We note that any case-by-case MACT limitation adopted for a source under section 112(j) will normally be made by the same permitting authority that would have issued any prior case-by-case MACT determination for the same source under section 112(g). We believe that it is appropriate to afford the permitting authority some discretion to consider the substantive adequacy of existing section 112(g) requirements when it makes a subsequent decision concerning the emission limitations required by section 112(j).

We believe that the concerns petitioners expressed are most significant in the context of a potential transition from a case-by-case MACT determination made by the permitting authority under section 112(j) for an individual source to a generally applicable MACT standard adopted by the EPA under section 112(d) or (h). Although the statutory criterion for establishing the subsequent standard under section 112(d) or (h) may be identical to the criterion governing the issuance of the case-by-case MACT determination under section 112(j), in practice there may be differences in the conclusions reached by the permitting authority and the EPA. Such differences could easily arise due to differing data bases, differing approaches to analysis of the same data, or differences in the form of the standard adopted. Thus, unless the permitting authority has some measure of discretion to reconcile the different regulatory outcomes, the potential exists for sources subject to a case-by-case MACT determination to be forced to take action to respond to control, monitoring, recordkeeping, and reporting requirements that differ from those required by a subsequent case-by-case MACT or generally applicable MACT standard, even though the results of the case-by-case requirements do not differ from the standard in any consequential way. We see this as an irrational outcome that would undermine effective and efficient environmental policy, and we do not believe that Congress intended substantial additional burdens to be imposed (e.g., capital investments in new emission controls) regardless of the significance of the resultant impact on actual emission reductions.

Accordingly, we are proposing two basic clarifications in which sequential MACT requirements under section 112(d), (g), (h), and (j) will be implemented by the responsible permitting authority. First, the permitting authority would adopt a prior case-by-case new source MACT determination for a process or production unit under section 112(g) as its case-by-case MACT limitation under section 112(j) for the same process or production unit if the permitting authority determines that the prior requirements are ''substantially as effective'' in controlling HAP emissions as the requirements which the permitting authority would otherwise have adopted under section 112(j). Similarly, if the permitting authority determines that the controls required by a prior case-by-case MACT limitation for a source under section 112(j) are ''substantially as effective'' in controlling HAP emissions as a MACT standard governing that same source subsequently promulgated under section 112(d) or (h), the permitting authority would construe compliance with the prior section 112(j) emission limitation as compliance with the promulgated standard and revise the operating permit accordingly. As explained below, we and the petitioners evaluated several approaches to define quantitatively the criterion ''substantially as effective'' and concluded that it is appropriate to leave it qualitative with substantial discretion vested in the permitting authority. Also as explained below, this discretion will be tempered by use of the title V process to ensure public, EPA, and affected State review of the permitting authorities' conclusions.

2. Legal Authority and Statutory Limitations

We believe that our authority to implement a policy that allows the permitting authority to use the ''substantially as effective'' test is supported by both the language of section 112(j) and the *Alabama Power* de minimis doctrine. The language in section 112(j) implies a measure of statutory flexibility with regard to this issue. The language in section 112(j)(6) states, ''* * * the Administrator (or the State) shall revise such permit upon the next renewal to reflect the standard promulgated by the Administrator providing such source a reasonable time to comply, but no longer than 8 years * * *'' We believe that this language requires the Administrator or State to consider the subsequent section 112(d) standard in revising the source's permit.

The de minimis doctrine set forth in *Alabama Power Co.* v. *Costle*, 636 F.2d 323 (D.C. Cir. 1979), allows the EPA to promulgate a ''categorical exemption . . . as an exercise of agency power inherent in most statutory regimes'' if: (1) ''Congress has (not) been extraordinarily rigid,'' id. at 361; and (2) ''the burdens of regulation (would) yield a gain of trivial or no value,'' id., ''in the sense of furthering goals of the statute,'' *Sierra Club* v. *EPA*, 719 F.2d 436, 462 (D.C. Cir. 1983). We believe that both tests are met here. With respect to the first criterion, nothing in the language of section 112 (g) or (j), or the implementing regulations precludes the proposed approach. Under the second criterion, as explained above, the intent is that the permitting authority would be afforded discretion to find prior requirements to be ''substantially as effective'' as new requirements, unless

the new requirements would result in meaningful emission reductions over those achieved by the case-by-case determination.

Invocation of the de minimis doctrine is appropriate here for two reasons. First, the MACT requirements that are the subject of the comparison may not be in the same form, meaning it cannot strictly be said that compliance with one would necessarily entail compliance with the other. Today's proposal would allow a somewhat broader basis for analysis, one that focuses on the effect on emissions of the different determinations rather than strict compliance with specific control, monitoring, recordkeeping, and reporting requirements.

Secondly, the ''substantially as effective'' test contemplates that in some instances the prior MACT determination may not reduce HAP emissions as much as a subsequent case-by-case MACT determination or MACT standard. As the difference in emission reduction effectiveness increases between the prior and subsequent MACT requirements, it will be increasingly difficult for the permitting authority to find that the prior requirements satisfy the test of ''substantially as effective.''

3. Other Factors Considered

In addition to considering whether such a policy is supported by the Act, we considered several other factors in reevaluating our policy on this issue. These factors included: (1) The anticipated outcome among section 112 (d), (g), (h), and (j) requirements; (2) issues associated with quantifying exact equivalency; and (3) the public's input into source specific decisions.

To a large extent, we consider the MACT process replicable; that is, when the same question is asked, whether in the context of section 112 (g), (j), (d), or (h), the outcome will more often than not be substantially the same with the same environmental result.

We anticipate that in the vast majority of cases, section 112(g) new source MACT determinations will result in a level of control equivalent to or better than the level of control required by a subsequent section 112(j) case-by-case emission limitation or subsequent section 112 (d) or (h) MACT standard. In most cases, the process or production units required to meet new source MACT under section 112(g) will be subject to existing source MACT requirements under any subsequent 112(j) MACT limitation or promulgated subsequent section 112 (d) or (h) MACT standard. New source MACT under section 112(g) should rarely, if ever, be less stringent than existing source MACT under a section 112 (d) or (h) MACT standard or section 112(j) MACT emission limitation. We believe it is appropriate to afford the permitting authority some discretion to promote consistency in sequential case-by-case determinations under section 112 (g) and (j), but consider that appropriately made section 112(g) MACT determinations will rarely, if ever, present any potential conflict with subsequent MACT requirements.

We believe there are cases where two properly conducted MACT analyses could arrive at somewhat different conclusions. This situation is most likely to occur in source categories with relatively few sources that also exhibit some variability in their operations. Another scenario is where there is a significant body of data comprising the information to be considered in the MACT floor analyses and MACT analyses, and different regulators arrive at different conclusions. For example, a different outcome could be reached if one regulator bases a decision on the mean performance of a group of sources and another regulator uses the median performance. Similarly, different rounding techniques and other analytical decisions could result in somewhat different outcomes.

However, in most cases, the MACT determinations for emission limitations under section 112(j) and MACT standards under section 112 (d) and (h) should result in outcomes that are substantially equivalent. We believe that sufficient communication channels and information exist, such as MACT partnerships and the MACT database, that any required case-by-case determinations under section 112(j) should not be made ignorant of existing information. Although the availability of controls may change over time, we do not foresee a long period of time elapsing between adoption of any necessary section 112(j) MACT emission limitations and subsequent promulgation of a generally applicable MACT standard.

We evaluated several issues associated with determining equivalency among section 112 (d), (g), (h), and (j) MACT emission limitations. As a result, we concluded that the level of quantitative analysis required to show exact equivalency among standards that are different in such areas as the form, applicability, test methods, or technology can be a very difficult and resource intensive process. In addition, as noted above, we believe that exact equivalency is not required by the CAA or the *Alabama Power* de minimis doctrine.

Some examples will illustrate how different forms of a standard and different emission limits can still result in equivalent outcomes on a source-specific basis. The first example relies on the nature of flares as a control technology and the fact that we have determined that flares provide at least 98 percent efficient destruction of emission streams, provided that the flares and emission streams meet the flare specification criteria found at § 63.11(b) of the General Provisions. For example, the flares must be steam-assisted, air-assisted, or non-assisted, operated at all times, and operated with a flame present at all times. Flares must only be used with the net heating value of the gas being combusted at 11.2 megaJoules per standard cubic meter (MJ/scm) (300 British thermal units per standard cubic foot (BTU/scf)) or greater if the flare is steam-assisted or air-assisted; or with the net heating value of the gas being combusted at 7.45 MJ/scm (200 BTU/scf) or greater if the flare is non-assisted. Flares must also be designed to satisfy specific exit velocity constraints.

At least two scenarios could occur where a case-by-case MACT determination could appear to be less stringent on paper, but in reality would be ''substantially as effective'' as a subsequent MACT standard. For example, a MACT standard applicable to a given source could be an equipment standard requiring use of flares to ensure at least a 98 percent emission reduction. However, a case-by-case MACT could have required at least a 95 percent emission reduction, but examination of the individual source's permit revealed that the affected emission stream is ducted to a flare. It would be relatively simple to determine if the actual flare and emission stream would meet the flare specifications. If they meet the flare specifications, the ''difference'' in required control efficiencies is moot, because the design and operation of the control technology would drive the true performance level. Alternatively, the source could have elected to send the emission stream to an incinerator. Review of the incinerator design, combined with performance test data, would allow the permitting authority to determine whether the actual reductions are likely to achieve at least 98 percent efficiency.

The second example is based on the fact that the performance of some controls is variable and highly dependent on how they are operated. For example, condensation systems can be designed and operated to meet a fairly wide range of emission reduction scenarios. Condensation systems are

often selected as control devices because it is desirable to recover a product in the emission stream. The cost of operating the condensation system is largely driven by the temperature reduction necessary to condense the solvent-laden air to the dew point and the cost of purifying the condensate to obtain a usable product. To compare a case-by-case MACT determination based on a condensation system to a subsequent MACT standard requiring a specific level of control would require an engineering analysis of the system design, characterization of the emission stream, and the evaluation of test data. Depending on the outcome of this site-specific analysis, a finding that the initial MACT determination is ''substantially as effective'' as a subsequent MACT standard is entirely possible.

Given issues associated with quantifying exact equivalency, we see it as beneficial to focus the decision regarding the adequacy of a past MACT emission limitation on the actual emission reductions associated with that limitation, rather than on strict compliance with differing requirements. By evaluating the actual effect from both sets of requirements, the decision is focused on the practical benefit to the environment rather than an exercise in paperwork.

We are concerned about ensuring sufficient public input into decisions made concerning the substantive adequacy of a prior MACT emission limitation to satisfy subsequent requirements. Case-by-case MACT emission limitations under section 112(j) and MACT standards promulgated under sections 112 (d) and (h), and the implementation of these requirements through issuance of title V operating permits, all involve a process in which the public may participate. However, the issues in these proceedings are broader than whether a source's section 112(g) case-by-case MACT determination should be adopted under section 112(j), or a source's section 112(j) MACT emission limitation satisfies subsequent section 112 (d) or (h) requirements. Therefore, we believe it is necessary to assure that any determination by a permitting authority under the ''substantially as effective'' criterion will be adopted and implemented only after public and EPA review.

We believe that the permit review process in title V provides the best vehicle to satisfy this concern without adding additional burden to the source or the permitting agency. The proposal, therefore, would require that any such determination be made through a title V permitting action that involves all the elements required at permit issuance. The part 70 process should provide sufficient review by the public, EPA, and affected States to ensure that the test of ''substantially as effective'' is applied in a manner consistent with our stated legal and policy rationale.

4. Proposed Solution

We are proposing in today's amendments two basic clarifications to: (1) The process in which a case-by-case MACT determination under section 112(g) is replaced by a case-by-case MACT emission limitation under section 112(j), and (2) the process in which a generally applicable MACT standard promulgated under section 112 (d) or (h) is implemented for a source subject to a prior case-by-case MACT emission limitation under section 112(j).

We are proposing to amend § 63.1(e) of the General Provisions and §§ 63.52(a)(3), (b)(2), (e)(2)(ii), and 63.56(c)(1) of the section 112(j) rule. First, the permitting authority would adopt a prior case-by-case MACT determination for a process or production unit under section 112(g) as its case-by-case MACT limitation for the same process or production unit under section 112(j), if it determines that the prior requirements are ''substantially as effective'' in controlling HAP emissions as the requirements which the permitting authority would otherwise have adopted under section 112(j). Second, if the permitting authority determines that the requirements of a prior case-by-case MACT emission limitation for a source under section 112(j) are ''substantially as effective'' in controlling HAP emissions as a MACT standard subsequently promulgated under section 112 (d) or (h), the permitting authority would construe compliance with the prior emission limitation as compliance with the promulgated standard and revise the operating permit accordingly. In either case, the determination by the permitting authority would be subject, consistent with parts 70 and 71, to both public and EPA review (including EPA's opportunity to object) through its incorporation in the source's title V permit. If the source's current MACT determination is not ''substantially as effective'' as the new MACT requirements, then any permit must assure compliance with the subsequent MACT requirements.

In today's amendments, we are proposing that ''substantially as effective'' not be defined in a rigid manner, given the multitude of factors that go into determining MACT. Rather, permitting authorities must have sufficient latitude to make judgments—both qualitative and quantitative—as to whether a particular case-by-case MACT determination applies air pollution control requirements in a manner that achieves the overall environmental results of the particular section 112(d) standard.

The ''substantially as effective'' approach is based on the practicalities of developing MACT requirements in accordance with the statutory language and structure of section 112. Section 112 provides criteria for establishing MACT along with a minimum level of stringency, but is not so rigid as to consistently yield the same exact result by different decision makers. Section 112(d)(2) makes clear that MACT must be determined based on all relevant technical, economic and other factual circumstances of the particular manufacturing operations encompassed by a source category or subcategory (''* * * shall require the maximum degree of reduction in emissions * * * that the Administrator, taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impacts and energy requirements * * *''). Section 112(d)(3) addresses the minimum level of stringency required for new source standards (''* * * shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source'') and for existing source standards (''* * * shall not be less stringent, and may be more stringent than * * * the average emission limitation achieved by the best performing 12 percent of the existing sources * * * for categories or subcategories with 30 or more sources, or * * * the average emission limitation achieved by the best performing sources * * * for categories or subcategories with fewer than 30 sources''). In those instances where we have made a clear determination in a final section 112(d) or (h) standard regarding the applicable MACT floor for a category, a positive ''substantially as effective'' finding can be made if the permitting authority determines that a prior case-by-case MACT limitation under section 112(j) is ''substantially as effective'' in controlling HAP emissions, and the actual emission reductions achieved are consistent with the MACT floor determination.

While we do not intend to establish any mandatory criteria that would govern the ''substantially as effective'' determination by the permitting authority, we believe that it could be useful to establish some analytic benchmarks to guide the permitting authority in exercising its discretion. It

should be recognized at the outset that no one of these benchmarks would necessarily be dispositive on the ''substantially as effective'' judgment by the permitting authority, and other factors also might need to be considered depending on the particular manufacturing operation in question.

One benchmark is the difference in control equipment requirements and efficiencies between the two MACT requirements. On one hand, in those cases where a section 112(j) review leads to a decision not to further limit emissions, and a subsequently issued MACT standard requires significant emission reductions, there is little latitude to construe the prior section 112(j) outcome as ''substantially as effective'' as the promulgated standard. On the other hand, a difference in requirements such as types of control equipment and/or control efficiency levels would not preclude a ''substantially as effective'' judgment. For example, such a judgment might be reasonable where the section 112(j) determination: (1) Reflects a different compliance approach as compared with the section 112(d) standard, (2) mandates control equipment different from the section 112(d) standard that has benefits in terms of ''other nonair quality health and environmental impacts and energy requirements,'' or (3) combines control equipment requirements with work practices and/or pollution prevention measures not prescribed by the section 112(d) standard.

Another benchmark could be capital investments to comply with MACT requirements following the issuance of the prior case-by-case MACT determination. Such a benchmark would afford the permitting authority some latitude in those situations where a source has made significant expenditures in good-faith reliance on a case-by-case MACT determination. We believe that requiring the source to undertake such expenditures to meet subsequent section 112(d) MACT requirements, particularly where the differences in resultant control of HAP emissions are not significant, would be irrational. Arguably, this concern is not presented in instances where a source has not made any capital expenditures to come into compliance with the previous case-by-case MACT determination and would not be economically disadvantaged compared to other sources that must implement new controls.

We request comment on the ''substantially as effective'' approach and these benchmarks for evaluating a source's ''substantially as effective'' claim, and on our decision reflected in today's proposal to proceed with a flexible test that affords permitting authorities the latitude to exercise reasonable judgments—both quantitative and qualitative—in accordance with the statutory language and structure.

5. Timing and Implementation Issues

Another issue is when the ''hand-off'' occurs among the various section 112 program requirements. As discussed above, promulgated MACT standards replace section 112(j) and (g) determinations. Once section 112(d) or (h) requirements have been established for a given category or subcategory of sources, no subsequent actions under section 112(j) or (g) will be required because the section 112(d) or (h) requirements establish the requirements for that particular affected source. Of course, section 112(j) or (g) requirements could eventually be triggered for other operations at the facility in different categories or subcategories for which a section 112(d) or (h) standard has not been issued.

Because the length of time required to obtain a title V permit addressing section 112(j) emission limitations could be up to 24 months after the section 112(j) hammer date, and because process or production units meeting the section 112(g) threshold could be constructed after that date, we believe it is essential that section 112(g) MACT determinations continue to be made, even in cases where the source is in a category or subcategory for which the section 112(j) deadline has passed. Such sources would first obtain a MACT determination under the section 112(g) requirements, and then obtain a determination as to whether that MACT determination satisfies the section 112(j) requirements. As described above, we believe that, in the majority of cases, the section 112(g) requirements will be found to be substantially as effective as the section 112(j) requirements, and the permitting authority can then adopt the existing section 112(g) determination as its case-by-case new source MACT determination under section 112(j). In fact, since in this case the section 112(g) and (j) determinations would be essentially contemporaneous, the likelihood of a meaningful discrepancy would be further reduced. However, since the source must obtain the applicable case-by-case determination under section 112(g) before actual construction or reconstruction, a timely new source MACT determination will be assured.

6. Prohibition of Backsliding

This final issue concerns language in the existing section 112(j) rule, which would give the permitting authority discretion to relax applicable emission requirements when the level of control required for a source by an emission standard under section 112(d) or (h) is less stringent than the level of control required by a prior section 112(j) MACT determination for the same source. We have concluded that it is inappropriate to permit such ''backsliding'' in instances when more stringent emission controls have already been required by the permitting authority. Accordingly, we are proposing to amend the existing section 112(j) rule to provide that any more stringent emission limitations for a source previously adopted by the permitting authority under section 112(j) will continue to apply and must be retained by the permitting authority when it issues or revises a title V permit applicable to the source.

B. Potential to Emit

We are currently developing a separate rulemaking to address several potential-to-emit issues. That proposed rulemaking would amend the General Provisions. We will take final action on that separate proposal after receiving and considering public comments. Until we take final action on that future proposal, any determination of potential to emit made to determine a facility's applicability status under a relevant part 63 standard should be made according to requirements set forth in the relevant standard and in the promulgated General Provisions. Any determination of potential to emit should also take into consideration two EPA policy guidance memoranda, ''Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act,'' John S. Seitz and Robert I. Van Heuvelen, to Regional Offices, January 25, 1995; and ''Extension of January 25, 1995 Potential to Emit Transition Policy,'' John S. Seitz and Robert I. Van Heuvelen, to Regional Offices, August 27, 1997. Both of these policy memoranda can be found on EPA's Clean Air Act bulletin board under ''title V/policy guidance memos.''

V. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735; October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant

regulatory action'' as one that is likely to result in a rule that may:

(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.

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'' are defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national Government and States, or on the distribution of power and responsibilities among the various levels of government.''

This proposed rule does not have Federalism implications. It will not have substantial direct effects on the States, on the relationship between the national Government and States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The EPA recognizes that the provisions of the existing regulations governing case-by-case determinations by permitting authorities under CAA section 112(j), as set forth in 40 CFR part 63, subpart B, might be construed to have substantial effects on the distribution of responsibilities between the Federal Government, States, and localities. However, the revisions to the section 112(j) regulations set forth in today's proposal do not themselves have such effects. Thus, Executive Order 13132 does not apply to this rule.

Nevertheless, in the spirit of Executive Order 13132 and consistent with EPA policy to promote communications between EPA, State, and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

C. Executive Order 13084, Consultation and Coordination with Indian Tribal Governments

On November 6, 2000, the President issued Executive Order 13175 (65 FR 67249) entitled, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 took effect on January 6, 2001, and revokes Executive Order 13084 (Tribal Consultation) as of that date. EPA developed this proposed rule, however, during the period when EO13084 was in effect; thus, EPA addressed tribal considerations under EO13084. EPA will analyze and fully comply with the requirements of EO 13175 before promulgating the final rule.

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 OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that 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 that EPA considered.

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 on technology performance and not on health or safety risks. Furthermore, this rule has been determined not to be ''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, 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 by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any 1 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's regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has 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. Because the regulatory revisions proposed here would clarify existing requirements and reduce regulatory burden, this action is not a ''significant'' regulatory action within the meaning of Executive Order 12866, and it does not impose any additional Federal mandate on State, local and tribal governments or the private sector within the meaning of the UMRA. Thus, today's proposed rule is not subject to the requirements of sections 202, 203, and 205 of the UMRA.

F. Regulatory Flexibility Act (RFA) as Amended by Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any proposed rule subject to notice and comment rulemaking requirements under the Administrative Procedures 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 amendments on small entities, small entity is defined as: (1) A small business as defined in each applicable subpart; (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.

This analysis is not necessary for the General Provisions amendments, however, because it is unknown at this time which requirements from the General Provisions will be applicable to any particular source category, whether such category includes small businesses, and how significant the impacts of those requirements would be on small businesses. Impacts on small entities associated with the General Provisions will be assessed when specific emission standards affecting those sources are developed. ''Small entities'' will be defined in the context of the applicability of those standards.

Similarly, no analysis is required for the amendments to the section 112(j) rule. The rule provides general guidance and procedures concerning the implementation of an underlying statutory requirement, but it does not by itself impose any regulatory requirements or prescribe the specific content of any case-by-case determination which might be made under section 112(j). Moreover, because the requirements of section 112(j) are only triggered in certain limited circumstances, it is not possible at this time to ascertain whether any determinations will be made under section 112(j) or whether any small business would be subject to such a determination. Finally, we note that we found that no regulatory flexibility analysis was required for the existing Section 112(j) rule, and the net effect of the proposed amendments to that rule will be to reduce potential regulatory burdens.

Pursuant to the provisions of 5 U.S.C. 605(b), I, hereby, certify that this proposed rule will not have a significant economic impact on a substantial number of small business entities. Under the RFA, an agency is not required to prepare a regulatory flexibility analysis for a rule that the agency head certifies will not have a significant economic impact on a substantial number of small entities. Consequently, a regulatory flexibility analysis is not required and has not been prepared.

G. Paperwork Reduction Act

As required by the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, the OMB must clear any reporting and recordkeeping requirements that qualify as an information collection request (ICR) under the PRA.

Approval of an ICR is not required for the General Provisions because, for sources affected by section 112 only, the General Provisions do not require any activities until source category-specific standards have been promulgated or until title V permit programs become effective. The actual recordkeeping and reporting burden that would be imposed by the General Provisions for each source category covered by part 63 will be estimated when a standard applicable to such category is promulgated.

The information collection requirements contained in the proposed amendments to the final Section 112(j) rule will be submitted to OMB for approval under the provisions of the PRA. The EPA has prepared an ICR document (ICR No. 1648.03), and you may obtain a copy from Sandy Farmer by mail at Office of Environmental Information, Collection Strategies Division (2822), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, by email at farmer.sandy@epa.gov, or by calling (202) 260–2740. You may also download a copy off the Internet at http://www.epa.gov/icr. The information requirements are not effective until OMB approves them.

The collection of information required by the proposed amendments to the final rule has an estimated nationwide recordkeeping and reporting burden of 319,305 hours ($40,032,198). The current ICR 1648–02 for the section 112(j) regulations was approved and covers the period from November 15, 1999 to November 15, 2001. The burden hours per occurrence for respondents has not changed. However, ICR 1648–02 spanned the period in which the section 112(j) rule would apply to any of the source categories covered by the MACT standards scheduled for promulgation by 1997. This ICR spans the period in which the section 112(j) rule would apply to any of the source categories covered by the MACT standards scheduled for promulgation by 2000, which is a different set of source categories. Therefore, because the number of respondents is different for this ICR, the burden estimated represents an increase of 299,562 hours from the currently approved ICR.

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 (1) review instructions; (2) 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; (3) adjust the existing ways to comply with any previously applicable instructions and requirements; (4) train personnel to be able to respond to a collection of information; (5) search data sources; (6) complete and review the collection of information; and (7) 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.

H. National Technology Transfer and Advancement Act of 1995

Under section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113), all Federal agencies are required to use voluntary consensus standards (VCS) 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 (e.g., materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA requires Federal agencies to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

These rules do not involve technical standards. Therefore, EPA is not considering the use of any VCS.

The proposed amendments to the General Provisions do not include any technical standards; they consist primarily of revisions to the generally applicable procedural and administrative requirements that the General Provisions overlay on NESHAP. The proposed amendments to the section 112(j) rule, which establishes requirements and procedures for owner/operators of major sources of HAP and permitting authorities to follow if the EPA misses the deadline for promulgation of a section 112(d) standard, clarify and amend current procedural and administrative provisions to establish equivalent emissions limitations by permit. Therefore, section 112(j) is also not a vehicle for the application of VCS.

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: February 23, 2001.

Christine T. Whitman,

Administrator.

For the reasons cited in the preamble, part 63, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

Subpart A—[Amended]

2. Section 63.1 is amended by:

a. Revising paragraphs (a)(3) and (4);

b. Removing and reserving paragraphs (a)(7) and (8);

c. Removing and reserving paragraphs (a)(13) through (14);

d. Removing and reserving paragraph (b)(2);

e. Revising paragraph (b)(3);

f. Revising paragraphs (c)(1), (c)(2) introductory text and (c)(2)(iii)

g. Removing and reserving paragraph (c)(4); and

h. Revising paragraph (e);

The revisions read as follows:

§ 63.1 Applicability.

(a) * * *

(3) No emission standard or other requirement established under this part shall be interpreted, construed, or applied to diminish or replace the requirements of a more stringent emission limitation or other applicable requirement established by the Administrator pursuant to other authority of the Act (section 111, part C or D or any other authority of this Act), or a standard issued under State authority. The Administrator may specify in a specific standard under this part that facilities subject to other provisions under the Act need only comply with the provisions of that standard.

(4)(i) Each relevant part 63 standard shall identify explicitly whether each provision in this subpart A is or is not included in such relevant standard.

(ii) If a relevant part 63 standard incorporates the requirements of part 60, part 61 or other part 63 standards, the relevant part 63 standard shall identify explicitly the applicability of each corresponding part 60, part 61, or other part 63 subpart A (General) provision.

(iii) The General Provisions in this subpart A do not apply to regulations developed pursuant to section 112(r) of the amended Act, unless otherwise specified in those regulations.

* * * * *

(7) [Reserved]

(8) [Reserved]

* * * * *

(13) [Reserved]

(14) [Reserved]

(b) * * *

(2) [Reserved]

(3) An owner or operator of a stationary source who is in the relevant source category and who determines that the source is not subject to a relevant standard or other requirement established under this part shall keep a record as specified in § 63.10(b)(3).

(c) * * *

(1) If a relevant standard has been established under this part, the owner or operator of an affected source shall comply with the provisions of that standard and of this subpart as provided in paragraph (a)(4) of this section.

(2) Except as provided in § 63.10(b)(3), if a relevant standard has been established under this part, the owner or operator of an affected source may be required to obtain a title V permit from a permitting authority in the State in which the source is located. Emission standards promulgated in this part for area sources pursuant to section 112(c)(3) of the Act will specify whether—

* * * * *

(iii) If a standard fails to specify what the permitting requirements will be for area sources affected by such a standard, then area sources that are subject to the standard will be subject to the requirement to obtain a title V permit without any deferral.

* * * * *

(4) [Reserved]

* * * * *

(e) If the Administrator promulgates an emission standard under section 112(d) or (h) of the Act that is applicable to a source subject to an emission limitation by permit established under section 112(j) of the Act, and the requirements under the section 112(j) emission limitation are substantially as effective as the promulgated emission standard, the owner or operator may request the permitting authority to revise the source's title V permit to reflect that the emission limitation in the permit satisfies the requirements of the promulgated emission standard. The process by which the permitting authority determines whether the section 112(j) emission limitation is substantially as effective as the promulgated emission standard shall include, consistent with part 70 or 71 of this chapter, the opportunity for full public, EPA, and affected State review (including the opportunity for EPA's objection) prior to the permit revision being finalized. A negative determination by the permitting authority constitutes final action for purposes of review and appeal under the applicable title V operating permit program.

3. Section 63.2 is amended by:

a. Revising the definition of *Affected source;*

b. Revising the definition of *Commenced;*

c. Revising the definition of *Construction;*

d. Revising paragraph (2) in the definition of *Effective date;*

e. Revising the definition of *Equivalent emission limitation;*

f. Revising paragraph (6) in the definition of *Federally enforceable;*

g. Revising the first sentence in the definition of *Malfunction;*

h. Revising the definition of *New source;*

i. Revising the introductory text in the definition of *Reconstruction;*

j. Amending the definition of *Relevant standard* by revising the first sentence of paragraph (4) and redesignating the flush paragraph to the end of paragraph (4) and revising the last sentence of newly designated text in paragraph (4).

k. Revising the definition of *Shutdown;*

l. Revising the definition of *Startup;*

m. By adding in alphabetical order definitions for *Monitoring, New affected source,* and *Working day;* and

n. By removing definitions for *Compliance plan, Lesser quantity,* and *Part 70 permit.*

The revisions and additions read as follows:

§ 63.2 Definitions.

* * * * *

Affected source, for the purposes of this part, means the collection of equipment, activities, or both within a single contiguous area and under common control that is included in a section 112(c) source category or subcategory for which a section 112(d) standard or other relevant standard is established pursuant to section 112 of the Act. Each relevant standard will define the ''affected source,'' which will be the definition above unless a different definition is warranted based on a published justification as to why the definition above would result in significant administrative, practical, or implementation problems and why the different definition would resolve those problems. The term ''affected source,'' as used in this part, is separate and distinct from any other use of that term in EPA regulations such as those implementing title IV of the Act. Affected source may be defined differently for part 63 than affected facility and stationary source in parts 60 and 61, respectively.

* * * * *

Commenced means, with respect to construction or reconstruction of an affected source, that an owner or operator has undertaken a continuous program of construction or reconstruction or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or reconstruction.

* * * * *

Construction means the on-site fabrication, erection, or installation of an affected source. Construction does not include the removal of all equipment comprising an affected source from an existing location and reinstallation of such equipment at a new location. However, removal and reinstallation of an affected source will be construed as reconstruction if it satisfies the criteria for reconstruction set forth below.

* * * * *

Effective date means: * * *

(2) With regard to an alternative emission limitation or equivalent emission limitation determined by the Administrator (or a State with an approved permit program), the date that the alternative emission limitation or equivalent emission limitation becomes effective according to the provisions of this part.

* * * * *

Equivalent emission limitation means any maximum achievable control technology emission limitation or requirements which are applicable to a major source of hazardous air pollutants and are adopted by the Administrator (or a State with an approved permit program) on a case-by-case basis, pursuant to section 112(g) or (j) of the Act.

* * * * *

Federally enforceable * * *

(6) Limitations and conditions that are part of an operating permit where the permit and the permitting program pursuant to which it was issued meet all of the following criteria:

(i) The operating permit program has been submitted to and approved by EPA into a State Implementation Plan (SIP) under section 110 of the Clean Air Act;

(ii) The SIP imposes a legal obligation that operating permit holders adhere to the terms and limitations of such permits and provides that permits which do not conform to the operating permit program requirements and the requirements of EPA's underlying regulations may be deemed not ''federally enforceable'' by EPA;

(iii) The operating permit program requires that all emission limitations, controls, and other requirements imposed by such permits will be at least as stringent as any other applicable limitations and requirements contained in the SIP or enforceable under the SIP, and that the program may not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the SIP, or that are otherwise ''federally enforceable'';

(iv) The limitations, controls, and requirements in the permit in question are permanent, quantifiable, and otherwise enforceable as a practical matter; and

(v) The permit in question was issued only after adequate and timely notice and opportunity for comment for EPA and the public.

* * * * *

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner.

* * *

Monitoring means the collection and use of measurement data or other information to control the operation of a process or pollution control device relative to assuring compliance with applicable requirements. Monitoring is composed of four elements:

(1) Indicator(s) of performance—the parameter or parameters you measure or observe for demonstrating proper operation of the pollution control measures or compliance with the applicable emissions limitation or standard. Indicators of performance may include direct or predicted emissions (including opacity) measurements, operational parametric values that correspond to process or control device (and capture system) efficiency or emissions rates, and recorded findings of inspection of work practice activities or design characteristics. Indicators may be expressed as a single maximum or minimum value, a function of process variables (e.g., within a range of pressure drops), a particular operational or work practice status (e.g., a damper position, completion of a waste recovery task), or an interdependency between two or more variables.

(2) Measurement techniques—the means by which you gather and record information of or about the indicators of performance. The components of the measurement technique include the detector type, location and installation specifications, inspection procedures, and quality assurance and quality control measures. Examples of measurement techniques include continuous emission monitoring systems, continuous opacity monitoring systems, continuous parametric monitoring systems, and manual inspections that include making records of process conditions or work practices.

(3) Monitoring frequency—the number of times you obtain and record monitoring data over a specified time

interval. Examples of monitoring frequencies include at least four points equally spaced for each hour for continuous emissions or parametric monitoring systems, at least every 10 seconds for continuous opacity monitoring systems, and at least once per operating day (or week, month, etc.) for work practice or design inspections.

(4) Averaging time—the period over which you average and use data to verify proper operation of the pollution control approach or compliance with the emissions limitation or standard. Examples of averaging time include a 3-hour average in units of the emissions limitation, a 30-day rolling average emissions value, a daily average of a control device operational parametric range, and an instantaneous alarm.

New affected source means the collection of equipment, activities, or both within a single contiguous area and under common control that is included in a section 112(c) source category or subcategory that is subject to a section 112(d) or other relevant standard for new sources. Each relevant standard will define the term ''new affected source,'' which will be the same as the ''affected source'' unless a different collection is warranted based on consideration of factors including:

(1) Emission reduction impacts of controlling individual sources versus groups of sources;

(2) Cost effectiveness of controlling individual equipment;

(3) Flexibility to accommodate common control strategies;

(4) Cost/benefits of emissions averaging;

(5) Incentives for pollution prevention;

(6) Feasibility and cost of controlling processes that share common equipment (e.g., product recovery devices);

(7) Feasibility and cost of monitoring; and

(8) Other relevant factors.

New source means any affected source the construction or reconstruction of which is commenced after the Administrator first proposes a relevant emission standard under this part establishing an emission standard applicable to such source.

* * * * *

Reconstruction, unless otherwise defined in a relevant standard, means the replacement of components of an affected or a previously nonaffected source to such an extent that:

* * * * *

Relevant standard means: * * *

(4) An equivalent emission limitation established pursuant to section 112 of the Act that applies to the collection of equipment, activities, or both regulated by such standard or limitation.

* * * Every relevant standard established pursuant to section 112 of the Act includes subpart A of this part, as provided by § 63.1(a)(4), and all applicable appendices of this part or of other parts of this chapter that are referenced in that standard.

* * * * *

Shutdown means the cessation of operation of an affected source or portion of an affected source for any purpose.

* * * * *

Startup means the setting in operation of an affected source or portion of an affected source for any purpose.

* * * * *

Working day means any day on which Federal Government offices (or State government offices for a State that has obtained delegation under section 112(l)) are open for normal business. Saturdays, Sundays, and official Federal (or where delegated, State) holidays are not working days.

4. Section 63.4 is amended by:

a. Revising paragraph (a)(1);

b. Removing paragraphs (a)(3) through (a)(5);

c. Removing and reserving paragraph (b)(3); and

d. Revising paragraph (c).

The revisions read as follows:

§ 63.4 Prohibited activities and circumvention.

(a) * * *

(1) No owner or operator subject to the provisions of this part shall operate any affected source in violation of the requirements of this part. Affected sources subject to and in compliance with either an extension of compliance or an exemption from compliance are not in violation of the requirements of this part. An extension of compliance can be granted by the Administrator under this part; by a State with an approved permit program; or by the President under section 112(i)(4) of the Act.

* * * * *

(3)–(5) [Reserved]

(b) * * *

(3) [Reserved]

(c) *Fragmentation.* Fragmentation after November 15, 1990 which divides ownership of an operation, within the same facility among various owners where there is no real change in control, will not affect applicability. Owners and operators shall not use fragmentation or phasing of reconstruction activities (i.e., intentionally dividing reconstruction into multiple parts for purposes of avoiding new source requirements) to avoid becoming subject to new source requirements.

5. Section 63.5 is amended by:

a. Revising the section heading;

b. Revising paragraphs (a)(1) through (2);

c. Revising paragraph (b)(1);

d. Revising paragraphs (b)(3) through (4);

e. Removing and reserving paragraph (b)(5);

f. Revising paragraph (b)(6);

g. Revising paragraph (d)(1)(i);

h. Revising paragraph (d)(1)(ii)(B);

i. Revising paragraph (d)(1)(ii)(E);

j. Removing and reserving paragraph (d)(1)(ii)(G);

k. Revising paragraph (d)(2);

l. Revising paragraph (d)(3)(vi); and

m. Revising paragraphs (f)(1) through (f)(2).

The revisions read as follows:

§ 63.5 Preconstruction review and notification requirements.

(a) * * *

(1) This section implements the preconstruction review requirements of section 112(i)(1). After the effective date of a relevant standard, promulgated pursuant to section 112, paragraph (d), (f), or (h) of the Act, under this part, the preconstruction review requirements in this section apply to owners or operators of new affected sources and reconstructed affected sources that are major-emitting as specified in this section. New and reconstructed affected sources that commence construction or reconstruction before the effective date of a relevant standard are not subject to the preconstruction review requirements specified in paragraphs (b)(3), (d), and (e) of this section.

(2) This section includes notification requirements for new affected sources and reconstructed affected sources that are not major-emitting and that are or become subject to a relevant promulgated emission standard after the effective date of a relevant standard promulgated under this part.

(b) *Requirements for existing, newly constructed, and reconstructed affected sources.* (1) A new affected source for which construction commences after proposal of a relevant standard is subject to relevant standards for new affected sources, including compliance dates. An affected source for which reconstruction commences after proposal of a relevant standard is subject to relevant standards for new sources, including compliance dates, irrespective of any change in emissions of hazardous air pollutants from that source.

* * * * *

(3) After the effective date of any relevant standard promulgated by the

Administrator under this part, no person may:

(i) Construct a new affected source that is major-emitting and subject to such standard;

(ii) Reconstruct an affected source that is major-emitting and subject to such standard; or

(iii) Reconstruct a major source, such that the source becomes an affected source that is major-emitting and subject to the standard, without obtaining written approval, in advance, from the Administrator in accordance with the procedures specified in paragraphs (d) and (e) of this section.

(4) After the effective date of any relevant standard promulgated by the Administrator under this part, an owner or operator who constructs a new affected source that is not major-emitting or reconstructs an affected source that is not major-emitting that is subject to such standard, or reconstructs a source such that the source becomes an affected source subject to the standard, shall notify the Administrator of the intended construction or reconstruction. The notification shall be submitted in accordance with the procedures in § 63.9(b).

(5) [Reserved]

(6) After the effective date of any relevant standard promulgated by the Administrator under this part, equipment added (or a process change) to an affected source that is within the scope of the definition of affected source under the relevant standard shall be considered part of the affected source and subject to all provisions of the relevant standard established for that affected source.

* * * * *

(d) * * *

(1) * * *

(i) An owner or operator who is subject to the requirements of paragraph (b)(3) of this section shall submit to the Administrator an application for approval of the construction or reconstruction. The application shall be submitted as soon as practicable before actual construction or reconstruction begins. The application for approval of construction or reconstruction may be used to fulfill the initial notification requirements of § 63.9(b)(5). The owner or operator may submit the application for approval well in advance of the date actual construction or reconstruction begins in order to ensure a timely review by the Administrator and that the planned date to begin will not be delayed.

(ii) * * *

(B) A notification of intention to construct a new major affected source or make any physical or operational change to a major affected source that may meet or has been determined to meet the criteria for a reconstruction, as defined in § 63.2 or in the relevant standard;

* * * * *

(E) The expected date of the beginning of actual construction or reconstruction;

* * * * *

(G) [Reserved]

* * * * *

(2) *Application for approval of construction.* Each application for approval of construction shall include, in addition to the information required in paragraph (d)(1)(ii) of this section, technical information describing the proposed nature, size, design, operating design capacity, and method of operation of the source, including an identification of each type of emission point for each type of hazardous air pollutant that is emitted (or could reasonably be anticipated to be emitted) and a description of the planned air pollution control system (equipment or method) for each emission point. The description of the equipment to be used for the control of emissions shall include each control device for each hazardous air pollutant and the estimated control efficiency (percent) for each control device. The description of the method to be used for the control of emissions shall include an estimated control efficiency (percent) for that method. Such technical information shall include calculations of emission estimates in sufficient detail to permit assessment of the validity of the calculations.

(3) * * *

(vi) If in the application for approval of reconstruction the owner or operator designates the affected source as a reconstructed source and declares that there are no economic or technical limitations to prevent the source from complying with all relevant standards or other requirements, the owner or operator need not submit the information required in paragraphs (d)(3)(iii) through (d)(3)(v) of this section.

* * * * *

(f) * * *

(1) Preconstruction review procedures that a State utilizes for other purposes may also be utilized for purposes of this section if the procedures are substantially equivalent to those specified in this section. The Administrator will approve an application for construction or reconstruction specified in paragraphs (b)(3) and (d) of this section if the owner or operator of a new affected source or reconstructed affected source, who is subject to such requirement, demonstrates to the Administrator's satisfaction that the following conditions have been (or will be) met:

(i) The owner or operator of the new affected source or reconstructed affected source has undergone a preconstruction review and approval process in the State in which the source is (or would be) located and has received a federally enforceable construction permit that contains a finding that the source will meet the relevant promulgated emission standard, if the source is properly built and operated; and

(ii) In making its finding, the State has considered factors substantially equivalent to those specified in paragraph (e)(1) of this section.

(iii) [Reserved]

(iv) [Reserved]

(2) The owner or operator shall submit to the Administrator the request for approval of construction or reconstruction under this paragraph (f)(2) no later than the application deadline specified in paragraph (d)(1) of this section (see also § 63.9(b)(2)). The owner or operator shall include in the request information sufficient for the Administrator's determination. The Administrator will evaluate the owner or operator's request in accordance with the procedures specified in paragraph (e) of this section. The Administrator may request additional relevant information after the submittal of a request for approval of construction or reconstruction under this paragraph.

6. Section 63.6 is amended by:

a. Revising paragraph (a)(1) introductory text;

b. Revising paragraphs (b)(1) through (b)(2);

c. Revising paragraph (b)(3)(i);

d. Revising paragraphs (b)(4) through (b)(5);

e. Revising paragraph (b)(7);

f. Revising paragraph (c)(2);

g. Revising paragraph (c)(5);

h. Revising paragraphs (e)(1)(i) through (ii);

i. Removing and reserving paragraph (e)(2):

j. Revising paragraphs (e)(3)(i) introductory text, (e)(3)(i)(A), (e)(3)(ii), the first three sentences of paragraphs (e)(3)(iii) and (e)(3)(v), revising paragraphs (e)(3)(iv), (e)(3)(vii)(B), (e)(3)(vii)(C), (e)(3)(viii) and adding paragraph (e)(3)(ix);

k. Revising paragraph (f)(1);

l. Revising paragraph (f)(2)(iii)(D);

m. Revising paragraph (f)(3);

n. Revising paragraph (h)(1);

o. Revising paragraph (h)(2)(iii)(C);

p. Revising paragraph (i)(4)(i)(B);

q. Revising the last sentence of paragraph (i)(4)(ii);

r. Revising paragraphs (i)(6)(i)(B)(*1*) and (*2*) and removing and reserving paragraphs (i)(6)(i)(C) & (D);

s. Revising paragraph (i)(12)(i)

t. Revising paragraph (i)(14); and

u. Adding paragraph (i)(4)(i)(C).

The revisions and additions read as follows:

§ 63.6 Compliance with standards and maintenance requirements.

(a) * * *

(1) The requirements in this section apply to owners or operators of affected sources for which any relevant standard has been established pursuant to section 112 of the Act and the applicability of such requirements is set out in accordance with § 63.1(a)(4) unless—

* * * * *

(b) *Compliance dates for new and reconstructed affected sources.* (1) Except as specified in paragraphs (b)(3) and (4) of this section, the owner or operator of a new or reconstructed affected source for which construction or reconstruction commences after proposal of a relevant standard that has an initial startup before the effective date of a relevant standard established under this part pursuant to section 112(d), (f), or (h) of the Act shall comply with such standard not later than the standard's effective date.

(2) Except as specified in paragraphs (b)(3) and (4) of this section, the owner or operator of a new or reconstructed affected source that has an initial startup after the effective date of a relevant standard established under this part pursuant to section 112(d), (f), or (h) of the Act shall comply with such standard upon startup of the source.

(3) * * *

(i) The promulgated standard (that is, the relevant standard) is more stringent than the proposed standard; for purposes of this paragraph, a finding that controls or compliance methods are ''more stringent'' shall include control technologies or performance criteria and compliance or compliance assurance methods that are different but are substantially equivalent to those required by the promulgated rule, as determined by the Administrator (or his or her authorized representative); and

* * * * *

(4) The owner or operator of an affected source for which construction or reconstruction is commenced after the proposal date of a relevant standard established pursuant to section 112(d) of the Act but before the proposal date of a relevant standard established pursuant to section 112(f) shall not be required to comply with the section 112(f) emission standard until the date 10 years after the date construction or reconstruction is commenced, except that, if the section 112(f) standard is promulgated more than 10 years after construction or reconstruction is commenced, the owner or operator shall comply with the standard as provided in paragraphs (b)(1) and (2) of this section.

(5) The owner or operator of a new source that is subject to the compliance requirements of paragraph (b)(3) or (4) of this section shall notify the Administrator in accordance with § 63.9(d).

* * * * *

(7) When an area source becomes a major source by the addition of equipment or operations that meet the definition of new affected source in the relevant standard, the portion of the existing facility that is a new affected source shall comply with all requirements of that standard applicable to new sources. The source owner or operator shall comply with the relevant standard upon startup.

(c) * * *

(2) If an existing source is subject to a standard established under this part pursuant to section 112(f) of the Act, the owner or operator shall comply with the standard by the date 90 days after the standard's effective date, or by the date specified in an extension granted to the source by the Administrator under paragraph (i)(4)(ii) of this section, whichever is later.

* * * * *

(5) Except as provided in paragraph (b)(7) of this section, the owner or operator of an area source that increases its emissions of (or its potential to emit) hazardous air pollutants such that the source becomes a major source shall be subject to relevant standards for existing sources. Such sources shall comply by the date specified in the standards for existing area sources that become major sources. If no such compliance date is specified in the standards, the source shall have a period of time to comply with the relevant emission standard that is equivalent to the compliance period specified in the relevant standard for existing sources in existence at the time the standard becomes effective.

* * * * *

(e) * * *

(1)(i) At all times, including periods of startup, shutdown, and malfunction, owners or operators shall operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions to the levels required by the relevant standards, i.e., meet the emission standard or comply with the startup, shutdown, and malfunction plan. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures (including the startup, shutdown, and malfunction plan required in paragraph (e)(3) of this section), review of operation and maintenance records, and inspection of the source.

(ii) Malfunctions shall be corrected as soon as practicable after their occurrence in accordance with the startup, shutdown, and malfunction plan required in paragraph (e)(3) of this section. To the extent that an unexpected event arises during a startup, shutdown, or malfunction, an owner or operator shall comply by minimizing emissions during such a startup, shutdown, and malfunction event consistent with safety and good air pollution control practices.

* * * * *

(2) [Reserved]

(3) * * *

(i) The owner or operator of an affected source shall develop and implement a written startup, shutdown, and malfunction plan that describes, in detail, procedures for operating and maintaining the source during periods of startup, shutdown, and malfunction, a program of corrective action for malfunctioning process, and air pollution control and monitoring equipment used to comply with the relevant standard. This plan shall be developed by the owner or operator by the source's compliance date for that relevant standard. The purpose of the startup, shutdown, and malfunction plan is to—

(A) Ensure that, at all times, owners or operators operate and maintain affected sources, including associated air pollution control and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions to the levels required by the relevant standards;

* * * * *

(ii) During periods of startup, shutdown, and malfunction, the owner or operator of an affected source shall operate and maintain such source (including associated air pollution control and monitoring equipment) in accordance with the procedures specified in the startup, shutdown, and malfunction plan developed under paragraph (e)(3)(i) of this section.

(iii) When actions taken by the owner or operator during a startup, shutdown, or malfunction (including actions taken to correct a malfunction) are consistent with the procedures specified in the affected source's startup, shutdown, and malfunction plan, the owner or operator shall keep records for that event which demonstrate that the procedures specified in the plan were followed. These records may take the form of a ''checklist,'' or other effective form of recordkeeping that confirms conformance with the startup, shutdown, and malfunction plan for that event. In addition, the owner or operator shall keep records of these events as specified in § 63.10(b), including records of the occurrence and duration of each startup, shutdown, or malfunction of operation and each malfunction of the air pollution control and monitoring equipment. * * *

(iv) If an action taken by the owner or operator during a startup, shutdown, or malfunction (including an action taken to correct a malfunction) is not consistent with the procedures specified in the affected source's startup, shutdown, and malfunction plan, and the source exceeds the relevant emission standard, then the owner or operator shall record the actions taken for that event and shall report such actions within 2 working days after commencing actions inconsistent with the plan, followed by a letter within 7 working days after the end of the event, in accordance with § 63.10(d)(5) (unless the owner or operator makes alternative reporting arrangements, in advance, with the Administrator.

(v) The owner operator shall maintain at the affected source a current startup, shutdown, and malfunction plan and shall make the plan available upon request for inspection and copying by the Administrator. In addition, if the startup, shutdown, and malfunction plan is subsequently revised as provided in paragraph (e)(3)(viii) of this section, the owner or operator shall maintain at the affected source each previous (i.e., superseded) version of the startup, shutdown, and malfunction plan, and shall make each such previous version available for inspection and copying by the Administrator for a period of 5 years after revision of the plan. If at any time after adoption of a startup, shutdown, and malfunction plan the affected source ceases operation or is otherwise no longer subject to the provisions of this part, the owner or operator shall retain a copy of the most recent plan for 5 years from the date the source ceases operation or is no longer subject to this part and shall make the plan available upon request for inspection and copying by the Administrator. * * *

* * * * *

(vii) * * *

(B) Fails to provide for the operation of the source (including associated air pollution control and monitoring equipment) during a startup, shutdown, or malfunction event in a manner consistent with safety and good air pollution control practices for minimizing emissions to the levels required by the relevant standards; or

(C) Does not provide adequate procedures for correcting malfunctioning process and/or air pollution control and monitoring equipment as quickly as practicable.

(viii) The owner or operator may periodically revise the startup, shutdown, and malfunction plan for the affected source as necessary to satisfy the requirements of this part or to reflect changes in equipment or procedures at the affected source. Unless the permitting authority provides otherwise, the owner or operator may make such revisions to the startup, shutdown, and malfunction plan without prior approval by the Administrator or the permitting authority. However, each such revision to a startup, shutdown, and malfunction plan must be reported in the semiannual report required by § 63.10(d)(5). If the startup, shutdown, and malfunction plan fails to address or inadequately addresses an event that meets the characteristics of a malfunction but was not included in the startup, shutdown, and malfunction plan at the time the owner or operator developed the plan, the owner or operator shall revise the startup, shutdown, and malfunction plan within 45 days after the event to include detailed procedures for operating and maintaining the source during similar malfunction events and a program of corrective action for similar malfunctions of process or air pollution control and monitoring equipment. In the event that the owner or operator makes any revision to the startup, shutdown, and malfunction plan which alters the scope of the activities at the source which are deemed to be a startup, shutdown, malfunction, or otherwise modifies the applicability of any emission limit, work practice requirement, or other requirement in a standard established under this part, the revised plan shall not take effect until after the owner or operator has provided a written notice describing the revision to the permitting authority.

(ix) The title V permit for an affected source shall require that the owner or operator adopt a startup, shutdown, and malfunction plan which conforms to the provisions of this part, and that the owner or operator operate and maintain the source in accordance with the procedures specified in the current startup, shutdown, and malfunction plan. However, any revisions made to the startup, shutdown, and malfunction plan in accordance with the procedures established by this part shall not be deemed to constitute permit revisions under part 70 or part 71 of this chapter. Moreover, none of the procedures specified by the startup, shutdown, and malfunction plan for an affected source shall be deemed to fall within the permit shield provision in section 504(f) of the Act.

(f) * * *

(1) *Applicability.* The non-opacity emission standards set forth in this part shall apply at all times except during periods of startup, shutdown, and malfunction, and as otherwise specified in an applicable subpart. If a startup, shutdown, or malfunction of one portion of an affected source does not affect the ability of particular emission points within other portions of the affected source to comply with the non-opacity emission standards set forth in this part, then that emission point shall still be required to comply with the non-opacity emission standards and other applicable requirements.

(2) * * *

(iii) * * *

(D) The performance test was appropriately quality-assured, as specified in § 63.7(c).

* * * * *

(3) *Finding of compliance.* The Administrator will make a finding concerning an affected source's compliance with a non-opacity emission standard, as specified in paragraphs (f)(1) and (2) of this section, upon obtaining all the compliance information required by the relevant standard (including the written reports of performance test results, monitoring results, and other information, if applicable) and information available to the Administrator pursuant to paragraph (e)(1)(i) of this section.

* * * * *

(h) * * *

(1) *Applicability.* The opacity and visible emission standards set forth in this part shall apply at all times except during periods of startup, shutdown, and malfunction, and as otherwise specified in an applicable subpart. If a startup, shutdown, or malfunction of one portion of an affected source does not affect the ability of particular emission points within other portions of the affected source to comply with the

opacity and visible emission standards set forth in this part, then that emission point shall still be required to comply with the opacity and visible emission standards and other applicable requirements.

(2) * * *

(iii) * * *

(C) The opacity or visible emission test was conducted and the resulting data were reduced using EPA-approved test methods and procedures, as specified in § 63.7(e); and

* * * * *

(i) * * *

(4)(i) * * *

(B) Any request under this paragraph for an extension of compliance with a relevant standard shall be submitted in writing to the appropriate authority no later than 120 days prior to the affected source's compliance date (as specified in paragraphs (b) and (c) of this section), except as provided for in paragraph (i)(4)(i)(C) of this section. Nonfrivolous requests submitted under this paragraph will stay the effect of the rule as to the emission points in question until such time as the request is granted or denied. A denial will be effective as of the date of denial. Emission standards established under this part may specify alternative dates for the submittal of requests for an extension of compliance if alternatives are appropriate for the source categories affected by those standards.

(C) An owner or operator may submit a compliance extension request after the date specified in paragraph (i)(4)(i)(B) of this section provided the need for the compliance extension arose after that date, and before the otherwise applicable compliance date, and the need arose due to circumstances beyond reasonable control of the owner or operator. This request shall include, in addition to the information required in paragraph (i)(6)(i) of this section, a statement of the reasons additional time is needed and the date when the owner or operator first learned of the problems. Nonfrivolous requests submitted under this paragraph will stay the effect of the rule as to the emission points in question until such time as the request is granted or denied. A denial will be effective as of the original compliance date.

(ii) * * * Any request for an extension of compliance with a relevant standard under this paragraph shall be submitted in writing to the Administrator not later than 90 calendar days after the effective date of the relevant standard.

* * * * *

(6)(i) * * *

(B) * * *

(*1*) The date by which on-site construction, installation of emission control equipment, or a process change is planned to be initiated; and

(*2*) The date by which final compliance is to be achieved.

(C) [Reserved]

(D) [Reserved]

* * * * *

(12)(i) The Administrator (or the State with an approved permit program) will notify the owner or operator in writing of approval or intention to deny approval of a request for an extension of compliance within 30 calendar days after receipt of sufficient information to evaluate a request submitted under paragraph (i)(4)(i) or (i)(5) of this section. The Administrator (or the State) will notify the owner or operator in writing of the status of his/her application, that is, whether the application contains sufficient information to make a determination, within 30 calendar days after receipt of the original application and within 30 calendar days after receipt of any supplementary information that is submitted. The 30-day approval or denial period will begin after the owner or operator has been notified in writing that his/her application is complete.

* * * * *

(14) The Administrator (or the State with an approved permit program) may terminate an extension of compliance at an earlier date than specified if any specification under paragraph (i)(10)(iii) or (iv) of this section is not met. Upon a determination to terminate, the Administrator will notify, in writing, the owner or operator of the Administrator's determination to terminate, together with:

(i) Notice of the reason for termination; and

(ii) Notice of opportunity for the owner or operator to present in writing, within 15 calendar days after he/she is notified of the determination to terminate, additional information or arguments to the Administrator before further action on the termination.

(iii) A final determination to terminate an extension of compliance will be in writing and will set forth the specific grounds on which the termination is based. The final determination will be made within 30 calendar days after presentation of additional information or arguments, or within 30 calendar days after the final date specified for the presentation if no presentation is made.

* * * * *

7. Section 63.7 is amended by:

a. Revising paragraphs (a)(1) and (a)(2) introductory text;

b. Removing and reserving paragraphs (a)(2)(i) through (viii)

c. Revising paragraph (b)(2);

d. Revising paragraphs (c)(3)(ii)(A) through (B);

e. Revising paragraph (c)(4)(i);

f. Revising paragraphs (e)(2)(i) through (iii)

g. Revising paragraph (f)(1);

h. Revising paragraphs (f)(2)(i) through (ii); and

i. Revising paragraph (f)(3).

The revisions read as follows:

§ 63.7 Performance testing requirements.

(a) * * *

(1) The applicability of this section is set out in § 63.1(a)(4).

(2) If required to do performance testing by a relevant standard, and unless a waiver of performance testing is obtained under this section or the conditions of paragraph (c)(3)(ii)(B) of this section apply, the owner or operator of the affected source shall perform such tests within 180 days of the compliance date for such source.

(i)—(viii) [Reserved]

* * * * *

(b) * * *

(2) In the event the owner or operator is unable to conduct the performance test on the date specified in the notification requirement specified in paragraph (b)(1) of this section, due to unforeseeable circumstances beyond his or her control, the owner or operator shall notify the Administrator as soon as practicable and without delay prior to the scheduled performance test date and specify the date when the performance test is rescheduled. This notification of delay in conducting the performance test shall not relieve the owner or operator of legal responsibility for compliance with any other applicable provisions of this part or with any other applicable Federal, State, or local requirement, nor will it prevent the Administrator from implementing or enforcing this part or taking any other action under the Act.

(c) * * *

(3) * * *

(ii) * * *

(A) If the owner or operator intends to demonstrate compliance using the test method(s) specified in the relevant standard or with only minor changes to those tests methods (see paragraph (e)(2)(i) of this section), the owner or operator shall conduct the performance test within the time specified in this section using the specified method(s);

(B) If the owner or operator intends to demonstrate compliance by using an alternative to any test method specified in the relevant standard, the owner or operator is authorized to conduct the

performance test using an alternative test method after the Administrator approves the use of the alternative method when the Administrator approves the site-specific test plan (if review of the site-specific test plan is requested) or after the alternative method is approved (see paragraph (f) of this section). However, the owner or operator is authorized to conduct the performance test using an alternative method in the absence of notification of approval 45 days after submission of the site-specific test plan or request to use an alternative method. The owner or operator is authorized to conduct the performance test within 60 calendar days after he/she is authorized to demonstrate compliance using an alternative test method. Notwithstanding the requirements in the preceding three sentences, the owner or operator may proceed to conduct the performance test as required in this section (without the Administrator's prior approval of the site-specific test plan) if he/she subsequently chooses to use the specified testing and monitoring methods instead of an alternative.

* * * * *

(4)(i) *Performance test method audit program.* The owner or operator shall analyze performance audit (PA) samples during each performance test. The owner or operator shall request performance audit materials 30 days prior to the test date. Audit materials including cylinder audit gases may be obtained by contacting the appropriate EPA Regional Office or the responsible enforcement authority.

* * * * *

(e) * * *

(2) * * *

(i) Specifies or approves, in specific cases, the use of a test method with minor changes in methodology (see definition in § 63.90(a)). Such changes may be approved in conjunction with approval of the site-specific test plan (see paragraph (c) of this section); or

(ii) Approves the use of an intermediate or major change or alternative to a test method (see definitions in § 63.90(a)), the results of which the Administrator has determined to be adequate for indicating whether a specific affected source is in compliance; or

(iii) Approves shorter sampling times or smaller sample volumes when necessitated by process variables or other factors; or

* * * * *

(f) * * *

(1) *General.* Until authorized to use an intermediate or major change or alternative to a test method, the owner or operator of an affected source remains subject to the requirements of this section and the relevant standard.

(2) * * *

(i) Notifies the Administrator of his or her intention to use an alternative test method at least 60 days before the performance test is scheduled to begin;

(ii) Uses Method 301 in appendix A to this part to validate the alternative test method. This may include the use of specific procedures of Method 301 if use of such procedures are sufficient to validate the alternative test method; and

* * * * *

(3) The Administrator will determine whether the owner or operator's validation of the proposed alternative test method is adequate and issue an approval or disapproval of the alternative test method. If the owner or operator intends to demonstrate compliance by using an alternative to any test method specified in the relevant standard, the owner or operator is authorized to conduct the performance test using an alternative test method after the Administrator approves the use of the alternative method. However, the owner or operator is authorized to conduct the performance test using an alternative method in the absence of notification of approval/disapproval 45 days after submission of the request to use an alternative method and the request satisfies the requirements in paragraph (f)(2) of this section. The owner or operator is authorized to conduct the performance test within 60 calendar days after he/she is authorized to demonstrate compliance using an alternative test method. Notwithstanding the requirements in the preceding three sentences, the owner or operator may proceed to conduct the performance test as required in this section (without the Administrator's prior approval of the site-specific test plan) if he/she subsequently chooses to use the specified testing and monitoring methods instead of an alternative.

* * * * *

8. Section 63.8 is amended by:

a. Revising paragraph (a)(1);

b. Revising paragraphs (b)(1)(i) through (ii);

c. Revising paragraphs (b)(2)(i) through (ii);

d. Revising paragraphs (c)(1)(i) through (iii);

e. Revising paragraph (c)(2);

f. Revising paragraph (c)(6);

g. Revising paragraph (f)(1);

h. Revising paragraphs (f)(4)(i) through (ii);

i. Adding paragraph (f)(4)(iv);

j. Revising the heading of paragraph (f)(5) and revising paragraph (f)(5)(i) introductory text;

k. Revising paragraph (g)(1); and

l. Revising paragraph (g)(5).

The revisions and additions read as follows:

§ 63.8 Monitoring requirements.

(a) * * *

(1) The applicability of this section is set out in § 63.1(a)(4).

* * * * *

(b) * * *

(1) * * *

(i) Specifies or approves the use of minor changes in methodology for the specified monitoring requirements and procedures (see § 63.90(a) for definition); or

(ii) Approves the use of an intermediate or major change or alternative to any monitoring requirements or procedures (see § 63.90(a) for definition).

* * * * *

(2)(i) When the emissions from two or more affected sources are combined before being released to the atmosphere, the owner or operator may install an applicable CMS for each emission stream or for the combined emissions streams, provided the monitoring is sufficient to demonstrate compliance with the relevant standard.

(ii) If the relevant standard is a mass emission standard and the emissions from one affected source are released to the atmosphere through more than one point, the owner or operator shall install an applicable CMS at each emission point unless the installation of fewer systems is—

* * * * *

(c) * * *

(1)(i) The owner or operator of an affected source shall maintain and operate each CMS as specified in § 63.6(e)(1).

(ii) The owner or operator shall keep the necessary parts for routine repairs of the affected CMS equipment readily available.

(iii) The owner or operator of an affected source shall develop and implement a written startup, shutdown, and malfunction plan for CMS as specified in § 63.6(e)(3).

(2)(i) All CMS shall be installed such that representative measures of emissions or process parameters from the affected source are obtained. In addition, CEMS shall be located according to procedures contained in the applicable performance specification(s).

(ii) Unless the individual subpart states otherwise, the owner or operator

shall ensure the read out (that portion of the CMS that provides a visual display or record) from any CMS required for compliance with the emission standard is readily accessible on site for operational control or inspection by the operator of the equipment.

* * * * *

(6) The owner or operator of a CMS installed in accordance with the provisions of this part and the applicable CMS performance specification(s) shall check the zero (low-level) and high-level calibration drifts at least once daily in accordance with the written procedure specified in the performance evaluation plan developed under paragraphs (e)(3)(i) and (ii) of this section. The zero (low-level) and high-level calibration drifts shall be adjusted, at a minimum, whenever the 24-hour zero (low-level) drift exceeds two times the limits of the applicable performance specification(s) specified in the relevant standard. The system must allow the amount of excess zero (low-level) and high-level drift measured at the 24-hour interval checks to be recorded and quantified whenever specified. For COMS, all optical and instrumental surfaces exposed to the effluent gases shall be cleaned prior to performing the zero (low-level) and high-level drift adjustments; the optical surfaces and instrumental surfaces shall be cleaned when the cumulative automatic zero compensation, if applicable, exceeds 4 percent opacity. The CPMS must be calibrated prior to use for the purposes of complying with this section. The CPMS must be checked daily for indication that the system is responding. If the CPMS system includes an internal system check, results must be recorded and checked daily for proper operation.

* * * * *

(f) * * *

(1) *General.* Until permission to use an alternative monitoring procedure (minor, intermediate, or major changes; see definition in § 63.90(a)) has been granted by the Administrator under this paragraph, the owner or operator of an affected source remains subject to the requirements of this section and the relevant standard.

* * * * *

(4)(i) *Request to use alternative monitoring procedure.* An owner or operator who wishes to use an alternative monitoring procedure shall submit an application to the Administrator as described in paragraph (f)(4)(ii) of this section. The application may be submitted at any time provided that the monitoring procedure is not the performance test method used to demonstrate compliance with a relevant standard or other requirement. If the alternative monitoring procedure will serve as the performance test method that is to be used to demonstrate compliance with a relevant standard, the application shall be submitted at least 60 days before the performance evaluation is scheduled to begin and must meet the requirements for an alternative test method under § 63.7(f).

(ii) The application shall contain a description of the proposed alternative monitoring system which addresses the four elements contained in the definition of monitoring in § 63.2 and a performance evaluation test plan, if required, as specified in paragraph (e)(3) of this section. In addition, the application shall include information justifying the owner or operator's request for an alternative monitoring method, such as the technical or economic infeasibility, or the impracticality, of the affected source using the required method.

* * * * *

(iv) Application for minor changes to monitoring procedures, as specified in paragraph (b)(1) of this section, may be made in the site-specific performance evaluation plan.

(5) *Approval of request to use alternative monitoring procedure.*

(i) The Administrator will notify the owner or operator of approval or intention to deny approval of the request to use an alternative monitoring method within 30 calendar days after receipt of the original request and within 30 calendar days after receipt of any supplementary information that is submitted. If a request for a minor change is made in conjunction with site-specific performance evaluation plan, then approval of the plan will constitute approval of the minor change. Before disapproving any request to use an alternative monitoring method, the Administrator will notify the applicant of the Administrator's intention to disapprove the request together with—

* * * * *

(g) *Reduction of monitoring data.*

(1) The owner or operator of each CMS shall reduce the monitoring data as specified in paragraphs (g)(1) through (5) of this section.

* * * * *

(5) Monitoring data recorded during periods of unavoidable CMS breakdowns, out-of-control periods, repairs, maintenance periods, calibration checks, and zero (low-level) and high-level adjustments shall not be included in any data average computed under this part. For owners or operators complying with the requirements of § 63.10(b)(2)(vii)(A) or (B), data averages must include any data recorded during periods of monitor breakdown or malfunction.

9. Section 63.9 is amended by:

a. Revising paragraph (a)(1);

b. Revising paragraph (b)(2)(iv);

c. Revising the introductory text of paragraph (b)(4);

d. Revising paragraph (b)(4)(i);

e. Revising paragraph (b)(5);

f. Revising paragraph (h)(2)(i)(E);

g. Removing and reserving paragraph (b)(3); and

h. Removing and reserving paragraphs (b)(4)(ii) through (iii).

The revisions and additions read as follows:

§ 63.9 Notification requirements.

(a) * * *

(1) The applicability of this section is set out in § 63.1(a)(4).

* * * * *

(b) * * *

(2) * * *

(iv) A brief description of the nature, size, design, and method of operation of the source and an identification of the types of emission points within the affected source subject to the relevant standard and types of hazardous air pollutants emitted; and

* * * * *

(3) [Reserved]

(4) The owner or operator of a new or reconstructed major affected source for which an application for approval of construction or reconstruction is required under § 63.5(d) shall provide the following information in writing to the Administrator:

(i) A notification of intention to construct a new major-emitting affected source, reconstruct a major-emitting affected source, or reconstruct a major source such that the source becomes a major-emitting affected source with the application for approval of construction or reconstruction as specified in § 63.5(d)(1)(i); and

(ii) [Reserved]

(iii) [Reserved]

* * * * *

(5) The owner or operator of a new or reconstructed affected source for which an application for approval of construction or reconstruction is not required under § 63.5(d) shall provide the following information in writing to the Administrator:

(i) A notification of intention to construct a new affected source, reconstruct an affected source, or reconstruct a source such that the source becomes an affected source, and

(ii) A notification of the actual date of startup of the source, delivered or

postmarked within 15 calendar days after that date.

(iii) Unless the owner or operator has requested and received prior permission from the Administrator to submit less than the information in § 63.5(d), the notification shall include the information required on the application for approval of construction or reconstruction as specified in § 63.5(d)(1)(i).

* * * * *

(h) * * *

(2)(i) * * *

(E) If the relevant standard applies to both major and area sources, an analysis demonstrating whether the affected source is a major source (using the emissions data generated for this notification);

* * * * *

10. Section 63.10 is amended by:

a. Revising paragraph (a)(1);

b. Revising paragraphs (b)(2)(ii) through (b)(2)(v);

c. Revising paragraph (b)(3);

d. Adding paragraph (e)(3)(i)(C); and

The revisions read as follows:

§ 63.10 Recordkeeping and reporting requirements.

(a) * * *

(1) The applicability of this section is set out in § 63.1(a)(4).

* * * * *

(b) * * *

(2) * * *

(ii) The occurrence and duration of each malfunction of the required air pollution control and monitoring equipment;

(iii) All required maintenance performed on the air pollution control and monitoring equipment;

(iv) Actions taken during periods of startup, shutdown, and malfunction (including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation) when such actions are different from the procedures specified in the affected source's startup, shutdown, and malfunction plan (see § 63.6(e)(3));

(v) All information necessary to demonstrate conformance with the affected source's startup, shutdown, and malfunction plan (see § 63.6(e)(3)) when all actions taken during periods of startup, shutdown, and malfunction (including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation) are consistent with the procedures specified in such plan. (The information needed to demonstrate conformance with the startup, shutdown, and malfunction plan may be recorded using a ''checklist,'' or some other effective form of recordkeeping, in order to minimize the recordkeeping burden for conforming events);

* * * * *

(3) *Recordkeeping requirement for applicability determinations.* If an owner or operator determines that his or her stationary source that emits (or has the potential to emit, without considering controls) one or more hazardous air pollutants regulated by any standard established pursuant to section 112(d) or (f), and that stationary source is in the source category regulated by the relevant standard, but that source is not subject to the relevant standard (or other requirement established under this part) because of limitations on the source's potential to emit or an exclusion, the owner or operator shall keep a record of the applicability determination on site at the source for a period of 5 years after the determination, or until the source changes its operations to become an affected source, whichever comes first. The record of the applicability determination shall be signed by the person making the determination and include an analysis (or other information) that demonstrates why the owner or operator believes the source is unaffected (e.g., because the source is an area source). The analysis (or other information) shall be sufficiently detailed to allow the Administrator to make a finding about the source's applicability status with regard to the relevant standard or other requirement. If relevant, the analysis shall be performed in accordance with requirements established in relevant subparts of this part for this purpose for particular categories of stationary sources. If relevant, the analysis should be performed in accordance with EPA guidance materials published to assist sources in making applicability determinations under section 112, if any. The requirements to determine applicability of a standard under § 63.1(b)(3) and to record the results of that determination under paragraph (b)(3) of this section shall not by themselves create an obligation for the owner or operator to obtain a title V permit.

* * * * *

(e) * * *

(3) * * *

(i) * * *

(C) The CMS data are to be used directly for compliance determination and the source experienced excess emissions, in which case quarterly reports shall be submitted. Once a source reports excess emissions, the source shall follow a quarterly reporting format until a request to reduce reporting frequency under paragraph (e)(3)(ii) of this section is approved.

* * * * *

11. Section 63.11 is amended by revising paragraph (a) to read as follows:

§ 63.11 Control device requirements.

(a) *Applicability.* The applicability of this section is set out in § 63.1(a)(4).

* * * * *

Subpart B—[Amended]

12. Section 63.50 is amended by revising paragraph (a) and removing paragraph (c) to read as follows:

§ 63.50 Applicability.

(a) *General applicability.*

(1) The requirements of this section through § 63.56 implement section 112(j) of the Clean Air Act (as amended in 1990). The requirements of this section through § 63.56 apply in each State beginning on the effective date of an approved title V permit program in such State. The requirements of this section through § 63.56 do not apply to research or laboratory activities as defined in § 63.51.

(2) The requirements of this section through § 63.56 apply to:

(i) Owners or operators of affected sources within a source category or subcategory under this part that are located at a major source that is subject to an approved title V permit program and for which the Administrator has failed to promulgate emission standards by the section 112(j) deadlines. If title V applicability has been deferred for a source category, then section 112(j) is not applicable for sources in that category within that State, local or tribal jurisdiction until those sources become subject to title V permitting requirements; and

(ii) Permitting authorities with an approved title V permit program.

* * * * *

13. Section 63.51 is amended by:

a. Removing the definition of *emission point*;

b. Removing the definition of *emission unit*;

c. Removing the definition of *existing major source*;

d. Removing the definition of *new emission unit*;

e. Removing the definition of *new major source*;

f. Removing the definition of *United States*;

g. Revising the introductory text of this section;

h. Amending the definition of *available information* by revising the introductory text and paragraphs (2) through (5);

i. Revising the definition of *enhanced review*;

j. Revising the definition of *equivalent emission limitation*;

k. Revising paragraphs (1)(i) and (ii) of the definition of *maximum achievable control technology (MACT) floor*;

l. Revising the definition of *section 112(j) deadline*;

m. Revising the definition of *similar source*;

n. Adding in alphabetical order the definition of *new affected source*; and

p. Adding in alphabetical order the definition of *research or laboratory activities*.

The revisions and additions read as follows:

§ 63.51 Definitions.

Terms used in §§ 63.50 through 63.56 that are not defined in this section have the meaning given to them in the Act, or in subpart A of this part.

Affected source means the collection of equipment, activities, or both within a single contiguous area and under common control that is in a section 112(c) source category or subcategory for which the Administrator has failed to promulgate an emission standard by the section 112(j) deadline, and that is addressed by an applicable MACT emission limitation established pursuant to this subpart.

Available information means, for purposes of conducting a MACT floor finding and identifying control technology options under this subpart, any information that is available as of the date on which the first Part 2 MACT application is filed for a source in the relevant source category or subcategory in the State or jurisdiction; and, pursuant to the requirements of this subpart, is additional relevant information that can be expeditiously provided by the Administrator, is submitted by the applicant or others prior to or during the public comment period on the section 112(j) equivalent emission limitation for that source, or information contained in the information sources in paragraphs (1) through (5) of this definition.

(1) * * *

(2) Relevant background information documents for a draft or proposed regulation.

(3) Any relevant regulation, information or guidance collected by the Administrator establishing a MACT floor finding and/or MACT determination.

(4) Relevant data and information available from the Clean Air Technology Center developed pursuant to section 112(l)(3) of the Act.

(5) Relevant data and information contained in the Aerometric Information Retrieval System (AIRS) including information in the MACT database.

* * * * *

Enhanced review means a review process containing all administrative steps needed to ensure that the terms and conditions resulting from the review process can be incorporated using title V permitting procedures.

Equivalent emission limitation means an emission limitation, established under section 112(j) of the Act, which is equivalent to the MACT standard that EPA would have promulgated under section 112(d) or (h) of the Act.

* * * * *

Maximum achievable control technology (MACT) floor means:

(1) * * *

(i) The average emission limitation achieved by the best performing 12 percent of the existing sources (for which the Administrator has emissions information), * * *

(ii) The average emission limitation achieved by the best performing five sources (for which the Administrator has or could reasonably obtain emissions information) in the category or subcategory, for categories or subcategories with fewer than 30 sources;

* * * * *

New affected source means the collection of equipment, activities, or both, that if constructed after the issuance of a section 112(j) permit for the source pursuant to § 63.52, is subject to the applicable MACT emission limitation for new sources. Each permit shall define the term ''new affected source,'' which will be the same as the ''affected source'' unless a different collection is warranted based on consideration of factors including:

(1) Emission reduction impacts of controlling individual sources versus groups of sources;

(2) Cost effectiveness of controlling individual equipment;

(3) Flexibility to accommodate common control strategies;

(4) Cost/benefits of emissions averaging;

(5) Incentives for pollution prevention;

(6) Feasibility and cost of controlling processes that share common equipment (e.g., product recovery devices);

(7) Feasibility and cost of monitoring; and

(8) Other relevant factors.

* * * * *

Research or laboratory activities means activities whose primary purpose is to conduct research and development into new processes and products; where such activities are operated under the close supervision of technically trained personnel and are not engaged in the manufacture of products for commercial sale in commerce, except in a de minimis manner; and where the source is not in a source category, specifically addressing research or laboratory activities, that is listed pursuant to section 112(c)(7) of the Act.

Section 112(j) deadline means the date 18 months after the date for which a relevant standard is scheduled to be promulgated under this part, except that for all major sources listed in the source category schedule for which a relevant standard is scheduled to be promulgated by November 15, 1994, the section 112(j) deadline is November 15, 1996, and for all major sources listed in the source category schedule for which a relevant standard is scheduled to be promulgated by November 15, 1997, the section 112(j) deadline is December 15, 1999.

Similar source means that equipment or collection of equipment that, by virtue of its structure, operability, type of emissions and volume and concentration of emissions, is substantially equivalent to the new affected source and employs control technology for control of emissions of hazardous air pollutants that is practical for use on the new affected source.

* * * * *

14. Section 63.52 is revised to read as follows:

§ 63.52 Approval process for new and existing affected sources.

(a) *Sources subject to section 112(j) as of the section 112(j) deadline.* The requirements of paragraphs (a)(1) through (3) of this section apply to major sources that include, as of the section 112(j) deadline, one or more sources in a category or subcategory for which the Administrator has failed to promulgate an emission standard under this part on or before an applicable section 112(j) deadline. Existing source MACT requirements (including relevant compliance deadlines), as specified in a title V permit issued to the source pursuant to the requirements of the subpart, shall apply to such sources.

(1) The owner or operator shall submit an application for a title V permit or for a revision to an existing title V permit or a pending title V permit meeting the requirements of § 63.53(a) by the section 112(j) deadline if the owner or operator can reasonably determine that one or more sources at the major source belong in the category or subcategory subject to section 112(j).

(2) If an application was not submitted under paragraph (a)(1) of this section and if notified by the permitting authority, the owner or operator shall submit an application for a title V permit or for a revision to an existing title V permit or a pending title V permit meeting the requirements of § 63.53(a) within 30 days of being notified in writing by the permitting authority that one or more sources at the major source belong to such category or subcategory. Such written notification shall be issued by the permitting authority within 120 days of the section 112(j) deadline.

(3) The requirements in paragraphs (a)(3)(i) through (ii) of this section apply when the owner or operator has obtained a title V permit that incorporates a case-by-case MACT determination by the permitting authority under section 112(g) or has submitted a title V permit application for a revision that incorporates a case-by-case MACT determination under section 112(g), but has not submitted an application for a title V permit revision that addresses the emission limitation requirements of section 112(j).

(i) When the owner or operator has a title V permit that incorporates a case-by-case MACT determination by the permitting authority under section 112(g), the owner or operator shall submit an application meeting the requirements of § 63.53(a) for a title V permit revision within 30 days of the section 112(j) deadline or within 30 days of being notified in writing by the permitting authority that one or more sources at the major source belong in such category or subcategory. Using the procedures established in paragraph (e) of this section, the permitting authority shall determine whether the emission limitations adopted pursuant to the prior case-by-case MACT determination under section 112(g) are substantially as effective as the emission limitations which the permitting authority would otherwise adopt pursuant to section 112(j) for the source in question. If the permitting authority determines that the emission limitations previously adopted to effectuate section 112(g) are substantially as effective as the emission limitations which the permitting authority would otherwise adopt to effectuate section 112(j) for the source, then the permitting authority shall retain the existing emission limitations in the permit as the emission limitations to effectuate section 112(j). The title V permit applicable to that source shall be revised accordingly. If the permitting authority does not retain the existing emission limitations in the permit as the emission limitations to effectuate section 112(j), the MACT requirements of this subpart are satisfied upon issuance of a revised title V permit incorporating any additional section 112(j) requirements.

(ii) When the owner or operator has submitted a title V permit application that incorporates a case-by-case MACT determination by the permitting authority under section 112(g), but has not received the permit incorporating the section 112(g) requirements, the owner or operator shall continue to pursue a title V permit that addresses the emission limitation requirements of section 112(g). Within 30 days of issuance of that title V permit, the owner or operator shall submit an application meeting the requirements of § 63.53(a) for a change to the existing title V permit. Using the procedures established in paragraph (e) of this section, the permitting authority shall determine whether the emission limitations adopted pursuant to the prior case-by-case MACT determination under section 112(g) are substantially as effective as the emission limitations which the permitting authority would otherwise adopt pursuant to section 112(j) for the source in question. If the permitting authority determines that the emission limitations previously adopted to effectuate section 112(g) are substantially as effective as the emission limitations which the permitting authority would otherwise adopt to effectuate section 112(j) for the source, then the permitting authority shall retain the existing emission limitations in the permit as the emission limitations to effectuate section 112(j). The title V permit applicable to that source shall be revised accordingly. If the permitting authority does not retain the existing emission limitations in the permit as the emission limitations to effectuate section 112(j), the MACT requirements of this subpart are satisfied upon issuance of a revised title V permit incorporating any additional section 112(j)requirements.

(b) *Sources that become subject to section 112(j) after the section 112(j) deadline and that do not have a title V permit addressing section 112(j) requirements.* The requirements of paragraphs (b)(1) through (4) of this section apply to sources that do not meet the criteria in paragraph (a) of this section on the section 112(j) deadline and are, therefore, not subject to section 112(j) on that date, but where events occur subsequent to the section 112(j) deadline that would bring the source under the requirements of this subpart, and the source does not have a title V permit that addresses the requirements of section 112(j).

(1) When one or more sources in a category or subcategory subject to the requirements of this subpart are installed at a major source, or result in the source becoming a major source due to the installation, and the installation does not invoke section 112(g) requirements, the owner or operator shall submit an application meeting the requirements of § 63.53(a) within 30 days of startup of the source. This application shall be reviewed using the procedures established in paragraph (e) of this section. Existing source MACT requirements (including relevant compliance deadlines), as specified in a title V permit issued pursuant to the requirements of this subpart, shall apply to such sources.

(2) The requirements in this paragraph apply when one or more sources in a category or subcategory subject to this subpart are installed at a major source, or result in the source becoming a major source due to the installation, and the installation does require emission limitations to be established and permitted under section 112(g), and the owner or operator has not submitted an application for a title V permit revision that addresses the emission limitation requirements of section 112(j). In this case, the owner or operator shall apply for and obtain a title V permit that addresses the emission limitation requirements of section 112(g). Within 30 days of issuance of that title V permit, the owner or operator shall submit an application meeting the requirements of § 63.53(a) for a revision to the existing title V permit. Using the procedures established in paragraph (e) of this section, the permitting authority shall determine whether the emission limitations adopted pursuant to the prior case-by-case MACT determination under section 112(g) are substantially as effective as the emission limitations which the permitting authority would otherwise adopt pursuant to section 112(j) for the source in question. If the permitting authority determines that the emission limitations previously adopted to effectuate section 112(g) are substantially as effective as the emission limitations which the permitting authority would otherwise adopt to effectuate section 112(j) for the source, then the permitting authority shall retain the existing emission limitations in the permit as the emission limitations to effectuate section 112(j). The title V permit applicable to that source shall be revised accordingly. If the permitting authority does not retain the existing emission limitations in the permit as the emission limitations to effectuate

section 112(j), the MACT requirements of this subpart are satisfied upon issuance of a revised title V permit incorporating any additional section 112(j) requirements.

(3) The owner or operator of an area source that, due to a relaxation in any federally enforceable emission limitation (such as a restriction on hours of operation), increases its potential to emit hazardous air pollutants such that the source becomes a major source that is subject to this subpart, shall submit an application meeting the requirements of § 63.53(a) for a title V permit or for an application for a title V permit revision within 30 days after the date that such source becomes a major source. This application shall be reviewed using the procedures established in paragraph (e) of this section. Existing source MACT requirements (including relevant compliance deadlines), as specified in a title V permit issued pursuant to the requirements of this subpart, shall apply to such sources.

(4) After the effective date of this subpart, if the Administrator establishes a lesser quantity emission rate under section 112(a)(1) of the Act that results in an area source becoming a major source that is subject to this subpart, then the owner or operator of such a major source shall submit an application meeting the requirements of § 63.53(a) for a title V permit or for a change to an existing title V permit or pending title V permit on or before the date 6 months after the date that such source becomes a major source. Existing source MACT requirements (including relevant compliance deadlines), as specified in a title V permit issued pursuant to the requirements of this subpart, shall apply to such sources.

(c) *Sources that have a title V permit addressing section 112(j) requirements.* The requirements of paragraphs (c)(1) and (2) of this section apply to major sources that include one or more sources in a category or subcategory for which the Administrator fails to promulgate an emission standard under this part on or before an applicable section 112(j) deadline, and the owner or operator has a permit meeting the section 112(j) requirements, and where changes occur at the major source to equipment, activities, or both, subsequent to the section 112(j) deadline.

(1) If the title V permit already provides the appropriate requirements that address the events that occur under paragraph (c) of this section subsequent to the section 112(j) deadline, then the source shall comply with the applicable new source MACT or existing source MACT requirements as specified in the permit, and the section 112(j) requirements are thus satisfied.

(2) If the title V permit does not contain the appropriate requirements that address the events that occur under paragraph (c) of this section subsequent to the section 112(j) deadline, then the owner or operator shall submit an application for a revision to the existing title V permit that meets the requirements of § 63.53(a). The application shall be submitted within 30 days of beginning construction and shall be reviewed using the procedures established in paragraph (e) of this section. Existing source MACT requirements (including relevant compliance deadlines), as specified in a title V permit issued pursuant to the requirements of this subpart, shall apply to such sources.

(d) *Requests for applicability determination or notice of MACT approval.*

(1) An owner or operator who is unsure of whether one or more sources at a major source belong in a category or subcategory for which the Administrator has failed to promulgate an emission standard under this part may, on or before an applicable section 112(j) deadline, request an applicability determination from the permitting authority by submitting an application meeting the requirements of § 63.53(a) by the applicable deadlines specified in paragraphs (a), (b), or (c) of this section.

(2) In addition to meeting the requirements of paragraphs (a), (b), and (c) of this section, the owner or operator of a new affected source may submit an application for a Notice of MACT Approval before construction, pursuant to § 63.54.

(e) *Permit application review.*

(1) Within 6 months after an owner or operator submits a Part 1 MACT application meeting the requirements of § 63.53(a), the owner or operator shall submit a Part 2 MACT application meeting the requirements of § 63.53(b). Part 2 MACT applications shall be reviewed by the permitting authority according to procedures established in § 63.55. The resulting MACT determination shall be incorporated into the source's title V permit according to procedures established under title V, and any other regulations approved under title V in the jurisdiction in which the affected source is located.

(2) Notwithstanding paragraph (e)(1) of this section, the owner or operator may request either an applicability determination or an equivalency determination by the permitting authority as provided in paragraphs (e)(2)(i) and (ii) of this section.

(i) As specified in paragraph (d)(1) of this section, an owner or operator may request, through submittal of an application pursuant to § 63.53(a), a determination by the permitting authority of whether one or more sources at a major source belong in a category or subcategory for which the Administrator has failed to promulgate an emission standard under this part. If the applicability determination is positive, the owner or operator shall comply with the applicable provisions of this subpart. The owner or operator shall submit a Part 2 MACT application within 6 months of being notified of the positive applicability determination. If the applicability determination is negative, then no further action by the owner or operator is necessary.

(ii) As specified in paragraphs (a) and (b) of this section, an owner or operator may request, through submittal of an application meeting the requirements of § 63.53(a), a determination by the permitting authority of whether emission limitations adopted pursuant to a prior case-by-case MACT determination under section 112(g) that apply to one or more sources at a major source in a relevant category or subcategory are substantially as effective as the emission limitations which the permitting authority would otherwise adopt pursuant to section 112(j) for the source in question. The process for determination by the permitting authority of whether the emission limitations in the prior case-by-case MACT determination are substantially as effective as the emission limitations which the permitting authority would otherwise adopt under section 112(j) shall include the opportunity for full public, EPA, and affected State review prior to a final determination. If the permitting authority determines that the emission limitations in the prior case-by-case MACT determination are substantially as effective as the emission limitations which the permitting authority would otherwise adopt under section 112(j), then the permitting authority shall adopt the existing emission limitations in the permit as the emission limitations to effectuate section 112(j) for the source in question. If more than 3 years remain on the current title V permit, the owner or operator shall submit an application for a title V permit revision to make any conforming changes in the permit required to adopt the existing emission limitations as the section 112(j) MACT emission limitations. If less than 3 years remain on the current title V permit, any required conforming changes shall be made when the permit is renewed. If the

permitting authority determines that the emission limitations in the prior case-by-case MACT determination under section 112(g) are not substantially as effective as the emission limitations which the permitting authority would otherwise adopt for the source in question under section 112(j), the owner or operator shall comply with the applicable provisions of this subpart. The owner or operator shall submit a Part 2 MACT application within 6 months of being notified of such a negative determination. A negative determination under this section constitutes final action for purposes of judicial review under 40 CFR 70.4(b)(3)(x) and corresponding State title V program provisions.

(3) Within 60 days of submittal of the Part 2 MACT application, the permitting authority shall notify the owner or operator in writing whether the application is complete or incomplete. The Part 2 MACT application shall be deemed complete unless the permitting authority notifies the owner or operator in writing within 60 days of the submittal that the Part 2 MACT application is incomplete. A Part 2 MACT application is complete if it is sufficient to begin processing the application for a title V permit addressing section 112(j) requirements.

(4) Following submittal of a Part 1 or Part 2 MACT application, the permitting authority may request additional information from the owner or operator. The owner or operator shall respond to such requests in a timely manner.

(5) If the owner or operator has submitted a timely and complete application as required by this section, any failure to have a title V permit addressing section 112(j) requirements shall not be a violation of section 112(j), unless the delay in final action is due to the failure of the applicant to submit, in a timely manner, information required or requested to process the application. Once a complete application is submitted, the owner or operator shall not be in violation of the requirement to have a title V permit addressing section 112(j) requirements.

(f) *Permit content.* The title V permit shall contain an equivalent emission limitation (or limitations) for the relevant category or subcategory determined on a case-by-case basis by the permitting authority, or, if the applicable criteria in subpart D of this part are met, the title V permit may contain an alternative emission limitation. For the purposes of the preceding sentence, early reductions made pursuant to section 112(i)(5)(A) of the Act shall be achieved not later than the date on which the relevant standard should have been promulgated according to the source category schedule for standards.

(1) The title V permit shall contain an emission standard or emission limitation that is equivalent to existing source MACT and an emission standard or emission limitation that is equivalent to new source MACT for control of emissions of hazardous air pollutants. The MACT emission standards or limitations shall be determined by the permitting authority and shall be based on the degree of emission reductions that can be achieved if the control technologies or work practices are installed, maintained, and operated properly. The permit shall also specify the affected source and the new affected source. If construction of a new affected source or reconstruction of an affected source commences after a title V permit meeting the requirements of section 112(j) has been issued for the source, the new source MACT compliance dates shall apply.

(2) The title V permit shall specify any notification, operation and maintenance, performance testing, monitoring, and reporting and recordkeeping requirements. In developing the title V permit, the permitting authority shall consider and specify the appropriate provisions of subpart A of this part. The title V permit shall also include the information in paragraphs (f)(2)(i) through (iii) of this section.

(i) In addition to the MACT emission limitation required by paragraph (f)(1) of this section, additional emission limits, production limits, operational limits or other terms and conditions necessary to ensure practicable enforceability of the MACT emission limitation.

(ii) Compliance certifications, testing, monitoring, reporting and recordkeeping requirements that are consistent with requirements established pursuant to title V and paragraph (h) of this section.

(iii) Compliance dates by which the owner or operator shall be in compliance with the MACT emission limitation and all other applicable terms and conditions of the permit.

(A) The owner or operator of an affected source subject to the requirements of this subpart shall comply with the emission limitation(s) by the date established in the source's title V permit. In no case shall such compliance date be later than 3 years after the issuance of the permit for that source, except where the permitting authority issues a permit that grants an additional year to comply in accordance with section 112(i)(3)(B) of the Act, or unless otherwise specified in section 112(i), or in subpart D of this part.

(B) The owner or operator of a new affected source, as defined in the title V permit meeting the requirements of section 112(j), that is subject to the requirements of this paragraph shall comply with a new source MACT level of control immediately upon startup of the new affected source.

(g) *Permit issuance dates.*

(1) Except as specified in paragraph (g)(2) of this section, the permitting authority shall issue a title V permit meeting section 112(j) requirements within 24 months of the submittal of the Part 1 MACT application, or

(2) The permitting authority shall issue a title V permit meeting section 112(j) requirements within 18 months of submittal of the complete Part 2 MACT application from a source owner or operator receiving a determination under paragraph (e)(2) of this section.

(h) *Enhanced monitoring.* In accordance with section 114(a)(3) of the Act, monitoring shall be capable of demonstrating continuous compliance for each compliance period during the applicable reporting period. Such monitoring data shall be of sufficient quality to be used as a basis for directly enforcing all applicable requirements established under this subpart, including emission limitations.

(i) *MACT emission limitations.*

(1) Owners or operators of affected sources subject to paragraphs (a), (b), and (c) of this section shall comply with all requirements of this subpart that are applicable to affected sources, including the compliance date for affected sources established in paragraph (f)(2)(iii)(A) of this section.

(2) Owners or operators of new affected sources subject to paragraph (c)(1) of this section shall comply with all requirements of this subpart that are applicable to new affected sources, including the compliance date for new affected sources established in paragraph (f)(2)(iii)(B) of this section.

15. Section 63.53 is revised to read as follows:

§ 63.53 Application content for case-by-case MACT determinations.

(a) *Part 1 MACT Application.* The Part 1 application for a MACT determination shall contain the information in paragraphs (a)(1) through (4) of this section.

(1) The name and address (physical location) of the major source.

(2) A brief description of the major source and an identification of the relevant source category.

(3) An identification of the types of sources belonging to the relevant source category.

(4) An identification of any affected sources for which a section 112(g) MACT determination has been made.

(b) *Part 2 MACT Application.*

(1) The Part 2 application for a MACT determination shall contain the information in paragraphs (b)(i) through (vi) of this section.

(i) For a new affected source, the anticipated date of startup of operation.

(ii) The hazardous air pollutants emitted by each affected source in the relevant source category and an estimated total uncontrolled and controlled emission rate for hazardous air pollutants from the affected source.

(iii) Any existing Federal, State, or local limitations or requirements applicable to the affected source.

(iv) For each piece of equipment or activity or source, an identification of control technology in place.

(v) Information relevant to establishing the MACT floor, and, at the option of the owner or operator, a recommended MACT floor.

(vi) Any other information reasonably needed by the permitting authority including, at the discretion of the permitting authority, information required pursuant to subpart A of this part.

(2) The Part 2 application for a MACT determination may contain the following information:

(i) Recommended emission limitations for the affected source and support information consistent with § 63.52(f). The owner or operator may recommend a specific design, equipment, work practice, or operational standard, or combination thereof, as an emission limitation.

(ii) A description of the control technologies that shall be applied to meet the emission limitation including technical information on the design, operation, size, estimated control efficiency and any other information deemed appropriate by the permitting authority, and identification of the affected sources to which the control technologies shall be applied.

(iii) Relevant parameters to be monitored and frequency of monitoring to demonstrate continuous compliance with the MACT emission limitation over the applicable reporting period.

16. Section 63.54 is amended by:

a. Adding introductory text;

b. Revising paragraph (a)(1) through (2);

c. Revising paragraph (b) introductory text;

d. Revising paragraph (b)(6);

e. Revising paragraph (c)(3);

f. Revising paragraph (d);

g. Removing paragraph (e);

h. Removing paragraph (f);

i. Redesignating paragraph (g) as (e) and revising newly designated paragraph (e);

j. Redesignating paragraph (h) as (f).

The revisions and addition read as follows:

§ 63.54 Preconstruction review procedures for new affected sources.

The requirements of this section apply to an owner or operator who constructs a new affected source subject to § 63.52(c)(1). The purpose of this section is to describe alternative review processes that the permitting authority may use to make a MACT determination for the new affected source.

(a) *Review process for new affected sources.*

(1) If the permitting authority requires an owner or operator to obtain or revise a title V permit before construction of the new affected source, or when the owner or operator chooses to obtain or revise a title V permit before construction, the owner or operator shall follow the procedures established under the applicable title V permit program before construction of the new affected source.

(2) If an owner or operator is not required to obtain or revise a title V permit before construction of the new affected source (and has not elected to do so), but the new affected source is covered by any preconstruction or preoperation review requirements established pursuant to section 112(g) of the Act, then the owner or operator shall comply with those requirements in order to ensure that the requirements of section 112(j) and (g) are satisfied. If the new affected source is not covered by section 112(g), the permitting authority, in its discretion, may issue a Notice of MACT Approval, or the equivalent, in accordance with the procedures set forth in paragraphs (b) through (f) of this section, or an equivalent permit review process, before construction or operation of the new affected source.

* * * * *

(b) *Optional administrative procedures for preconstruction or preoperation review for new affected sources.* The permitting authority may provide for an enhanced review of section 112(j) MACT determinations for review procedures and compliance requirements equivalent to those set forth in paragraphs (b) through (f) of this section.

* * * * *

(6) Approval of an applicant's proposed control technology shall be set forth in a Notice of MACT Approval (or the equivalent) as described in § 63.52(f).

(c) *Opportunity for public comment on notice of MACT approval.* * * *

* * * * *

(3) A notice by prominent advertisement in the area affected of the location of the source information and analysis specified in § 63.52(f). The form and content of the notice shall be substantially equivalent to that found in § 70.7 of this chapter.

* * * * *

(d) *Review by the EPA and affected states.* The permitting authority shall send copies of the preliminary notice (in time for comment) and final notice required by paragraph (c) of this section to the Administrator through the appropriate Regional Office, and to all other State and local air pollution control agencies having jurisdiction in affected States. The permitting authority shall provide EPA with a review period for the final notice of at least 45 days and shall not issue a final Notice of MACT Approval until EPA objections are satisfied.

(e) *Compliance with MACT determinations.* An owner or operator of a major source that is subject to a MACT determination shall comply with notification, operation and maintenance, performance testing, monitoring, reporting, and recordkeeping requirements established under § 63.52(h), under title V, and at the discretion of the permitting authority, under subpart A of this part. The permitting authority shall provide the EPA with the opportunity to review compliance requirements for consistency with requirements established pursuant to title V during the review period under paragraph (d) of this section.

* * * * *

17. Section 63.55 is revised to read as follows:

§ 63.55 Maximum achievable control technology (MACT) determinations for affected sources subject to case-by-case determination of equivalent emission limitations.

(a) *Requirements for permitting authorities.* The permitting authority shall determine whether the § 63.53(a) Part 1 and § 63.53(b) Part 2 MACT application is complete or an application for a Notice of MACT Approval is approvable. In either case, when the application is complete or approvable, the permitting authority shall establish hazardous air pollutant emissions limitations equivalent to the limitations that would apply if an emission standard had been issued in a timely manner under section 112(d) or (h) of the Act. The permitting authority shall establish these emissions

limitations consistent with the following requirements and principles:

(1) Emission limitations shall be established for the equipment and activities within the affected sources within a source category or subcategory for which the section 112(j) deadline has passed.

(2) Each emission limitation for an existing affected source shall reflect the maximum degree of reduction in emissions of hazardous air pollutants (including a prohibition on such emissions, where achievable) that the permitting authority, taking into consideration the cost of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements, determines is achievable by affected sources in the category or subcategory for which the section 112(j) deadline has passed. This limitation shall not be less stringent than the MACT floor which shall be established by the permitting authority according to the requirements of section 112(d)(3)(A) and (B) and shall be based upon available information.

(3) Each emission limitation for a new affected source shall reflect the maximum degree of reduction in emissions of hazardous air pollutants (including a prohibition on such emissions, where achievable) that the permitting authority, taking into consideration the cost of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements, determines is achievable. This limitation shall not be less stringent than the emission limitation achieved in practice by the best controlled similar source which shall be established by the permitting authority according to the requirements of section 112(d)(3). This limitation shall be based upon available information.

(4) The permitting authority shall select a specific design, equipment, work practice, or operational standard, or combination thereof, when it is not feasible to prescribe or enforce an equivalent emission limitation due to the nature of the process or pollutant. It is not feasible to prescribe or enforce a limitation when the Administrator determines that hazardous air pollutants cannot be emitted through a conveyance designed and constructed to capture such pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any Federal, State, or local law, or the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations.

(5) Nothing in this subpart shall prevent a State or local permitting authority from establishing an emission limitation more stringent than required by Federal regulations.

(b) *Reporting to national data base.* The owner or operator shall submit additional copies of its Part 1 and Part 2 MACT application for a title V permit, permit revision, or Notice of MACT Approval, whichever is applicable, to the EPA at the same time the material is submitted to the permitting authority.

18. Section 63.56 is revised to read as follows:

§ 63.56 Requirements for case-by-case determination of equivalent emission limitations after promulgation of subsequent MACT standard.

(a) If the Administrator promulgates a relevant emission standard that is applicable to one or more affected sources within a major source before the date a permit application under this paragraph (a) is approved, the title V permit shall contain the promulgated standard rather than the emission limitation determined under § 63.52, and the owner or operator shall comply with the promulgated standard by the compliance date in the promulgated standard.

(b) If the Administrator promulgates a relevant emission standard under section 112(d) or (h) of the Act that is applicable to a source after the date a permit is issued pursuant to § 63.52 or § 63.54, the permitting authority shall incorporate requirements of that standard in the title V permit upon its next renewal. The permitting authority shall establish a compliance date in the revised permit that assures that the owner or operator shall comply with the promulgated standard within a reasonable time, but not longer than 8 years after such standard is promulgated or 8 years after the date by which the owner or operator was first required to comply with the emission limitation established by the permit, whichever is earlier. However, in no event shall the period for compliance for existing sources be shorter than that provided for existing sources in the promulgated standard.

(c) Notwithstanding the requirements of paragraph (a) or (b) of this section, the requirements of paragraphs (c)(1) and (2) of this section shall apply.

(1) If the Administrator promulgates an emission standard under section 112(d) or (h) that is applicable to an affected source after the date a permit application under this paragraph is approved under § 63.52 or § 63.54, the permitting authority is not required to change the emission limitation in the permit to reflect the promulgated standard if the permitting authority determines that the level of control required by the emission limitation in the permit is substantially as effective as that required by the promulgated standard pursuant to § 63.1(e).

(2) If the Administrator promulgates an emission standard under section 112(d) or (h) of the Act that is applicable to an affected source after the date a permit application under this paragraph is approved under § 63.52 or § 63.54, and the level of control required by the promulgated emission standard is less stringent than the level of control required by any emission limitation in the prior MACT determination, the permitting authority shall not incorporate any less stringent emission limitation of the promulgated standard in the title V permit applicable to such source(s) and shall consider any more stringent provisions of the prior MACT determination to be applicable legal requirements when issuing or revising such a title V permit.

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Federal Register

Friday,
March 23, 2001

Part III

Department of Agriculture

Cooperative State Research, Education and Extension Service

National Science Foundation

Microbial Genome Sequencing Project; Interagency Program Announcement; Request for Proposals and Request for Input; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

NATIONAL SCIENCE FOUNDATION

Microbial Genome Sequencing Project; Interagency Program Announcement; Request for Proposals and Request for Input

AGENCIES: U.S. Department of Agriculture and the National Science Foundation.

ACTION: Notice of request for proposals and request for input.

SUMMARY: As a collaborative, interagency effort, the Cooperative State Research, Education, and Extension Service (CSREES) of the U.S. Department of Agriculture (USDA), and the National Science Foundation (NSF) are soliciting proposals for the Microbial Genome Sequencing Project. Proposals are hereby requested from eligible institutions as identified herein for competitive consideration of awards. By this notice, the CSREES additionally solicits stakeholder input from any interested party regarding this request for proposals (RFP) for use in the development of any future RFPs for this Program.

DATES: A ''Letter of Intent'' is requested and due by close of business (COB) on April 13, 2001 (5:00 p.m. EST). Proposals must be received by COB on May 4, 2001 (5:00 p.m. EST). Proposals received after this date will not be considered for funding. Comments regarding this RFP are requested within six months from the issuance of this notice. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Applicants may e-mail the ''Letter of Intent'' to Dr. Ann Lichens-Park at apark@reeusda.gov or send the letter by mail to the Microbial Sequencing Project, Mail Stop 2241, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, D.C. 20250–2241; or fax the letter to the Microbial Genome Sequencing Project at (202) 401–6488.

The address for hand-delivered proposals or proposals submitted using an express mail or overnight courier service is: Microbial Genome Sequencing Project, c/o Proposal Services Unit, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, Room 1307, Waterfront Centre, 800 9th Street, SW., Washington, DC 20024.

Proposals sent via the U.S. Postal Service must be sent to the following address: Microbial Genome Sequencing Project, c/o Proposal Services Unit, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, STOP 2245, 1400 Independence Avenue, SW., Washington, DC 20250–2245.

Written user comments should be submitted by mail to: Policy and Program Liaison Staff, Office of Extramural Programs, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, STOP 2299, 1400 Independence Avenue, SW., Washington, DC 20250–2299; or via e-mail to: RFP–OEP@reeusda.gov. In your comments, please include the name of the program and the fiscal year of the RFP to which you are responding.

FOR FURTHER INFORMATION CONTACT: Dr. Ann Lichens-Park, Initiative For Future Agriculture and Food Systems; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture, STOP 2241, 1400 Independence Avenue, SW.; Washington, DC 20250–2241, telephone: 202–401–6466, fax: 202–401–6488, e-mail: apark@reeusda.gov; or Dr. Matthew Kane, National Science Foundation, 4201 Wilson Blvd; Arlington, VA 22230; telephone: (702) 292–7189; fax: (703) 292–9064; e-mail: mkane@nsf.gov.

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Stakeholder Input

CSREES is requesting comments regarding this solicitation from any interested party. These comments will be considered in the development of any future RFP for the program. Such comments will be forwarded to the Secretary of Agriculture or her designee for use in meeting the requirements of section 103(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(c)(2). This section requires the Secretary to solicit and consider input on a current RFP from persons who conduct or use agricultural research, education, and extension for use in formulating future RFPs for competitive programs. Comments should be submitted as provided for in the Addresses and Dates portions of this Notice.

Catalog of Federal Domestic Assistance

This program is listed in the Catalog of Federal Domestic Assistance under 10.302, Microbial Genome Sequencing Project, Initiative for Future Agriculture and Food Systems.

Part I—General Information

A. Legislative Authority and Background

Section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA) (7 U.S.C. 7621) established in the Treasury of the United States an Initiative for Future Agriculture and Food Systems (IFAFS) account and authorized the Secretary of Agriculture to establish a research, extension, and education competitive grants program to address critical emerging U.S. agricultural issues related to (1) future food production, (2)

environmental quality and natural resource management, or (3) farm income. Grants are to be awarded in a number of areas including Agricultural Genome. Microbes, being of significant importance to the environment, and to agricultural production and processing, are an appropriate organism of genomic study under this authority. The authority for NSF participation in this program is found in the National Science Foundation Act of 1950, as amended, 42 U.S.C. 1861, *et seq.* Microbes are of great fundamental biological interest, therefore their genomic study is appropriate to the NSF authority.

An Interagency Working Group on Microbial Genomics established in August 2000 created The Microbe Project (MPIWG) to: 1) identify science-based priorities for a national microbial genome initiative; and 2) plan for a collaborative interagency approach to address these priorities. One of the Project's goals is to develop a coordinated national effort to sequence microbial genomes of broad agricultural and biological importance. It is expected that through these efforts the resulting information, data, research tools and biological materials can be made readily and openly available to the scientific community at large. The Microbial Sequencing Project is a major step towards achieving the MPIWG's goals.

B. Purpose, Priorities and Fund Availability

The purpose of this interagency program announcement is to solicit proposals to conduct high-throughput sequencing of genomes of microbes that are of fundamental biological interest, as well as those that are important to the productivity and sustainability of agriculture and forestry, and to the safety and quality of the nation's food supply. Priority will be given to projects that will provide whole genome sequence data and mapping information on microorganisms to fill key gaps in our knowledge of microbial diversity, of microbes that play roles in diverse ecosystems, and/or microbes that have an impact on agriculture. Priority also will be given to projects that integrate education and outreach and those that establish close collaboration among multiple investigators, institutions and end users.

There is no commitment by USDA or NSF to fund any particular proposal or to make a specific number of awards. The participating agencies currently have a total of approximately $9 million available for this Program in fiscal year (FY) 2001. Subject to the availability of funds, the participating agencies anticipate that an additional $10 million in funding will be available each year for this program or a successor program in FY 2002 and FY 2003, for an anticipated total level of support of approximately $30 million over three years.

Applicants may request funding of up to $2 million over four years. Awards will be made in the form of grants or cooperative agreements which will be determined at the time of the award. The exact amount of the award will depend on the advice of reviewers, agency priorities, and on the availability of funds. Each participating agency will obligate funds separately. However, a proposal may be funded by one or both of the participating agencies.

C. Eligibility

Proposals may be submitted by colleges and universities or research foundations maintained by a college or university and/or non-profit organizations. The source of USDA funds for the Microbial Genome Sequencing Project is the IFAFS program. Under the IFAFS program, proposals may be submitted by colleges and universities or research foundations maintained by a college or university. This represents a change from the FY 2000 IFAFS solicitation. Section 724 of Public Law 106–389, as amended by section 101(3) of H.R. 566 which was enacted by section 1(a)(4) of Public Law 106–554, removed Federal research agencies, national laboratories and private research organizations from eligibility for IFAFS awards. Consortia of such institutions with appropriate research and educational facilities may apply, but a single organization or individual must accept overall management responsibility.

Other types of institutions are not eligible as direct recipients of IFAFS funds, however they may be included as subcontracts on grants made to eligible institutions. Therefore, applications from academic institutions may be awarded by either USDA or NSF. Direct applications from non-profit organizations may be supported solely by NSF funds.

D. Matching Requirements

For funds provided by the USDA, grantees will be required to provide funds or in-kind support to match the amount of Federal funds provided if the grant provides for applied research that is commodity specific and not of national scope.

E. Types of Proposals

In FY 2001, it is anticipated that most projects will be submitted as New Proposals. However, the USDA held a Microbial Genomics competition through the IFAFS Program in FY 2000 for agriculturally important microbes. Applicants to that program who were not grantees may choose to submit to the Microbial Genome Sequencing Project as a resubmission. Therefore two types of applications may be submitted:

1. New Proposal

This is a project proposal that has not been previously submitted to Microbial Genomics Program of the Initiative for Future Agriculture and Food Systems. All new proposals will be reviewed competitively using the selection process and evaluation criteria described in Part IV—Review Process.

2. Resubmitted Proposal

This is a proposal that had been previously submitted to the IFAFS Microbial Genome Program but was not funded. The resubmitted proposal should clearly indicate the changes that have been made in the project proposal. Further, a clear statement acknowledging comments from the previous reviewers, indicating revisions, rebuttals, etc., can positively influence the review of the proposal. Therefore, for resubmitted proposals, the investigator(s) must respond to the previous panel summary on no more than one page titled, Response to Previous Review, which is to be placed directly after the Project Summary as described in Part III—Preparation of a Proposal. Resubmitted proposals will be reviewed competitively using the selection process and evaluation criteria described in Part IV—Review Process.

F. Restrictions on Use of Funds

1. Funds for Buildings and Facilities

Microbial Genome Sequencing Project funds may not be used for the renovation or refurbishment of research spaces; the purchase or installation of fixed equipment in such spaces; or the planning, repair, rehabilitation, acquisition, or construction of buildings or facilities.

2. Funds for Human Cloning

In accordance with the President's Memorandum of March 4, 1997, regarding the use of Federal funds for the cloning of human beings (33 Weekly Comp. Pres. Doc. 278), Microbial Genome Sequencing Project funds shall not be used to support, fund, or undertake any cloning activity that could lead to the creation of a new human being with genetic material identical to that of another human being, including research related directly thereto. The prohibition on use

of grant funds to support human cloning activity includes using, or making available for use, grant-funded equipment for use in connection with human cloning. This ban does not restrict research into the cloning of plants, animals, or individual human cells that cannot develop into a new human being.

Part II—Letter of Intent and Program Description

A. Letter of Intent

Applicants are strongly encouraged to submit a Letter of Intent before submitting a full proposal. This letter should consist of three parts: (1) A descriptive title of the proposed project; (2) names and roles of project directors and other key personnel along with their institutions; and (3) a brief statement of approaches and objectives (500 words or less). This information will be used by CSREES and NSF staff in planning the review process. Because Letters of Intent will not be distributed for peer review, there will be no feedback from CSREES or NSF staff regarding the content of these letters. See Part III, C., Application Submission Information for specific mailing instructions. *Failing to submit a* Letter of Intent *will not preclude applicants from submitting full proposals, however a* Letter of Intent *is nonetheless encouraged.*

B. Program Description

Microorganisms dominate the planet in terms of total mass, species diversity, and metabolic diversity. They include plant and animal pathogens, microbes that are beneficial to higher organisms, organisms that synthesize useful products, or play critical roles in the Earth's ecosystems and biogeochemical cycles. Many are of enormous present and future economic and/or agricultural value. Although genome sequence information in itself is only an ordered list of chemical bases, it provides the foundation for understanding how the organism functions and lives, and how the organism interacts with the environment and with other organisms. This knowledge can be used to detect unknown micro-organisms and understand their properties, e.g. why an organism may be pathogenic or beneficial to a plant or animal, or how its properties might be exploited in metabolic engineering, bioremediation, development of sensitive and specific diagnostic tools, improved treatments and preventatives, or more effective vaccines. Knowledge of the genomes of microorganisms is expected to be one of the prime driving forces for research in the life sciences, including agriculture, biotechnology, forestry, food safety, and environmental engineering over the next quarter century.

This program is designed primarily to encourage competitive research grant applications in support of high-throughput sequencing of genomes of microorganisms (including viruses, bacteria, archaea, fungi, and protozoa) that are of fundamental biological interest, as well as those that are important to the productivity and sustainability of agriculture and forestry, and to the safety and quality of the nation's food supply. This integrated program will provide whole genome sequence data and mapping information on microorganisms that will fill key gaps in our knowledge of microbial diversity, of microbes that play roles in diverse ecosystems, and/or microbes that have an impact on agriculture. Sequencing proposals also should incorporate an education, training, or outreach component within the scope of the project to facilitate education of students and the public, as well as to facilitate application of this knowledge to agricultural challenges where applicable. Education or outreach components may focus on genomics technology or on computational biology and informatics.

It is recognized that complete genome coverage is the most desirable end-point for whole genome sequencing. However, agriculturally and environmentally relevant microbes encompass a sizable number of microorganisms relevant to animals, plants, and natural resources. To date, very few agricultural or environmental microbes have been, or are in the process of being, sequenced. Consequently, agriculture and environmental biology lag behind other fields, such as human health and energy production, with respect to microbial genomics. For this reason, it may be appropriate in some cases to attempt lower level (*e.g.*, 3X–5X) coverage to provide data on multiple organisms. Choice of complete sequence or ''rough draft'' coverage is left up to the principal investigators and should be justified in the proposal. As a longer term goal, full genome coverage of several (or all) of these organisms may be desirable. Therefore, investigators proposing partial coverage should explain how the strains or isolates used, high quality genomic DNA from the organism, and an appropriate set of verified clones developed during the course of the sequencing project, will remain accessible to the scientific community for at least five years. Either a cost-recovery system or use of a commercial repository is permissible, provided that the plan is outlined in the proposal, with an appropriate budget.

Microbial genome projects will be chosen with respect to each agency's mission (fundamental biological interest—NSF, agricultural relevance—USDA). Specific examples of organisms of interest to USDA include high priority pathogens of: animals (e.g. *Actinobacillus pleuropneumoniae*, *Edwardsiella ictaluri*, *Eimeria* spp., *Haemophilus somnus*); plants (e.g., *Erwinia* spp., *Clavibacter* spp., *Streptomyces scabies*, *Aspergillus* spp.), or; food-borne origin (e.g., *Yersinia enterocolitica*). Choices might also include beneficial/useful organisms such as ones from soil (e.g., *Rhizobium spp., Methylobacterium extorquens, Pseudomonas* spp.) or rumen (e.g., *Ruminococcus flavefaciens*, *Prevotella bryantii*). Microorganisms relevant to aquaculture species and horses are included, along with microorganisms of animals raised for food and fiber. By the time this solicitation is released, it is possible that the sequencing of one or more of these example organisms may already be funded for the public domain; mention here does not guarantee a high priority for sequencing.

Clearly, a large number of microorganisms fit these broad criteria and it is not the intention of USDA or NSF to dictate which organisms should be sequenced. Rather, the choice of organism(s) will be left to the applicant(s) who must justify selection(s) on the basis of biological interest and/or agricultural importance. Organism strains whose sequences are already being targeted by others should be avoided, unless this information will not be in the public domain. If one strain in a particular species is already being sequenced, the applicant should provide strong justification as to why sequencing of another strain should be undertaken. To help assess the current sequencing status for particular microorganisms, applicants are strongly encouraged to visit websites that summarize completed and on-going sequencing projects. For example, the following URL sites may prove useful:

http://www.tigr.org/tdb/mdb/mdb.html;
http://www.doe.gov/production/ober/EPER/mig_cont.html;
http://www.niaid.nih.gov/dmid/genomes/default.htm;
http://www.sanger.ac.uk/Projects/;
http://www.genome.wisc.edu;
http://www.genome.wustl.edu/gsc/index.shtml;

Phylogenetic affiliation and evolutionary significance may also be addressed when these are considered relevant to the choice of organism. Also,

it should be noted that some organisms may be of profound biological or agricultural importance but not easily cultured or subjected to genetic analysis. Such organisms may be strong candidates for sequencing.

Protozoa, fungi and some bacteria have relatively large genomes, not easily completed under the support of a single grant. Requests for partial funding of a genome are allowable as long as future plans for completing the work are outlined. In these instances, investigators are encouraged to seek partners, in either the form of consortia or support from other sources, so that the sequence can be completed in a reasonable time-frame. As long as the goals and limits of the individual projects are clearly addressed, such cooperative projects are encouraged, as are international collaborations. The expected outcome of the project will be a high quality sequence, much or all of it contiguous, with annotation of open reading frames and deposited in a publicly accessible data base. Additionally, for eukaryotic organisms, applications may propose large-scale expressed sequence tag (EST) projects. For these larger genomes, applicants should indicate the status of efforts supported by other funding agencies and how these efforts would be coordinated with a USDA or NSF funded activity.

Investigators are to provide detailed information on the organism(s) chosen, the method of library preparation and all other pertinent methodological information. Mechanisms to assess validity and accuracy of the data must be described in the proposal. All cloning and sequencing technologies/strategies, particularly ones that are novel, should be described. In judging the merits of a proposal, the speed, level of accuracy, and cost effectiveness of the proposed work will be important issues and considered as one of the evaluation criteria under this program. The number of bases to be sequenced per unit time and an estimate of the dollars required to produce a specific amount of base sequence must be calculated. The latter value should include the costs of generating clones, assembly of sequence and annotation.

Part III—Preparation of a Proposal

A. Program Application Materials

Both participating agencies have agreed to use the USDA guidelines for proposal format (see below) and application kit. Other material may be required at the time of funding to facilitate the implementation of the award. Proposals that are funded by NSF may be subject to additional submission and reporting requirements.

Program application materials are available at the CSREES website (www.reeusda.gov/microbialgenomics). If you do not have access to the CSREES web page or have trouble downloading material, you may contact the Proposal Services Unit, Office of Extramural Programs, USDA/CSREES at (202) 401–5048. When calling the Proposal Services Unit, please indicate that you are requesting forms for the Microbial Genome Sequencing Project. These materials may also be requested via Internet by sending a message with your name, mailing address (not e-mail) and phone number to psb@reeusda.gov. State that you want a copy of the Program Description and application materials (orange book) for the Fiscal Year 2001 Microbial Genome Sequencing Project.

B. Content of Proposals

1. General

The proposal should follow these guidelines, enabling reviewers to more easily evaluate the merits of each proposal in a systematic, consistent fashion:

(a) The proposal should be prepared on only one side of the page using standard size (8½″ x 11″) white paper, one inch margins, typed or word processed using no type smaller than 12 point font, and single or double spaced. Use an easily readable font face (e.g., Geneva, Helvetica, Times Roman).

(b) Each page of the proposal, including the Project Summary, budget pages, required forms, and any appendices, should be numbered sequentially.

(c) The proposal should be stapled in the upper left-hand corner. Do not bind. An original and 14 copies (15 total) must be submitted in one package, along with 10 copies of the ''Project Summary'' as a separate attachment.

(d) If applicable, proposals should include original illustrations (photographs, color prints, etc.) in all copies of the proposal to prevent loss of meaning through poor quality reproduction.

2. Application for Funding Cover Page (Form CSREES–661)

Each copy of each grant proposal must contain an ''Application for Funding'', Form CSREES–661. One copy of the application, preferably the original, must contain the pen-and-ink signature(s) of the proposing principal investigator(s)/project director(s)(PI/PD) and the authorized organizational representative who possesses the necessary authority to commit the organization's time and other relevant resources to the project. Any proposed PI/PD or co-PI/PD whose signature does not appear on Form CSREES–661 will not be listed on any resulting grant award. Complete both signature blocks located at the bottom of the ''Application for Funding'' form.

Form CSREES–661 serves as a source document for the CSREES grant database; it is therefore important that it be completed accurately. The following items are highlighted as having a high potential for errors or misinterpretations: (a) Title of Project (Block 6). The title of the project must be brief (80-character maximum), yet represent the major thrust of the effort being proposed. Project titles are read by a variety of nonscientific people; therefore, highly technical words or phraseology should be avoided where possible. In addition, introductory phrases such as ''investigation of,'' ''research on,'' ''education for,'' or ''outreach that'' should not be used.

(b) Program to Which You Are Applying (Block 7) ''Fiscal Year 2001 Microbial Genome Sequencing Project.''

(c) Type of Award Request (Block 13). Check the block for ''new'' or ''resubmission.''

(d) Principal Investigator(s)/Project Director(s) (PI/PD) (Block 15). The designation of excessive numbers of co-PI/PD's creates problems during final review and award processing. Listing multiple co-PI/PD's, beyond those required for genuine collaboration, is therefore discouraged. Note that providing a Social Security Number is voluntary, but is an integral part of the CSREES information system and will assist in the processing of the proposal.

(e) Type of Performing Organization (Block 18). A check should be placed in the box beside the type of organization which actually will carry out the effort. For example, if the proposal is being submitted by an 1862 Land-Grant Institution but the work will be performed in a department, laboratory, or other organizational unit of an agricultural experiment station, box ''03'' should be checked. If portions of the effort are to be performed in several departments, check the box that applies to the individual listed as PI/PD #1 in Block 15.a.

(f) Other Possible Sponsors (Block 22). List the names or acronyms of all other public or private sponsors including other agencies within USDA and other programs funded by CSREES to whom your application has been or might be sent. In the event you decide to send your application to another organization or agency at a later date, you must

inform the identified CSREES Program Director as soon as practicable. Submitting your proposal to other potential sponsors will not prejudice its review by CSREES; however, duplicate support for the same project will not be provided. Complete the ''Application for Funding,'' Form CSREES–661, in its entirety.

(g) One copy of the ''Application for Funding'' form must contain the signatures (in ink) of the PI/PD(s) and authorized organizational representative for the applicant organization.

3. Table of Contents

For ease in locating information, each proposal must contain a detailed table of contents just after the proposal cover page. The Table of Contents should include page numbers for each component of the proposal. Pagination should begin immediately following the Project Summary (see next section).

4. Project Summary

The proposal must contain a Project Summary of 250 words or less on a separate page which should be placed immediately after the Table of Contents and should not be numbered. The names and institutions of all PI/PDs and co-PI/PDs should be listed on this form, in addition to the title of the project. The summary is not intended for the general reader; consequently, it may contain technical language comprehendible by persons in disciplines relating to the food and agricultural sciences. The project summary should be a self-contained, specific description of the activity to be undertaken and should focus on: Overall project goal(s) and supporting objectives; plans to accomplish project goal(s); and relevance of the project to the goals of the Microbial Sequencing Project.

5. Response to Previous Review

This requirement only applies to ''Resubmitted Proposals'' as described under Part 1.E, ''Types of Proposals.'' Resubmitted proposals are proposals that have previously been submitted to IFAFS but not funded. For these proposals, the principal investigator(s)/project director(s) must response to the previous panel summary on no more than one page, titled, ''Response to Previous Review,'' which is to be placed directly after the Project Summary. If desired, additional comments and responses to the previous panel summary may be included in the text of the Project Description, subject to the page limitation.

6. Project Description

A description of the project must not exceed 15 pages inclusive of tables, diagrams and other visual material, but excluding citations. The project description should be numbered and single or double-spaced with text on one side of the page using a 12 point (10 cpi) type font size and one-inch margins. The following points must be addressed in this section.

a. *Relevance and significance of microorganism(s) and other proposed activities.* Include a justification for the microorganism(s) on the basis of biological interest and/or agricultural importance. Include a description of the significance of education/training or outreach activities and their value in improving agriculture and/or fundamental biology. Clearly describe the potential impact of the project.

b. *Sequencing Strategies.* 1. DNA substrates to be sequenced. Investigators are to provide detailed information on the DNA chosen, the method of library preparation and all other pertinent methodological information. If only a portion of a microbial genome will be sequenced (e.g. fungi; protozoa), the strategies proposed must be scalable and applicable to efforts to sequence the entire genome.

2. Sequence quality and quantity. This section should include the level of accuracy to be sought and how that will be measured, the number of bases to be sequenced per unit time, and a discussion of the finishing process and how that will be defined. Where applicable, plans to fill sequence gaps and coordinate sequencing efforts must be discussed in detail.

3. Genome sequencing technologies and strategies. Technologies/strategies that will be used should be described as well as plans for incorporating new developments and/or improvements in sequencing protocols, strategies and technologies as they become available.

4. Costs of production sequencing in relation to the product proposed. The cost-effectiveness of the sequences generated will be a very important issue. An estimate of the dollars required to produce a specific number of bases (which should include the costs of generating clones, assembly and annotation) should be given. If investigators are proposing a strategy that will yield less than the complete genome sequence, they must provide an overall vision of how this strategy will contribute to the cost-effective completion of the entire genome.

c. *Project Management.* 1. Plans for establishing a linkage to a larger research community in order to ensure a close collaboration between the sequencing project and the ultimate user community of the sequence information.

2. Where applicable, plans for establishing coordination with other existing or planned projects to sequence the microbe(s), both nationally and internationally.

3. Ways to assess progress of the project, including establishing milestones and measuring progress toward them, and/or the use of an advisory committee when applicable.

4. Available facilities and equipment including a statement of institutional commitment for the successful completion of the project.

d. *Information Management.* 1. Data management plan should address issues, including: (1) Mechanisms to assess validity and accuracy of data obtained; (2) mechanisms for annotation of data and release of both raw and finished data into public databases—creative, cost-effective strategies for annotating sequences are encouraged; and (3) community access to data mechanisms of data distribution and interactions with other community databases.

2. Data release policies including how rapidly sequence data will be publicly released after production. Timely release is strongly encouraged in recognition of the benefits to the broader research community. Release should be accompanied by appropriate information on the reliability of the data (e.g., level of coverage and extent of assembly, extent of contamination with vector and other sequences, statistical measures of accuracy). At a minimum, it is anticipated that sequence data will be released within one month after 3X coverage of the genome (or chromosome for eukaryotic organisms) is achieved. The released data should be provided as assemblies of equal to, or greater than, one kilobase contigs. Subsequent releases of assembled sequences should be provided at least on a monthly basis.

3. A statement signed by an authorized institutional official should be included which clearly describes the institutional policy for sharing information materials resulting from this work with other researchers of the community of scientists.

7. References in Project Description

All references cited should be complete, including titles and co-authors, and should conform to an accepted journal format.

8. Appendices to Project Description

Appendices to the Project Description are allowed if they are directly germane to the proposed project and are limited

to a total of two of the following: reprints (papers that have been published in peer reviewed journals) and preprints (manuscripts in press for a peer reviewed journal; these must be accompanied by a letter of acceptance from the publishing journal).

9. Facilities and Equipment

All facilities and major items of equipment that are available for use or assignment to the proposed research project during the requested period of support should be described. In addition, items of nonexpendable equipment necessary to conduct and successfully complete the proposed project and for which support is requested under this program should be listed in the budget narrative with the amount and justification for each item.

10. Collaborative and/or Subcontractual Arrangements

If it will be necessary to enter into formal consulting or collaborative arrangements with others, such arrangements should be fully explained and justified. In addition, evidence should be provided that the collaborators involved have agreed to render these services. If the need for consultant services is anticipated, the proposal narrative should provide a justification for the use of such services, a statement of work to be performed, and a resume or curriculum vita for each consultant. For purposes of proposal development, informal day-to-day contacts between key project personnel and outside experts are not considered to be collaborative arrangements and thus do not need to be detailed.

All anticipated subcontractual arrangements also should be explained and justified in this section. A proposed statement of work and a budget for each arrangement involving the transfer of substantive programmatic work or the providing of financial assistance to a third party must be provided. Agreements between departments or other units of your own institution and minor arrangements with entities outside of your institution (e.g., requests for outside laboratory analyses) are excluded from this requirement.

If you expect to enter into subcontractual arrangements, please note that the provisions contained in 7 CFR Part 3019, USDA Uniform Administrative Requirements for Grant and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, and the general provisions contained in 7 CFR Part 3015.205, USDA Uniform Federal Assistance Regulations, flow down to subrecipients. In addition, required clauses from Sections 40–48 (''Procurement Standards'') and Appendix A (''Contract Provisions'') of 7 CFR Part 3019 should be included in final contractual documents, and it is necessary for the subawardee to make a certification relating to debarment/suspension.

11. Key Personnel

All senior personnel who are expected to be involved in the effort should be clearly identified. For each person the following should be included, as applicable:

(a) The roles and responsibilities of each PI/PD should be clearly described;

(b) An estimate of the time commitment involved for each PI/PD, including current and pending projects; and

(c) Vitae of each PI/PD, senior associate, and other professional personnel. This section should include vitae of all key persons who are expected to work on the project, whether or not CSREES funds are sought for their support. The vitae should be limited to two (2) pages each in length, excluding publications listings. A chronological list of all publications in refereed journals during the past four (4) years, including those in press, must be provided for each professional project member for whom a curriculum vitae is provided. Also list only those non-refereed publications that have relevance to the proposed project. All authors should be listed in the same order as they appear on each paper cited, along with the title and complete reference as these usually appear in journals.

12. Conflict-of-Interest-List

A Conflict-of-Interest List must be provided for all individuals involved in the project (identified as key personnel). Each list should be on a separate page and include alphabetically the full names of the individuals in the following categories: (a) All collaborators on projects within the past four years, including pending and planned collaborations; (b) all co-authors on publications within the past four years, including pending publications and submissions; (c) all persons in your field with whom you have had a consulting or financial arrangement within the past four years who stand to gain by seeing the project funded; and (d) all thesis or postdoctoral advisees/advisors within the past four years (some may wish to call these life-time conflicts). This form is necessary to assist program staff in excluding from proposal review those individuals who have conflicts-of-interest with the personnel in the grant proposal. The Program Director must be informed of any additional conflicts-of-interest that arise after the proposal is submitted.

13. Budget

Prepare the budget, Form CSREES–55, in accordance with instructions provided. Budgets of up to a total of $2 million over four years may be requested. A budget form is required for each year of requested support. In addition, a cumulative budget is required detailing the requested total support for the overall project period. The budget form may be reproduced as needed by applicants. Funds may be requested under any of the categories listed on the form, provided that the item or service for which support is requested is allowable under the authorizing legislation, the applicable Federal cost principles, and these program guidelines, and can be justified as necessary for the successful conduct of the proposed project. Applicants must also include a Budget Narrative to justify their budgets (see paragraph 12 below.)

The following guidelines should be used in developing your proposal budget(s):

a. *Salaries and Wages.* Salaries and wages are allowable charges and may be requested for personnel who will be working on the project in proportion to the time such personnel will devote to the project. If salary funds are requested, the number of Senior and Other Personnel and the number of CSREES/NSF-Funded Work Months must be shown in the spaces provided. Grant funds may not be used to augment the total salary or rate of salary of project personnel or to reimburse them for time in addition to a regular full-time salary covering the same general period of employment. Salary funds requested must be consistent with the normal policies of the institution.

b. *Fringe Benefits.* Funds may be requested for fringe benefit costs if the usual accounting practices of your organization provide that organizational contributions to employee benefits (social security, retirement, etc.) be treated as direct costs. Fringe benefit costs may be included only for those personnel whose salaries are charged as a direct cost to the project.

c. Nonexpendable Equipment. Nonexpendable equipment means tangible nonexpendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of $5,000 (or lower,

depending on institutional policy) or more per unit. As such, items of necessary instrumentation or other nonexpendable equipment should be listed individually by description and estimated cost in the Budget Narrative. This applies to revised budgets as well, as the equipment item(s) and amount(s) may change.

d. Materials and Supplies. The types of expendable materials, supplies, and data which are required to carry out the project should be indicated in general terms with estimated costs in the Budget Narrative.

e. Travel. The type and extent of travel and its relationship to project objectives should be described briefly and justified. If travel is proposed, the destination, the specific purpose of the travel, a brief itinerary, inclusive dates of travel, and estimated cost must be provided for each trip. Airfare allowances normally will not exceed round-trip jet economy air accommodations. U.S. flag carriers must be used when available. See 7 CFR 3015.205(b)(4) for further guidance. Please note that grantees are expected to present their project plan and progress at the International Plant, Animal and Microbial Genome Meetings held annually in San Diego, California and should allocate an appropriate amount in this budget category to fund a trip. Additional information on this meeting will be made available if an award is made.

f. Publication Costs/Page Charges. Include anticipated costs associated with publications in a journal (preparing and publishing results including page charges, necessary illustrations, and the cost of a reasonable number of coverless reprints) and audio-visual materials that will be produced. Photocopying and printing brochure, etc., should be shown in Section I., ''All Other Direct Costs'' of Form CSREES–55.

g. Computer (ADPE) Costs. Reimbursement for the costs of using specialized facilities (such as a university- or department-controlled computer mainframe or data processing center) may be requested if such services are required for completion of the work.

h. All Other Direct Costs. Anticipated direct project charges not included in other budget categories must be itemized with estimated costs and justified in the Budget Narrative. This also applies to revised budgets, as the item(s) and dollar amount(s) may change. Examples may include space rental at remote locations, subcontractual costs, and charges for consulting services, telephone, facsimile, shipping costs, and fees necessary for laboratory analyses. You are encouraged to consult the ''Instructions for Completing Form CSREES–55, Budget,'' of the Application Kit for detailed guidance relating to this budget category. Form AD–1048 must be completed by each subcontractor or consultant and retained by the grantee.

i. Indirect Costs. When submitting a proposal, institutions should use their current Federal negotiated rate for indirect costs. Please note that indirect costs for all competitive proposals funded by CSREES are capped at 19% of total Federal funds provided under the award by section 1462 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310). Therefore, awards made by CSREES for the Microbial Genome Sequencing Project are subject to 19 percent indirect costs limitation. (This limitation also applies to the recovery of indirect costs by any subawardee or subcontractor, and should be reflected in the subrecipient budget.) A method for calculating the maximum allowable amount of indirect costs for an USDA award is by multipling total direct costs by 0.23456. To accommodate the differences in allowable indirect costs between USDA and NSF, the applicant may be required at the time of award to submit a separate budget with indirect cost rates appropriate to each agency.

14. Budget Narrative

A budget narrative should be included which discusses how the budget specifically supports the proposed project activities. Except for indirect costs for which support is requested, the budget narrative should explain how each budget item (such as salaries and wages for professional and technical staff, student workers, travel, equipment, etc.) is essential to achieving project objectives. Funds may be requested under any of the categories listed on the budget form, provided that the item or service for which support is sought is allowable under the enabling legislation and the applicable Federal cost principles.

15. Matching Funds

If an applicant concludes that matching funds are not required as specified in Part I., a justification should be included in the Budget Narrative. CSREES will consider this justification when ascertaining final matching requirements. CSREES retain the right to make final determinations regarding matching requirements. For those grants requiring matching funds as specified in Part I., proposals should include written verification of commitments of matching support (including both cash and in-kind contributions) from third parties. Written verification means:

(a) For any third party cash contributions, a separate pledge agreement for each donation, signed by the authorized organizational representatives of the donor organization and the applicant organization, which must include: (1) The name, address, and telephone number of the donor; (2) the name of the applicant organization; (3) the title of the project for which the donation is made; (4) the dollar amount of the cash donation; and (5) a statement that the donor will pay the cash contribution during the grant period; and

(b) For any third party in-kind contributions, a separate pledge agreement for each contribution, signed by the authorized organizational representatives of the donor organization and the applicant organization, which must include: (1) The name, address, and telephone number of the donor; (2) the name of the applicant organization; (3) the title of the project for which the donation is made; (4) a good faith estimate of the current fair market value of the third party in-kind contribution; and (5) a statement that the donor will make the contribution during the grant period.

The sources and amount of all matching support from outside the applicant institution should be summarized on a separate page and placed in the proposal immediately following the Budget Narrative. All pledge agreements must be placed in the proposal immediately following the summary of matching support.

The value of applicant contributions to the project shall be established in accordance with applicable cost principles. Applicants should refer to OMB Circulars A–21, Cost Principles for Educational Institutions, A–87, Cost Principles for State, Local, and Tribal Governments, A–122, Cost Principles for Non-Profit Organizations, and for for-profit organizations, the cost principles in the Federal Acquisition Regulation at 48 CFR 31.2 (see 7 CFR 3015.194).

16. Current and Pending Support (Form CSREES–663)

All proposals must contain Form CSREES–663 listing this proposal and any other current public or private research support (including in-house support) to which key personnel identified in the proposal have committed portions of their time, whether or not salary support for the

person(s) involved is included in the budget. Analogous information must be provided for any pending proposals that are being considered by, or that will be submitted in the near future to other possible sponsors, including other USDA programs or agencies. Concurrent submission of identical or similar proposals to other possible sponsors will not prejudice proposal review or evaluation by the participating agency for this purpose. However, a proposal that duplicates or overlaps substantially with a proposal already reviewed and funded (or that will be funded) by another organization or agency will not be funded under this program. Note that the project being proposed should be included in the pending section of the form.

17. Assurance Statements (Form CSREES–662)

A number of situations encountered in the conduct of projects require special assurances, supporting documentation, etc., before funding can be approved for the project. In addition to any other situation that may exist with regard to a particular project, it is expected that some applications submitted in response to these guidelines will involve the following:

a. *Recombinant DNA or RNA Research.* As stated in 7 CFR 3015.205 (b)(3), all key personnel identified in the proposal and all endorsing officials of the proposing organization are required to comply with the guidelines established by the National Institutes of Health entitled, ''Guidelines for Research Involving Recombinant DNA Molecules,'' as revised. If your project proposes to use recombinant DNA or RNA techniques, you must so indicate by checking the ''yes'' box in Block 19 of Form CSREES–661 (the Cover Page) and by completing Section A of Form CSREES–662. For applicable proposals recommended for funding, Institutional Biosafety Committee approval is required before CSREES or NSF funds will be released.

b. *Animal Care*—Responsibility for the humane care and treatment of live vertebrate animals used in any grant project supported with funds provided by CSREES or NSF rests with the performing organization. Where a project involves the use of living vertebrate animals for experimental purposes, all key project personnel identified in a proposal and all endorsing officials of the proposing organization are required to comply with the applicable provisions of the Animal Welfare Act of 1966, as amended (7 U.S.C. 2131 *et seq.*) and the regulations promulgated thereunder by the Secretary in 9 CFR parts 1, 2, 3, and 4 pertaining to the care, handling, and treatment of these animals. If your project will involve these animals, you should check ''yes'' on block 20 of CSREES–661 and complete Section B of Form CSREES–662. In the event a project involving the use of live vertebrate animals results in a grant award, funds will be released only after the Institutional Animal Care and Use Committee has approved the project.

c. *Protection of Human Subjects*—Responsibility for safeguarding the rights and welfare of human subjects used in any grant project supported with funds provided by CSREES or NSF rests with the performing organization. Guidance on this issue is contained in the National Research Act, Pub. L. No. 93–348, as amended, and implementing regulations promulgated by the Department under 7 CFR part 1c. If you propose to use human subjects for experimental purposes in your project, you should check the ''yes'' box in Block 21 of Form CSREES–661 and complete Section C of Form CSREES–662. In the event a project involving human subjects results in a grant award, funds will be released only after the appropriate Institutional Review Board has approved the project.

18. Certifications

By signing the Application for Funding cover page (Form CSREES–661), applicants are providing the required certifications set forth in 7 CFR part 3017, as amended, regarding Debarment and Suspension and Drug-Free Workplace; and 7 CFR part 3018 regarding Lobbying. Submission of the individual forms found in the application kit is not required (Forms AD–1047, –1049, –1050, and the Certification Regarding Lobbying). For additional information, refer to the certification at the bottom of Form CSREES–661.

Form AD–1048 must be completed by a subcontractor or consultant and retained by the awardee.

Questions specifically related to the completion of the above certifications should be directed to the CSREES Office of Extramural Programs, Grants Management Branch at (202) 401–5050.

19. National Environmental Policy Act Exclusions Form (Form CSREES–1234)

As outlined in 7 CFR part 3407 (the Cooperative State Research, Education, and Extension Service regulations implementation of the National Environmental Policy Act of 1969 (NEPA), and 45 CFR part 640 (the NSF regulations regarding compliance with NEPA) the environmental data for any proposed project is to be provided to CSREES and NASA so that the Federal agency may determine whether any further action is needed. In some cases, however, the prepartion of environmental data may not be required. Certain categories of actions are excluded from the requirements of NEPA.

In order for CSREES to determine whether any further action is needed with respect to NEPA (e.g., preparation of an environmental assessment (EA) or environmental impact statement (EIS)), pertinent information regarding the possible environmental impacts of a proposed project is necessary; therefore, Form CSREES–1234, ''NEPA Exclusions Form,'' must be included in the proposal indicating whether the applicant is of the opinion that the project falls within a categorical exclusion and the reasons therefore. If it is the applicant's opinion that the proposed project falls within the categorical exclusions, the specific exclusion must be identified. Form CSREES–1234 and the supporting documentation should be included as the last page of this proposal.

Even though a project may fall within the categorical exclusions, CSREES may determine that an EA or EIS is necessary for an activity, if substantial controversy on the environmental grounds exists or if other extraordinary conditions or circumstances are present which may cause such activity ot have a significant environmental effect.

C. Application Submission Information

1. When To Submit (Deadline Date)

''Letters of Intent'' must be received by COB on April 13, 2001 (5:00 p.m. EST). Proposals must be received by COB on May 4, 2001 (5:00 p.m. EST). Proposals received after this date will not be considered for funding.

2. What to Submit

For full proposals, an original and 14 copies must be submitted. Also submit 10 copies of the proposal's Project Summary. All copies of the proposals and the Project Summaries must be submitted in one package.

3. Where To Submit

Applicants should e-mail the ''Letter of Intent'' to Dr. Ann Lichens-Park at apark@reeusda.gov or send the letter by mail to the Microbial Sequencing Project; Mail Stop 2241; Cooperative State Research, Education and Extension Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250–2241; or fax the letter at (202) 401–6488.

Applicants are strongly encouraged to submit completed proposals via overnight mail or delivery service to ensure timely receipt by the USDA. The address for hand-delivered proposals or proposals submitted using an express mail or overnight courier service is: Microbial Sequencing Project, c/o Proposal Services Unit, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, Room 1307, Waterfront Centre, 800 9th Street, SW., Washington, DC 20024.

Proposals sent via the U.S. Postal Service must be sent to the following address: Microbial Sequencing Project, c/o Proposal Services Unit, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, STOP 2241, 1400 Independence Avenue, SW., Washington, DC 20250–2241.

D. Acknowledgment of Proposals

The receipt of proposals will be acknowledged by e-mail. Therefore, applicants are encouraged to provide e-mail addresses, where designated, on the Form CSREES–661. If the applicant's e-mail address is not indicated, CSREES will acknowledge receipt of the proposal by letter.

Once the proposal has been assigned an identification number, please cite that number on all future correspondence. If the applicant does not receive an acknowledgment within 60 days of the submission deadline, please contact the Program Director.

Part IV—Review Process

A. General

All proposals, will be reviewed together by a panel in the pertinent program area. Prior to technical examination, a preliminary review will be made for responsiveness to the program area. Proposals that do not fall within the guidelines of this Program will be eliminated from Program competition and will be returned to the applicant.

Individual written comments and in-depth discussions will be provided by a peer review panel prior to recommending applications for funding. Peer review panel members will be selected based upon their training and experience in relevant scientific, extension, or education fields taking into account the following factors: (a) The level of formal scientific, technical education, and extension experience of the individual, as well as the extent to which an individual is engaged in relevant research, education or extension activities; (b) the need to include as peer reviewers experts from various areas of specialization within relevant scientific, education, and extension fields; (c) the need to include as reviewers other experts (producers, range or resource managers/operators, consumers, etc.) who can assess relevance of the proposals to targeted audiences and to program needs; (d) the need to include as peer reviewers experts from a variety of organizational types (e.g., colleges, universities, industry, state and Federal agencies, private profit and non-profit organizations), and geographic locations; (e) the need to maintain a balanced composition of peer review groups with regard to minority and female representation and an equitable age distribution; and (f) the need to include members that can judge the effective usefulness to producers and the general public of each proposal.

B. Evaluation Factors

The following evaluation factors will be used in reviewing applications:

1. Relevance of the Microorganism(s) To Be Sequenced and the Scientific Merit of the Project

This criterion addresses the scientific and/or practical importance of the microorganism chosen for sequencing, the conceptual adequacy of the sequencing approach including suitability and feasibility of methodology, clarity and delineation of objectives, demonstration of feasibility through preliminary data, novelty, uniqueness and originality.

2. The Broader Impact of the Activity on the Biological Sciences and Agriculture, Including Education, Training, and Outreach

This criterion addresses the potential of proposed activity to contribute to better understanding or improvement of the quality and effectiveness of the Nation's scientific research, education, and human resources capabilities. An important issue is the likelihood of national impact and widespread, appropriate dissemination and use of results in strengthening the biological sciences and agriculture of this nation.

Priority also will be given to projects that integrate education and outreach and those that establish close collaboration among multiple investigators, institutions, and end users.

3. Performance Competence

This criterion addresses the technical merit of the proposed approach, the capabilities of the proposed personnel, including those of the Principal Investigator and other senior staff as discussed above, the adequacy of the resources available or proposed, and the likelihood that this project will lead to a successful, timely, cost-effective completion of the microbial genome sequence(s).

4. Project Management

This criterion addresses the overall quality of the technical and managerial aspects of the proposal, including plans for the release of the data and the sharing of the information and resources resulting from the project to the scientific community as noted below, and for management oversight and long-range planning.

5. Scientific Collaboration and Information Sharing

Sequencing of the genome of an organism is a community activity. As such, a close collaboration among the scientists and organizations involved in sequencing activities and effective dissemination to the potential users of the information are important components of this criterion.

6. Appropriateness of the Proposed Budget

Part V—Award Administration

The U.S. Microbial Sequencing Project will be administered and managed as an interagency program involving both participating agencies throughout the entire process from the development of the program announcement to the review, selection and monitoring of awards. The interagency program managers will coordinate program administration activities such as review of periodic reporting of project evaluations and annual investigator team meetings.

USDA and NSF will fund awards separately. The amount of each award will be determined jointly by USDA and NSF and their representatives after the panel review process has been completed. Other material may be required prior to funding to facilitate the implementation of the award from participating agencies.

A. General

Within the limit of funds available for such purpose, the awarding official shall make awards to those responsible, eligible applicants whose proposals are judged most meritorious in the announced program area by procedures set forth in this request for proposals. The date specified as the effective date of the award shall be no later than September 30, of the Federal fiscal year in which the project is approved for support and funds are appropriated for

such purpose, unless otherwise permitted by law. It should be noted that the project need not be initiated on the award effective date, but as soon thereafter as practicable so that project goals may be attained within the funded project period. All funds awarded under this request for proposals shall be expended solely for the purpose for which the funds are awarded in accordance with the approved application and budget, the terms and conditions of the award, the applicable Federal cost principles, and the applicable participating agency assistance regulations.

B. Organizational Management Information

Specific management information relating to an applicant shall be submitted on a one-time basis as part of the responsibility determination prior to the award if such information has not been provided previously under this or another program for which the sponsoring agency is responsible. Copies of forms recommended for use in fulfilling the requirements contained in this section will be provided by the awarding agency as part of the pre-award process.

C. Award Document

The USDA award document shall include at a minimum the following:

1. Legal name and address of performing organization or institution to whom the funding agency has awarded an award under this program;
2. Title of Project;
3. Name(s) and address(es) of principal investigator(s) chosen to direct and control approved activities;
4. Award identification number assigned by the funding agency;
5. Project period, specifying the amount of time the funding agency intends to support the project without requiring recompetition for funds;
6. Total award amount approved by the funding agency during the project period;
7. Legal authority(ies) under which the award is made;
8. Approved budget plan for categorizing project funds to accomplish the stated purpose of the award; and
9. Other information or provisions deemed necessary by the funding agency to carry out its respective awarding activities or to accomplish the purpose of a particular award.

An NSF award consists of: (1) The award letter, which includes any special provisions applicable to the award and any numbered amendments thereto; (2) the budget, which indicates the amounts, by categories of expense, on which NSF has based its support (or otherwise communicates any specific approvals or disapprovals of proposed expenditures); (3) the proposed referenced in the award letter; (4) the applicable award conditions, such as Grant General Conditions (NSF-GC–1) or Federal Demonstration Partnership (FDP) Terms and Conditions and (5) any announcement or other NSF issuance that may be incorporated by reference in the award letter. Cooperative agreement awards also are administered in accordance with NSF Cooperative Agreement Terms and Condition (CA–1). Electonic mail notification is the preferred way to transmit NSF awards to organizations that have electronic mail capabilities and have requested such notification from the Divison of Grants and Agreements.

D. Notice of Award

The notice of award, in the form of a letter, will be prepared and will provide pertinent instructions or information to the awardee that is not included in the award document.

E. Funding Mechanisms

The two mechanisms by which new, renewal, and supplemental grants may be awarded are as follows:

(1) Standard grant. This is a funding mechanism whereby the Federal Government agrees to support a specified level of effort for a predetermined time period without the announced intention of providing additional support at a future date.

(2) Continuation grant. This is a funding mechanism whereby the Federal Government agrees to support a specified level of effort for a predetermined period of time with a statement of intention to provide additional support at a future date, provided that performance has been satisfactory, appropriations are available for this purpose, and continued support will be in the best interests of the Federal government and the public. This kind of mechanism normally will be awarded for an initial one-year period, and any subsequent continuation project grants will be awarded in one-year increments. The award of a continuation project grant to fund an initial or succeeding budget period does not constitute an obligation to fund any subsequent budget period. Unless prescribed otherwise by CSREES or NSF, a grantee must submit a separate application for continued support for each subsequent fiscal year. Requests for such continued support must be submitted in duplicate at least three months prior to the expiration date of the budget period currently being funded. Decisions regarding continued support and the actual funding levels of such support in future years usually will be made administratively after consideration of such factors as the grantee's progress and management practices and the availability of funds. Since initial peer reviews are based upon the full term and scope of the original application, additional evaluations of this type generally are not required prior to successive years' support. However, in unusual cases (e.g., when the nature of the project or key personnel change or when the amount of future support requested substantially exceeds the grant application originally reviewed and approved), additional reviews may be required prior to approving continued funding.

F. Use of Funds; Changes

Unless otherwise stipulated in the terms and conditions of the award, the following provisions apply:

1. Delegation of Fiscal Responsibility: The awardee may not in whole or in part delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of funds.

2. Changes in Project Plans:

a. The permissible changes by the awardee, principal investigator(s), or other key project personnel in the approved research project award shall be limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the project's approved goals. If the awardee and/or the principal investigator(s) are uncertain as to whether a change complies with this provision, the question must be referred to the USDA Authorized Departmental Officer (ADO) or NSF Grants Officer for a final determination.

b. Changes in approved goals, or objectives, shall be requested by the awardee and approved in writing by the ADO or NSF Grants Officer prior to effecting such changes. In no event shall requests for such changes be approved which are outside the scope of the original approved project.

c. Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the awardee and approved in writing by the awarding official prior to effecting such changes.

d. Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the awardee and approved

in writing by the ADO or NSF Grants Officer prior to effecting such transfers.

e. Changes in Project Period: The project period may be extended by the awarding agency without additional financial support, for such additional period(s) as the ADO or NSF Grants Officer determines may be necessary to complete or fulfill the purposes of an approved project. Any extension of time shall be conditioned upon prior request by the awardee and approval in writing by the ADO or NSF Grants Officer, unless prescribed otherwise in the terms and conditions of an award.

f. Changes in Approved Budget: Changes in an approved budget must be requested by the awardee and approved in writing by the ADO or NSF Grants Officer prior to instituting such changes if the revision will involve transfers or expenditures of amounts requiring prior approval as set forth in the applicable Federal costs principles, Agency regulations, or in the award document.

G. Applicable Regulations

Several other Federal statutes and regulations apply to proposals considered for review and to projects awarded under this program. For CSREES awards, applicable regulations are those cited in part V. E. of the IFAFS RFP published in the **Federal Register** on February 23, 2001, 66 FR 11507]. For NSF awards, the applicable regulations are cited in the section entitled REGULATION, GUIDELINES, AND LITERATURE in the Catalog of Federal Domestic Assistance under 46.074: Biological Sciences.

For specific information on policies and procedures pertaining to the award and administration of NSF grants and cooperative agreements, refer to the NSF Grant Policy Manual which can be found at *http://www.nsf.gov/bfa/cpo/policy/grants.htm.*

H. Additional Information

In the view of some, raw genomic sequences, in the absence of additional demonstrated biological information, lack demonstrated utility and therefore are inappropriate for patent filing. Patent applications on large blocks of primary genomic sequence could stifle future research and the development of future inventions of useful products. However, according to the Bayh-Dole Act, the grantees have the right to elect to retain title to subject inventions and are free to choose to apply for patents should additional biological experiments reveal convincing evidence of utility. CSREES and NSF grantees are reminded that the grantee institutions is required to disclose each subject invention to the Federal government within two months after the inventor discloses it in writing to grantee institution personnel responsible for patent matters. Where appropriate, a plan for apportionment of rights to intellectual property with international partners should be provided.

Investigators are expected to explain clearly how the ownership of information and research materials and their public release will be handled. Rapid and unrestricted sharing of genomic sequence data is essential for advancing research on agriculturally and environmentally important species. Early release of unfinished sequence has already proven useful in accelerating the pace of experimental discovery in non-agricultural fields, such as human health, energy production and bioremediation. At the same time, CSREES and NSF recognize that it also is necessary to allow investigators time to verify the accuracy of their data and to accomplish the goals proposed in their application, which often includes the assembly and annotation of the sequence data.

I. Confidential Aspects of Proposals and Awards

When a proposal results in an award, it becomes a part of the record of the Agency's transactions, available to the public upon specific request. Information that the CSREES or NSF Director determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to have considered as confidential, privileged, or proprietary should be clearly marked as such and sent in a separate statement, two copies of which should accompany the proposal. The original copy of a proposal that does not result in an award will be retained by the Agency for a period of one year. Other copies will be destroyed. Proposals that do not receive an award will be released to others only with the consent of the applicant or to the extent required by law. If such a request is made, the applicant will be consulted prior to release of the proposal. A proposal may be withdrawn at any time prior to the final selection action thereon.

Potential applicants are strongly encouraged to contact project officers and discuss their plans. Inquiries regarding the announcement can be directed to any one of the agency representatives identified at the beginning of this request for proposals.

Done at Washington, D.C., on this 20th day of March 2001.

Colien Hefferan,

Administrator, Cooperative State Research, Education, and Extension Service

Mary E. Clutter,

Assistant Director for Biological Sciences, National Science Foundation.

[FR Doc. 01–7265 Filed 3–22–01; 8:45 am]

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Federal Register

Friday,
March 23, 2001

Part IV

National Archives and Records Administration

36 CFR Parts 1250 and 1254
NARA Freedom of Information Act Regulations; Final Rule

Federal Register Format Changes

EDITOR'S NOTE: The Office of the Federal Register is printing the following document in a two-column format to illustrate proposed changes in the appearance of the daily Federal Register. The two-column format and other changes in fonts, headings, line spacing, and tables are intended to improve readability and public understanding of Federal regulations and notices, while minimizing increases in white space that affect printing costs charged to agencies. The format changes do not affect the legal status of the final rule issued by the National Archives and Records Administration.

We invite agencies and members of the public to comment on the proposed format by email at: fedreg.legal@nara.gov or by U.S. mail at: National Archives and Records Administration, Office of the Federal Register (NF), Federal Register Format Changes, 700 Pennsylvania Ave., NW, Washington, DC 20408-0001. For more information on the proposed format change, go to the Federal Register web site at: http://www.nara.gov/fedreg/plainlan.html#top.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Parts 1250 and 1254

RIN 3095-AA72

NARA Freedom of Information Act Regulations

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule.

SUMMARY: NARA is revising and reorganizing its regulations that govern access to NARA's archival holdings and NARA's own operational records through the Freedom of Information Act (FOIA). This rule combines FOIA procedures for NARA archival records currently in 36 CFR part 1254, with those for NARA operational records currently in 36 CFR part 1250. This rule also incorporates the changes resulting from the Electronic Freedom of Information Act Amendments of 1996 (EFOIA). This rule will affect individuals and organizations that file FOIA requests for NARA operational records and archival holdings.

EFFECTIVE DATE: April 23, 2001.

FOR FURTHER INFORMATION CONTACT: Nancy Allard at 301-713-7360.

SUPPLEMENTARY INFORMATION: NARA published a notice of proposed rulemaking on August 23, 2000, in the Federal Register (65 FR 51270) for a 60-day public comment period.

NARA received two comments, one from the Public Citizen Litigation Group, a nonprofit consumer advocacy organization, and one from the National Coordinating Committee for the Promotion of History. Following is a summary of the comments and a discussion of the changes that we made to the proposed rule in response to those comments:

Section 1250.2(c)—Confidential commercial information

In our proposed rule, we define confidential commercial information "as records provided to NARA by a submitter that may contain material exempt from release under the FOIA...". Public Citizen believes that this is not the only way that such information may appear in NARA's records.

Public Citizen believes that such information may appear in records that were submitted to other agencies and transferred to NARA. In our definition we describe a "submitter" as one who provides NARA with information. We are deleting the phrase "to NARA" with § 1250.2 (c) so that the regulations will appropriately cover both the more common operational requests as well as the infrequent archival requests for commercial information still requiring protection. Thus, § 1250.2(c) will read, "confidential commercial information means records provided by a submitter that may contain material exempt from release under the FOIA because disclosure could reasonably be expected to cause the submitter substantial competitive harm."

Section 1250.2(d)—Definition of "educational"

Public Citizen comments that NARA's proposed definition of "educational institution request" as "a request that serves the scholarly research goals of an institution or school rather than the individual goals of the requester", is not supported by the statutory language. NARA agrees and has adopted the DOJ definition in § 1250.2(d), as suggested by Public Citizen.

Sections 1250.2(e) and 1250.6—Application of FOIA to all archival records

Public Citizen believes that all records in the custody of the Archivist should be governed by FOIA. They assert that the proposed rule language in the preamble, and at §§ 1250.2(e) and 1250.6, indicates that the FOIA applies only to archival records received from the executive branch of the Federal government, and does not apply to records of Congress or of the federal courts that have been transferred to the Archivist's custody because of their historical value. The submitter believes that all archival records received under 44 U.S.C. 2107, including the records of Congress and judicial branch records that have been deposited with NARA for preservation are subject to the FOIA. Public Citizen recommends that NARA not adopt 36 CFR. 1250.2(e) and 1250.6 in its final regulations.

We believe that 44 U.S.C. 2107 allows the Archivist to accept for deposit Congressional and court records of historical value and that accepting these records does not make them records of the executive branch for purposes of FOIA. In addition, the courts have carved out court and Congressional records from the FOIA statute coverage. (See *United States v. Spain, No.82-60-N, slip op. At 1 (E.D. Va. June 19, 1998) and Smith v. United States Congress, No. 95-5281, 1996 WL 523800, at *1(D.C.Cir. August 28, 1996*)) All the provisions in the proposed § 1250.2 are unchanged.

Section 1250.8—Definition of operational records

Public Citizen suggests that the term "operational" be defined again at this point in the regulations. NARA believes that this term has been fully defined in § 1250.2(i), and that the use of the shortened "plain English" version is appropriate.

Section 1250.12(a)(4)—Types of records available in NARA's reading room

Public Citizen believes that NARA's proposed language in this section is narrower than the statutory mandate, which provides that the agency must place in its reading room copies of all records that "the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records." NARA's proposed rule states that "copies of records requested 3 or more times under the FOIA" must be placed in NARA's FOIA reading room. Public Citizen asserts that records may have become subject to subsequent requests for substantially the

same records even if there have not been three or more identical requests. Thus, Public Citizen urges that NARA modify the description of records that will be made available in NARA's reading room to conform to the statutory language. While NARA believes that the proposed language defines how NARA makes this determination, we believe that expanding the description to include the phrase "other records that have become or are likely to become the subject of subsequent FOIA request" is a reasonable addition to the regulations. We have amended the proposed description of records available in NARA's reading room in § 1250.12(a)(4) to read: "copies of records requested 3 or more times under the FOIA; and other records that have become or are likely to become the subject of subsequent FOIA requests for substantially the same records. . .". The word FOIA has been added a second time to make sure that all will understand that these are FOIA requests.

Section 1250.26—Extension of statutory deadlines

Public Citizen recommends that NARA modify the proposed language in § 1250.26 to tell the requester the length of the anticipated delay whenever we notify the requester that the 20 working day deadline cannot be met. Public Citizen suggests that the modification would enable the requesters to make informed decisions about whether to modify their request. NARA believes this to be appropriate in those instances where a modification of the request will enhance NARA's ability to make a more timely response. This situation is covered in § 1250.26(c).

In the cases where NARA notifies a requester that 20 working days is not a sufficient amount of time to make a final decision and adds fewer than 10 additional days to the response time, as described in § 1250.26(b), NARA believes that the statute does not require us to seek modification from the requester. The final response to the requester would be further delayed if we stopped processing the request in order to contact the requester and awaited the requester's decision on modifying the request.

Public Citizen also suggests that NARA inform the requester of the completion date of the request. NARA believes that this is an appropriate addition to any NARA response to the requester. However, in those instances when NARA must wait on another agency (§ 1250.26(d)) or follow an alternative time schedule (§§ 1250.26(e) and (f)), the date of completion can only be an estimate and modification of a request is unlikely to eliminate the need for outside consultation. We have added to this section a new sentence in order to keep requesters aware of the complexities in processing certain types of FOIA responses. Section 1250.26(a) reads "NARA will make an initial response to all FOIA requesters within 20 days. The initial response will inform requesters of any complexity in processing their request, which may lengthen the time required to reach a final decision on the release of the records."

The National Coordinating Committee for the Promotion of History (NCCPH) states that researchers sometimes request a specific document from NARA only to find that it is withheld in its entirety even though there is only a page in question. NCCPH suggests that NARA release part of a record before the record is referred. NARA believes that the situation that NCCPH is describing here only occurs when the requested material is classified. When material is classified, it is sent to another agency for review because we do not have the technical or the legal ability to determine whether a portion of a classified document is unclassified and could be released. Without this certainty, we do not believe it appropriate to release any portion of the referred material.

Section 1250.28—Expedited processing for records subject to multiple requests

Public Citizen suggests that NARA revise their two criteria on imminent danger to person or due process to include the concept of "reasonable expectation." The statute makes clear that expedited processing is required where delay in releasing the records could reasonably be expected to pose an imminent threat to life or physical safety of an individual. Public Citizen asserts that the expedited processing to address due process concerns is appropriate where the loss of due process rights is reasonably expected, not just where the loss is imminent. Following a review of this comment, NARA believes this revision is acceptable and amended the wording to read: § 1250.28(a)(1) "A reasonable expectation of an imminent threat to an individual's life or "physical safety;" and § 1250.28(a)(2) "A reasonable expectation of imminent loss of substantial due process rights."

With regard to Public Citizen's suggestion that NARA revise the criteria to add the receipt of multiple requests as a reason for expediting requests, NARA believes that Congress and the courts continue to agree that the fairest pattern for responding to FOIA requesters is on a first in/first out basis. In those special circumstances where delay could reasonably be expected to cause serious harm or where voluminous or complicated requests produce a bottleneck, NARA has established procedures for expedited processing and continues to use multiple queues.

Section 1250.50—Fees

NCCPH believes that NARA's search and review fees are too high and that while it is reasonable to charge search fees for another agency's records, it is unreasonable for NARA to charge for a search of its own operational records. NARA does not charge for searching and reviewing archival records accessioned into the National Archives of the United States when we receive a FOIA request for them.

In establishing fees for NARA's own operational records requested under FOIA we have followed the procedures established by OMB. Search and review fees are established at the salary of the individual who is doing the search and review. There is no charge for the first two hours of search or review time. NARA rarely charges for search or review of operational records as the two-hour free time is rarely used up.

This rule is not a significant regulatory action for the purpose of Executive Order 12866. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on a substantial number of small entities because this regulation will affect only persons and organizations who file FOIA request with NARA. The rule does not have any federalism or tribal implications.

List of Subjects

36 CFR Part 1250

Archives and records, Confidential business information, Freedom of information.

36 CFR Part 1254

Archives and records, Confidential business information, Freedom of information, Micrographics, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the National Archives and Records Administration amends chapter XII of title 36, Code of Federal Regulations as follows:

■ 1. Revise part 1250 to read as follows:

PART 1250—PUBLIC AVAILABILITY AND USE OF FEDERAL RECORDS

Subpart A—General Information About Freedom of Information Act (FOIA) Requests

Sec.

1250.1 Scope of this part.
1250.2 Definitions.
1250.4 Who can file a FOIA request?
1250.6 Does FOIA cover all of the records at NARA?
1250.8 Does NARA provide access to all the executive branch records housed at NARA facilities?
1250.10 Do I need to use FOIA to gain access to records at NARA?
1250.12 What types of records are available in NARA's FOIA Reading Room?
1250.14 If I do not use FOIA to request records, will NARA treat my request differently?

Subpart B—How to Access Records Under FOIA

1250.20 What do I include in my FOIA request?
1250.22 Where do I send my FOIA request?
1250.24 Will you accept a FOIA request through email?
1250.26 How quickly will NARA respond to my FOIA request?
1250.28 Will NARA ever expedite the review of the records I requested?
1250.30 How do I request expedited processing?
1250.32 How quickly will NARA process an expedited request?
1250.34 How will I know if NARA is going to release the records I requested?
1250.36 When will NARA deny a FOIA request?
1250.38 In what format will NARA provide copies?

Subpart C—Fees

1250.50 Will I be charged for my FOIA request?
1250.52 How much will I have to pay for a FOIA request for NARA operational records?
1250.54 General information on fees for NARA operational records.
1250.56 Fee schedule for NARA operational records.
1250.58 Does NARA ever waive FOIA fees for NARA operational records?
1250.60 How will NARA determine if I am eligible for a fee waiver for NARA operational records?

Subpart D—Appeals

1250.70 What are my appeal rights under FOIA?
1250.72 How do I file an appeal?
1250.74 Where do I send my appeal?
1250.76 May I email my FOIA appeal?
1250.78 How does NARA handle appeals?

Subpart E—Special Situations

1250.80 How does a submitter identify records containing confidential commercial information?
1250.82 How will NARA handle a FOIA request for confidential commercial information?
1250.84 Service of subpoena or other legal demand for NARA operational records.

Authority: 44 U.S.C. 2104(a), 2204; 5 U.S.C. 552; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

Subpart A—General Information About Freedom of Information Act (FOIA) Requests

§ 1250.1 Scope of this part.

This part implements the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended, for NARA operational records and archival records that are subject to FOIA. Other NARA regulations in 36 CFR parts 1254 through 1275 provide detailed guidance for conducting research at NARA.

§ 1250.2 Definitions.

The following definitions apply to this part:

(a) *Archival records* means permanently valuable records of the United States Government that have been transferred to the legal custody of the Archivist of the United States.

(b) *Commercial use requester* means a requester seeking information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made.

(c) *Confidential commercial information* means records provided by a submitter that may contain material exempt from release under the FOIA because disclosure could reasonably be expected to cause the submitter substantial competitive harm.

(d) *Educational institution request* means a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, or an institution of vocational education, that operates a program of scholarly research. To be in this category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are not sought for a commercial use but are sought to further scholarly research.

(e) *FOIA request* means a written request for access to records of the executive branch of the Federal Government held by NARA, including NARA operational records, or to Presidential records in the custody of NARA that were created after January 19, 1981, that cites the Freedom of Information Act.

(f) *Freelance journalist* means an individual who qualifies as a representative of the news media because the individual can demonstrate a solid basis for expecting publication through a news organization, even though not actually in its employ. A publication contract would be the clearest proof of a solid basis, but the individual's publication history may also be considered in demonstrating this solid basis.

(g) *News media representative* means a person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of news) who make their products available for purchase or subscription to the general public.

(h) *Non-commercial scientific institution* means an institution that is not operated on a basis that furthers the commercial, trade, or profit interests of any person or organization, and which is operated solely for the purpose of conducting

scientific research which produces results that are not intended to promote any particular product or industry.

(i) *Operational records* means those records that NARA creates or receives in carrying out its mission and responsibilities as an executive branch agency. This does not include archival records as defined in paragraph (a) of this section.

(j) *Other requesters* means any individual who is not a commercial-use requester, not a representative of the news media, not a freelance journalist, nor one associated with an educational or non-commercial scientific institution whose research activities conform to the definition in paragraph (h) of this section.

(k) *Submitter* means any person or entity providing potentially confidential commercial information to an agency. The term submitter includes, but is not limited to, corporations, state governments, and foreign governments.

§ 1250.4 Who can file a FOIA request?

Any individual, partnership, corporation, association, or government regardless of nationality may file a FOIA request.

§ 1250.6 Does FOIA cover all of the records at NARA?

No, FOIA applies only to the records of the executive branch of the Federal government and certain Presidential records. Use the following chart to determine how to gain access:

If you want access to ...	Then access is governed by . . .
(a) Records of executive branch agencies	This part and parts 1254 through 1260 of this chapter. FOIA applies to these records.
(b) Records of the Federal courts	Parts 1254 through 1260 of this chapter. FOIA does not apply to these records.
(c) Records of Congress	Parts 1254 through 1260 of this chapter. FOIA does not apply to these records.
(d) Presidential records (created by Presidents holding office since 1981).	This part and parts 1254 through 1270 of this chapter. FOIA applies to these records 5 years after the President leaves office. However a President may invoke exemptions under the Presidential Records Act which would extend this up to 12 years after the President leaves office.
(e) Documents created by Presidents holding office before 1981 and housed in a NARA Presidential library.	The deed of gift under which they were given to NARA. These documents are not Federal records and FOIA does not apply to these materials.
(f) Nixon Presidential materials	Part 1275 of this chapter. FOIA does not apply to these materials.

§ 1250.8 Does NARA provide access to all the executive branch records housed at NARA facilities?

(a) NARA provides access to the records NARA creates (operational records) and records originating in other Federal agencies that have been transferred to the legal custody of the Archivist of the United States (archival records).

(b) Twentieth-century personnel and medical records of former members of the military and of former civilian employees of the Federal government are held at NARA's National Personnel Records Center (NPRC), located in St. Louis, Missouri. These records remain in the legal custody of the agencies that created them and access to them is governed by the FOIA and other access regulations of the creating agencies. The NPRC processes FOIA requests under authority delegated by the originating agencies, not under the provisions of this part.

(c) In our national and regional records centers, NARA stores records that agencies no longer need for day-to-day business. These records remain in the legal custody of the agencies that created them. Access to these records is through the originating agency. NARA does not process FOIA requests for these records.

§ 1250.10 Do I need to use FOIA to gain access to records at NARA?

(a) Most archival records held by NARA are available to the public for research without filing a FOIA request. You may either visit a NARA facility as a researcher to view and copy records or you may write to request copies of specific records.

(b) If you are seeking access to archival records that are restricted and not available to the public, you may need to file a FOIA request or a mandatory review request (see part 1254 of this chapter for procedures for accessing classified records) to gain access to these materials. If you make a reference request for restricted records, we may ask that you change your reference request to a FOIA request or a mandatory review request. See 36 CFR 1254.46 for information on filing mandatory review requests.

(c) You must file a FOIA request when you request access to NARA operational records that are not already available to the public.

§ 1250.12 What types of records are available in NARA's FOIA Reading Room?

(a) NARA makes available for public inspection and copying the following materials described in subsection (a)(2) of the FOIA:

(1) Final NARA orders;

(2) Written statements of NARA policy that are not published in the Federal Register;

(3) Operational staff manuals and instructions to staff that affect members of the public;

(4) Copies of records requested 3 or more times under FOIA and other records that have been or are likely to become the subject of subsequent FOIA requests for substantially the same records;

(5) An index, updated quarterly, to these materials.

(b) These materials are available during normal working hours at the NARA facility where the records are located. See 36 CFR parts 1253 and 1254 for a fuller description of NARA facilities and research room procedures.

(c) Any of this material that was created after October 31, 1996, will also be placed on NARA's web site at http://www.nara.gov/foia.

(d) For paper copies of the index to these materials write the NARA FOIA Officer at the address listed in § 1250.22(d).

§ 1250.14 If I do not use FOIA to request records, will NARA treat my request differently?

Whether you choose to invoke the FOIA or not, NARA will respond as promptly as possible to your request.

Subpart B—How To Access Records Under FOIA

§ 1250.20 What do I include in my FOIA request?

In your FOIA request, you must:

(a) Describe the records you wish to access in enough detail to allow NARA staff to find them. The more information you provide, the better possibility NARA has of finding the records you are seeking. Information that will help us find the records includes:

(1) The agencies, offices, or individuals involved; and

(2) The approximate date when the records were created.

(b) Include your name and full mailing address. If possible, please include a phone number or email address as well. This information will allow us to reach you faster if we have any questions about your request.

(c) Mark both your letter and envelope with the words "FOIA Request."

§ 1250.22 Where do I send my FOIA request?

(a) For requests for archival records in the Washington, DC, area, mail your request to the Chief, Special Access and FOIA Staff (NWCTF), Room 6350, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001.

(b) For archival records in any of NARA's regional records services facilities, send the FOIA request to the director of the facility in which the records are located. The addresses for these facilities are listed in 36 CFR 1253.7.

(c) For Presidential records subject to FOIA, mail your request to the director of the library in which the records are located. The addresses for these facilities are listed in 36 CFR 1253.3.

(d) For the operational records of any NARA unit except the Office of the Inspector General, mail your request to the NARA FOIA Officer (NGC), Room 3110, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001.

(e) For records of the Inspector General write to Office of the Inspector General (OIG), FOIA Request, Room 1300, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001.

(f) If you are unable to determine where to send your request, send it to the NARA FOIA Officer (NGC), Room 3110, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. That office will forward your request to the office(s) that have the records you are seeking. Your request will be considered received when it reaches the proper office's FOIA staff.

§ 1250.24 Will you accept a FOIA request through email?

Yes, send email FOIA requests to inquire@nara.gov. You must indicate in the subject line of your email message that you are sending a FOIA request. The body of the message must contain all of the information listed in § 1250.20.

§ 1250.26 How quickly will NARA respond to my FOIA request?

(a) NARA will make an initial response to all FOIA requests within 20 working days. The initial response will inform requesters of any complexity in processing their request, which may lengthen the time required to reach a final decision on the release of the records.

(b) In most cases, NARA will make a decision on the release of the records you requested within the 20 working days. If unusual circumstances prevent us from making a decision within 20 working days, we will inform you in writing how long it will take us to complete your request. Unusual circumstances are the need to:

(1) Search for and collect the records from field facilities;

(2) Search for, collect, and review a voluminous amount of records which are part of a single request; or

(3) Consult with another agency before releasing records.

(c) If we are extending the deadline for more than an additional 10 working days, we will ask you if you wish to modify your request so that we can meet the deadline. If you do not agree to modify your request, we will work with you to arrange an alternative time schedule for review and release.

(d) If you have requested records that we do not have the authority to release without consulting another agency (e.g. security-classified records), we will refer copies of the documents to the appropriate agency. NARA will send you an initial response to your FOIA requests within 20 working days informing you of this referral. However, the final response to your FOIA can only be made when the agency to which we have referred the documents responds to us.

(e) If you have requested Presidential records and NARA decides to grant you access, NARA must inform the incumbent and former Presidents of our intention to disclose information from those records. After receiving the notice, the incumbent and former Presidents have 30 days in which to decide whether or not to invoke Executive privilege to deny access to the information. NARA will send you an initial response to your FOIA request within 20 working days informing you of the status of your request. However, the final response to your FOIA can only be made at the end of the 30-day Presidential notification period.

(f) If you have requested records containing confidential commercial information that is less than 10 years old, we will contact the submitter of the requested information. NARA will send you an initial response to your FOIA request within 20 working days informing you of our

actions. See § 1250.82 for the time allowed the submitter to object to the release of confidential commercial information. If the records contain confidential commercial information that is 10 years old or older, NARA staff will not contact the submitter, but will process the request under normal FOIA procedures.

§ 1250.28 Will NARA ever expedite the review of the records I requested?

(a) In certain cases NARA will move your FOIA request or appeal to the head of our FOIA queue. We will do this for any of the following reasons:

(1) A reasonable expectation of an imminent threat to an individual's life or physical safety;

(2) A reasonable expectation of an imminent loss of a substantial due process right; or

(3) An urgent need to inform the public about an actual or alleged Federal government activity (this last criterion applies only to those requests made by a person primarily engaged in disseminating information to the public).

(b) NARA can expedite requests, or segments of requests, only for records over which we have control. If NARA must refer a request to another agency, we will so inform you and suggest that you seek expedited review from that agency. We cannot expedite requests for Presidential records or shorten the 30-day Presidential notification period.

§ 1250.30 How do I request expedited processing?

You must submit a statement, certified to be true and correct to the best of your knowledge, explaining the basis of your need for expedited processing. All such requests must be sent to the appropriate official at the address listed in § 1250.22. You may request expedited processing when you first request records or at any time during our processing of your request.

§ 1250.32 How quickly will NARA process an expedited request?

We will respond to you within 10 days of our receipt of your request for expedited processing. If we grant your request, the NARA office responsible for the review of the requested records will process your request as quickly as possible. If we deny your request for expedited processing and you decide to appeal our denial, we will also expedite our review of your appeal.

§ 1250.34 How will I know if NARA is going to release the records I requested?

Once NARA decides to release the requested records, in whole or in part, we will inform you in writing. Our response will tell you how much responsive material we found, where you may review the records, and the copying or other charges due. If the records you sought were released only in part, we will estimate, if possible, the amount of the withheld information. Also, if we deny any part of your request, our response will explain the reasons for the denial, which FOIA exemptions apply, and your right to appeal our decisions.

§ 1250.36 When will NARA deny a FOIA request?

The FOIA contains nine exemptions under which information may be exempted from release. Given the age and nature of archival records, many of these exemptions apply to only a few of the records in our custody. We will only withhold information where we must (such as information which remains classified, or information which is specifically closed by statute) or we reasonably foresee that disclosure would cause a harm. In addition if only part of a record must be withheld, NARA will provide access to the rest of the information in the record. Categories of information that may be exempt from disclosure under the FOIA are as follows:

Section of the FOIA:	Reason for exemption:
5 U.S.C. 552(b)(1)	Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified under the Executive order.
5 U.S.C. 552(b)(2)	Related solely to the internal personnel rules and practices of an agency.
5 U.S.C. 552(b)(3)	Specifically exempted from disclosure by statute (other than section 552b of this title), provided that the statute: (A) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or (B) Establishes particular criteria for withholding or refers to particular types of matters to be withheld.
5 U.S.C. 552(b)(4)	Trade secrets and commercial or financial information obtained from a person that are privileged or confidential.
5 U.S.C. 552(b)(5)	Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.
5 U.S.C. 552(b)(6)	Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Section of the FOIA:	Reason for exemption:
5 U.S.C. 552(b)(7)	Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information: (A) Could reasonably be expected to interfere with enforcement proceedings: (B) Would deprive a person of a right to a fair trial or an impartial adjudication; (C) Could reasonably be expected to constitute an unwarranted invasion of personal privacy; (D) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting lawful national security intelligence investigation, information furnished by a confidential source; (E) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or (F) Could reasonably be expected to endanger the life or physical safety of any individual.
5 U.S.C. 552(b)(8)	Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.
5 U.S.C. 552(b)(9)	Geological and geophysical information and data, including maps, concerning wells.

§ 1250.38 In what format will NARA provide copies?

After all applicable fees are paid, NARA will provide you copies of records in the format you request if the records already exist in that format, or if they are readily reproducible in the format you request.

Subpart C—Fees

§ 1250.50 Will I be charged for my FOIA request?

(a) Fees and fee waivers for FOIA requests for NARA operational records are listed in this subpart.

(b) Fees for FOIA requests for NARA archival records are listed in 36 CFR part 1258.

§ 1250.52 How much will I have to pay for a FOIA request for NARA operational records?

(a) If you are a commercial use requester, we will charge you fees for searching, reviewing, and copying.

(b) If you are an educational or scientific institution requester, or a member of the news media, we will charge you fees for copying. However, we will not charge you for copying the first 100 pages.

(c) If you do not fall into either of the categories in paragraphs (a) and (b) of this section, then we will charge you search and copying fees. However, we will not charge you for the first 2 hours of search time or for copying the first 100 pages.

§ 1250.54 General information on fees for NARA operational records.

(a) NARA is able to make most of its records available for examination at the NARA facility where the records are located. Whenever this is possible, you may review the records in a NARA research room at that facility.

(b) If you want NARA to supply you with copies, we will normally require you to pay all applicable fees in accordance with § 1250.52 before we provide you with the copies.

(c) NARA may charge search fees even if the records are not releasable or even if we do not find any responsive records during our search.

(d) If you are entitled to receive 100 free pages, but the records cannot be copied onto standard size (8.5≥ by 11≥) photocopy paper, we will copy them on larger paper and will reduce your copy fee by the normal charge for 100 standard size photocopies. If the records are not on textual media (e.g., photographs or electronic files) we will provide the equivalent of 100 pages of standard size paper copies for free.

(e) We will not charge you any fee if the total costs are $10 or less.

(f) If estimated search or review fees exceed $50, we will contact you. If you have specified a different limit that you are willing to spend, we will contact you only if we estimate the fees will exceed that amount.

(g) If you have failed to pay FOIA fees in the past, we will require you to pay your past-due bill before we begin processing your request. If we estimate that your fees may be greater than $250, we may require payment or a deposit before we begin processing your request.

(h) If we determine that you (acting either alone or with others) are breaking down a single request into a series of requests in order to avoid or reduce fees, we may aggregate all these requests in calculating the fees.

§ 1250.56 Fee schedule for NARA operational records.

In responding to FOIA requests for operational records, NARA will charge the following fees, where applicable, unless we have given you a reduction or waiver of fees under § 1250.60.

(a) *Search fees*—**(1)** *Manual searching of records.* When the search is relatively straightforward and can be performed by a clerical or administrative employee, the search rate is $16 per hour (or fraction thereof). When the request is more complicated and must be done by a professional employee of NARA, the rate is $33 per hour (or fraction thereof)

(2) *Computer searching.* This is the actual cost to NARA of operating the computer and the salary of the operator. When the search is relatively straightforward and can be performed by a clerical or administrative employee, the search rate is $16 per hour (or fraction thereof). When the request

is more complicated and must be done by a professional employee of NARA, the rate is $33 per hour (or fraction thereof).

(b) *Review fees.* **(1)** Review fees are charged for time spent examining all documents that are responsive to a request to determine if any are exempt from release and to determine if NARA will release exempted records.

(2) The review fee is $33 per hour (or fraction thereof).

(3) NARA will not charge review fees for time spent resolving general legal or policy issues regarding the application of exemptions.

(c) *Reproduction fees*—**(1)** *Self-service photocopying.* At NARA facilities with self-service photocopiers, you may make reproductions of released paper documents for 15 cents per page.

(2) *Photocopying standard size pages.* This charge is 20 cents per page when NARA produces the photocopies.

(3) *Reproductions of electronic records.* The direct costs to NARA for staff time for programming, computer operations, and printouts or electromagnetic media to reproduce the requested information will be charged to requesters. When the work is relatively straightforward and can be performed by a clerical or administrative employee, the rate is $16 per hour (or fraction thereof). When the request is more complicated and must be done by a professional employee of NARA, the rate is $33 per hour (or fraction thereof).

(4) *Copying other media.* This is the direct cost to NARA of the reproduction. Specific charges will be provided upon request.

§ 1250.58 Does NARA ever waive FOIA fees for NARA operational records?

(a) NARA will waive or reduce your fees for NARA operational records only if your request meets both of the following criteria:

(1) The request is in the public interest (i.e., information likely to contribute significantly to public understanding of the operations and activities of the government); and

(2) The request is not primarily in your commercial interest.

(b) All requests for fee waivers or reductions must be made at the time of the initial FOIA request. All requests must include the grounds for requesting the reduction or elimination of fees.

§ 1250.60 How will NARA determine if I am eligible for a fee waiver for NARA operational records?

(a) If you request a fee waiver, NARA will consider the following in reviewing how your request meets the public interest criteria in § 1250.58(a)(1):

(1) How do the records pertain to the operations and activities of the Federal Government?

(2) Will release reveal any meaningful information about Federal Government activities that is not already publicly known?

(3) Will disclosure to you advance the understanding of the general public on the issue?

(4) Do you have expertise in or a thorough understanding of these records?

(5) Will you be able to disseminate this information to a broad spectrum of the public?

(6) Will disclosure lead to a significantly greater understanding of the Government by the public?

(b) After reviewing your request and determining that there is a substantial public interest in release, NARA will also review it to determine if it furthers your commercial interests. If it does, you are not eligible for a fee waiver.

Subpart D—Appeals

§ 1250.70 What are my appeal rights under FOIA?

You may appeal any of the following decisions:

(a) The refusal to release a record, either in whole or in part;

(b) The determination that a record does not exist or cannot be found;

(c) The determination that the record you sought was not subject to the FOIA;

(d) The denial of a request for expedited processing; or

(e) The denial of a fee waiver request.

§ 1250.72 How do I file an appeal?

(a) All appeals must be in writing and received by NARA within 35 calendar days of the date of NARA's denial letter. Mark both your letter and envelope with the words "FOIA Appeal," and include a copy of your initial request and our denial.

(b) In your appeal, explain why we should release the records, grant your fee waiver request, or expedite the processing of your request. If we were not able to find the records you wanted, explain why you believe our search was inadequate. If we denied you access to records and told you that those records were not subject to FOIA, please explain why you believe the records are subject to FOIA.

§ 1250.74 Where do I send my appeal?

(a) If NARA's Inspector General denied your request, send your appeal to the Archivist of the United States, (ATTN: FOIA Appeal Staff), Room 4200, National Archives and Records Administration, 8601 Adelphi Road, College Park, Maryland 20740-6001.

(b) Send all other appeals to the Deputy Archivist of the United States, (ATTN: FOIA Appeal Staff), Room 4200, National Archives and Records Administration, 8601 Adelphi Road, College Park, Maryland 20740-6001.

(c) Denials under FOIA of access to national security information accessioned into the National Archives of the United States are made by designated officials of the originating or responsible agency or by NARA under a written delegation of authority. You must appeal determinations that records remain classified for reasons of national security to the agency with responsibility for protecting and declassifying that information. NARA will provide you with the necessary appeal information in those cases. You can find additional information on access to national security classified records at NARA in 36 CFR part 1254.

§ 1250.76 May I email my FOIA appeal?

Yes, you may submit a FOIA appeal via email to inquire@nara.gov. You must put the words "FOIA Appeal" in the subject line of your email message. The body of your message must contain the information in § 1250.72(b).

§ 1250.78 How does NARA handle appeals?

NARA will respond to your appeal within 20 working days after its receipt of the appeal by NARA. If we reverse or modify our initial decision, we will inform you in writing and reprocess your request. If we do not change our initial

decision, our response to you will explain the reasons for our decision, any FOIA exemptions that apply, and your right to judicial review of our decision.

Subpart E—Special Situations

§ 1250.80 How does a submitter identify records containing confidential commercial information?

When a person submits records that contain confidential commercial information to NARA, that person may state in writing that all or part of the records are exempt from disclosure under exemption (b)(4) of the FOIA.

§ 1250.82 How will NARA handle a FOIA request for confidential commercial information?

If NARA receives a FOIA request for records containing confidential commercial information or for records that we believe may contain confidential commercial information and if the information is less than 10 years old, we will follow these procedures:

(a) If, after reviewing the records in response to a FOIA request, we believe that the records may be opened, we will make reasonable efforts to inform the submitter of this. When the request is for information from a single or small number of submitters, NARA will send a notice via registered mail to the submitter's last known address. Our notice to the submitter will include a copy of the FOIA request and will tell the submitter the time limits and procedures for objecting to the release of the requested material.

(b) The submitter will have 5 working days from the receipt of our notice to object to the release and to explain the basis for the objection. The NARA FOIA Officer may extend this period for an additional 5 working days.

(c) NARA will review and consider all objections to release that are received within the time limit. If we decide to release the records, we will inform the submitter in writing. This notice will include copies of the records as we intend to release them and our reasons for deciding to release. We will also inform the submitter that we intend to release the records 10 working days after the date of the notice unless a U.S. District Court forbids disclosure.

(d) If the requester files a lawsuit under the FOIA for access to any withheld records, we will inform the submitter.

(e) We will notify the requester whenever we notify the submitter of the opportunity to object or to extend the time for objecting.

§ 1250.84 Service of subpoena or other legal demand for NARA operational records.

(a) A subpoena duces tecum or other legal demand for the production of NARA operational records must be addressed to the Office of the General Counsel (NGC), Room 3110, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD, 20740-6001.

(b) The Archivist of the United States and the General Counsel are the only NARA employees authorized to accept, on behalf of NARA, service of a subpoena duces tecum or other legal demands for NARA operational records.

(c) Regulations concerning service of a subpoena duces tecum or other legal demand for archival records accessioned into the National Archives of the United States, records of other agencies in the custody of the Federal records centers, and donated historical materials are located at 36 CFR 1254.8.

PART 1254—AVAILABILITY OF RECORDS AND DONATED HISTORICAL MATERIALS

■ 2. The authority citation for part 1254 continues to read as follows:

Authority: 44 U.S.C. 2101-2118; 5 U.S.C. 552; and E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

§§ 1254.38 and 1254.39 [Removed]

■ 3. Amend Subpart C to remove §§ 1254.38 and 1254.39.

■ 4. Amend § 1254.44 by revising the section heading and paragraphs (a) and (c) to read as follows:

§ 1254.44 Freedom of Information Act (FOIA) requests.

(a) *Requests for access to national security information under the Freedom of Information Act.* Requests for access to national security information under the FOIA are processed in accordance with the provisions of 36 CFR part 1250. Time limits for responses to FOIA requests for national security information are those provided in the FOIA, rather than the longer time limits provided for responses to mandatory review requests specified by Executive Order 12958, Classified National Security Information (3 CFR, 1995 Comp., p. 333).

* * * * *

(c) *Denials and appeals.* Denials under FOIA of access to national security information accessioned into the National Archives of the United States are made by designated officials of the originating or responsible agency or by NARA under a written delegation of authority. You must appeal determinations that records remain classified for reasons of national security to the agency with responsibility for protecting and declassifying that information. NARA will provide you with the necessary appeal information in those cases.

Dated: March 11, 2001.

John W. Carlin,
Archivist of the United States.

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- Diflubenzuron; published 3-23-01

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- Psychiatric residential treatment facilities providing psychiatric services to individuals under age 21; use of restraint and seclusion; published 1-22-01

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- Trust funds for Tribes and individual Indians; technical amendment; published 2-2-01

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- Tariff of tolls; fees and charges for 2001 navigation season; published 3-16-01

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- Fish and shellfish; subsistence taking; comments due by 3-30-01; published 2-13-01

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- West Coast States and Western Pacific fisheries—
  - Pacific Fishery Management Council; meetings and hearings; comments due by 3-28-01; published 1-12-01

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  - Compliance dates (Group IV); extension; comments due by 3-28-01; published 2-26-01

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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.

S.J. Res. 6/P.L. 107–5

Providing for congressional disapproval of the rule submitted by the Department of Labor under chapter 8 of title 5, United States Code, relating to ergonomics. (Mar. 20, 2001; 115 Stat. 7)

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