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

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 6

Adjustment of Appendices to the Dairy Tariff-Rate Import Quota Licensing Regulation for the 2001 Tariff-Rate Quota Year

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document sets forth the revised appendices to the Dairy Tariff-Rate Import Quota Licensing Regulation for the 2001 quota year reflecting the cumulative annual transfers from Appendix 1 to Appendix 2 for certain dairy product import licenses permanently surrendered by licensees or revoked by the Licensing Authority.

EFFECTIVE DATE: April 27, 2001.

FOR FURTHER INFORMATION CONTACT: Richard P. Warsack, Dairy Import Quota Manager, Import Policies and Programs Division, STOP 1021, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, D.C. 20250–1021 or telephone at (202) 720–9439.

SUPPLEMENTARY INFORMATION: The Foreign Agricultural Service, under a delegation of authority from the Secretary of Agriculture, administers the Dairy Tariff-Rate Import Quota Licensing Regulation codified at 7 CFR 6.20–6.37 that provides for the issuance of licenses to import certain dairy articles under tariff-rate quotas (TRQs) as set forth in the Harmonized Tariff Schedule of the United States. These dairy articles may only be entered into the United States at the low-tier tariff by or for the account of a person or firm to whom such licenses have been issued and only in accordance with the terms and conditions of the regulation.

Licenses are issued on a calendar year basis, and each license authorizes the license holder to import a specified quantity and type of dairy article from a specified country of origin. The Import Programs Group, Import Policies and Programs Division, Foreign Agricultural Service, U.S. Department of Agriculture, issues these licenses and, in conjunction with the U.S. Customs Service, monitors their use.

The regulation at 7 CFR 6.34(a) states: ''Whenever a historical license (Appendix 1) is not issued to an applicant pursuant to the provisions of § 6.23, is permanently surrendered or is revoked by the Licensing Authority, the amount of such license will be transferred to Appendix 2.'' Section 6.34(b) provides that the cumulative annual transfers will be published in the **Federal Register**. Accordingly, this document sets forth the revised Appendices for the 2001 tariff-rate quota year.

List of Subjects in 7 CFR Part 6

Agricultural commodities, Cheese, Dairy products, Imports, Reporting and record keeping requirements.

Issued at Washington, D.C. the 17th day of April, 2001.

Richard P. Warsack,

Licensing Authority.

Accordingly, 7 CFR Part 6 is amended as follows:

PART 6—IMPORT QUOTAS AND FEES

1. The authority citation for Part 6, Subpart—Dairy Tariff-Rate Import Quota Licensing continues to read as follows:

Authority: Additional U.S. Notes 6, 7, 8, 12, 14, 16–23 and 25 to Chapter 4 and General Note 15 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), Pub. L. 97–258, 96 Stat. 1051, as amended (31 U.S.C. 9701), and secs. 103 and 404, Pub. L. 103–465, 108 Stat. 4819 (19 U.S.C. 3513 and 3601).

2. Appendices 1, 2 and 3 to Subpart—Dairy Tariff-Rate Import Quota Licensing are revised to read as follows:

Appendices 1, 2, and 3 to Subpart—Dairy Tariff-Rate Import Quota Licensing (Quantities in Kilograms)*

Article by additional U.S. note number and country of origin	Appendix 1	Appendix 2	Appendix 3	
			Tokyo Round	Uruguay Round
Non-Cheese Articles				
Butter (Note 6)	5,592,278	1,384,722		
EU–15	81,153	15,008		
New Zealand	124,709	25,884		
Other Countries	63,105	10,830		
Any Country	5,323,311	1,333,000		
Dried Skim Milk (Note 7)	600,076	4,660,924		
Australia	600,076			
Canada		219,565		
Any Country		4,441,359		
Dried Whole Milk (Note 8)	3,175	3,318,125		
New Zealand	3,175			
Any Country		3,318,125		
Dried Buttermilk/Whey (Note 12)	224,981			
Canada	161,161			
New Zealand	63,820			
Butter Substitutes containing over 45 percent of butterfat and/or butter oil (Note 14)		6,080,500		

Article by additional U.S. note number and country of origin	Appendix 1	Appendix 2	Appendix 3	
			Tokyo Round	Uruguay Round
Any Country	.....	6,080,500	.....	.....
Total: Non-Cheese Articles	6,420,510	15,444,271	.....	.....
Cheese Articles				
Cheese and substitutes for cheese (except cheese not containing cow's milk and soft ripened cow's milk cheese, cheese (except cottage cheese) containing 0.5 percent or less by weight of butterfat and articles within the scope of other import quotas provided for in this subchapter) (Note 16)	23,832,227	7,638,504	9,661,128	7,496,000
Argentina	7,690	.....	92,310	.....
Australia	535,628	5,542	758,830	1,750,000
Canada	1,031,946	109,054	.....	.....
Costa Rica	.....	.....	.....	1,550,000
Czech Republic	.....	.....	.....	200,000
EU–15	15,596,462	6,735,970	1,132,568	2,346,000
Of which Portugal is	127,536	1,773	223,691	.....
Israel	79,696	.....	593,304	.....
Iceland	294,000	.....	29,000	.....
New Zealand	4,516,178	299,294	6,506,528	.....
Norway	124,982	25,018	.....	.....
Poland	917,497	18,727	.....	300,000
Slovak Republic	.....	.....	.....	600,000
Switzerland	597,513	73,899	548,588	500,000
Uruguay	.....	.....	.....	250,000
Other Countries	130,635	71,000	.....	.....
Any Country	.....	300,000	.....	.....
Blue-mold cheese (except Stilton produced in the United Kingdom) and cheese and substitutes for cheese containing, or processed from, Blue-mold cheese (Note 17)	2,321,554	159,447	.....	430,000
Argentina	2,000	.....	.....	.....
EU–15	2,319,553	159,447	.....	300,000
Chile	.....	.....	.....	80,000
Czech Republic	.....	.....	.....	50,000
Other Countries	1	.....	.....	.....
Cheddar Cheese, and cheese and substitutes for cheese containing, or processed from, Cheddar cheese (Note 18)	3,664,363	619,493	519,033	7,620,000
Australia	937,721	46,778	215,501	1,250,000
Chile	.....	.....	.....	220,000
Czech Republic	.....	.....	.....	50,000
EU–15	57,168	205,832	.....	1,000,000
New Zealand	2,543,600	252,868	303,532	5,100,000
Other Countries	125,874	14,015	.....	.....
Any Country	.....	100,000	.....	.....
American-type cheese, including Colby, washed curd and granular cheese (but not including Cheddar) and cheese and substitutes for cheese containing or processed from such American-type cheese (Note 19)	2,865,287	300,266	357,003	.....
Australia	839,370	41,628	119,002	.....
EU–15	190,758	163,242	.....	.....
New Zealand	1,671,294	90,705	238,001	.....
Other Countries	163,865	4,691	.....	.....
Edam and Gouda cheese, and cheese and substitutes for cheese containing, or processed from, Edam and Gouda cheese (Note 20)	5,296,988	309,414	.....	1,210,000
Argentina	119,003	5,997	.....	110,000
Czech Republic	.....	.....	.....	100,000
EU–15	5,038,266	250,734	.....	1,000,000
Norway	114,318	52,682	.....	.....
Other Countries	25,401	1	.....	.....
Italian-type cheeses, made from cow's milk, (Romano made from cow's milk, Reggiano, Parmesan, Provolone, Provoletti, Sbrinz, and Goya—not in original loaves) and cheese and substitutes for cheese containing, or processed from, such Italian-type cheeses, whether or not in original loaves (Note 21)	6,531,696	988,851	795,517	5,165,000
Argentina	3,962,921	162,562	367,517	1,890,000
EU–15	2,555,775	826,225	.....	700,000
Poland	.....	.....	.....	1,325,000
Romania	.....	.....	.....	500,000
Uruguay	.....	.....	428,000	750,000
Other Countries	13,000	64	.....	.....

Article by additional U.S. note number and country of origin	Appendix 1	Appendix 2	Appendix 3	
			Tokyo Round	Uruguay Round
Swiss or Emmenthaler cheese other than with eye formation, Gruyere-process cheese and cheese and substitutes for cheese containing, or processed from, such cheeses (Note 22)	5,767,170	884,144	823,519	380,000
EU–15	4,358,468	793,526	393,006	380,000
Switzerland	1,333,942	85,545	430,513	.....
Other Countries	74,760	5,073	.....	.....
Cheese and substitutes for cheese, containing 0.5 percent or less by weight of butterfat (except articles within the scope of other tariff-rate quotas provided for in this subchapter), and margarine cheese (Note 23)	3,843,537	581,371	1,050,000	.....
EU–15	3,680,293	569,707	.....	.....
New Zealand	.....	.....	1,000,000	.....
Israel	.....	.....	50,000	.....
Poland	163,243	11,664	.....	.....
Other Countries	1	.....	.....	.....
Swiss or Emmenthaler cheese with eye formation (Note 25)	18,267,179	4,030,152	9,557,945	2,620,000
Argentina	9,115	.....	70,885	.....
Australia	209,698	.....	290,302	.....
Canada	.....	.....	70,000	.....
Czech Republic	.....	.....	.....	400,000
Hungary	.....	.....	.....	800,000
EU–15	13,265,347	3,211,481	4,003,172	1,220,000
Iceland	149,999	.....	150,001	.....
Israel	27,000	.....	.....	.....
Norway	3,206,405	448,905	3,227,690	.....
Switzerland	1,314,340	369,765	1,745,895	200,000
Other Countries	85,275	1	.....	.....
Total: Cheese Articles	72,390,001	15,511,642	22,764,145	24,921,000

*Articles Subject to: Appendix 1, Historical Licenses; Appendix 2, Nonhistorical Licenses; and Appendix 3, Designated Importer Licenses for Quota Year 2001

[FR Doc. 01–10296 Filed 4–26–01; 8:45 am]
BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 300, 301, 302, 318, 319, 322, 330, 340, 351, 352, 353, 354, 355, 356, 360, 361, 371, 372, 380

9 CFR Parts 1, 2, 3, 11, 49, 50, 51, 52, 53, 54, 70, 71, 72, 73, 74, 75, 77, 79, 80, 82, 85, 89, 91, 92, 94, 95, 96, 97, 98, 99, 101, 102, 103, 104, 105, 106, 107, 108, 109, 112, 113, 114, 115, 116, 117, 118, 122, 123, 124, 145, 147, 151, 156, 160, 161, 162, 166, 167

[Docket No. 00–063–2]

Plant Protection Act; Revisions to Authority Citations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations in title 7, chapter III, and title 9, chapter I, to reflect the enactment of the Plant Protection Act (Pub. L. 106–224, 114 Stat. 438, 7 U.S.C. 7701–7772) in our lists of legal authorities. We are also removing or revising citations and references to plant protection and quarantine statutes that were repealed as a result of the enactment of this law. In addition, we are updating the authority citations throughout our regulations in titles 7 and 9, where appropriate, to remove duplicative or outdated citations and to reflect recent changes to the internal organization, functions, and delegations of authority within the Animal and Plant Health Inspection Service. We are also making other nonsubstantive editorial changes in the regulations for the sake of clarity.

EFFECTIVE DATE: April 27, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Cynthia Howard, Chief, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, (301) 734–5957.

SUPPLEMENTARY INFORMATION:

Background

In a final rule published in the **Federal Register** on August 14, 2000 (65 FR 49471–49472, Docket No. 00–063–1), the Secretary of Agriculture delegated to the Animal and Plant Health Inspection Service (APHIS) the authority to carry out title IV of the Agricultural Risk Protection Act of 2000, known as the Plant Protection Act (PPA) (Title IV, Pub. L. 106–224, 114 Stat. 438, 7 U.S.C. 7701–7772). In that final rule, we also stated our intent to further amend titles 7 and 9 of the Code of Federal Regulations (referred to below as the regulations) in a separate rulemaking action to reflect the PPA in our lists of legal authorities and to make any other changes deemed necessary as a result of the enactment of that law. Accordingly, we are now amending the regulations to reference the PPA in the authority citations, and we are removing references to statutes that were repealed upon enactment of the PPA.

The PPA repealed the following statutes:

1. The Plant Quarantine Act (7 U.S.C. 151–164a, 167);

2. The Federal Plant Pest Act (7 U.S.C. 150aa *et seq.*, 7 U.S.C. 147a note);

3. Parts of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2802 through 2813). Section 1 and section 15 of the Federal Noxious Weed Act were not repealed (7 U.S.C. 2801 note; 7 U.S.C. 2814);

4. The Mexican Border Act (7 U.S.C. 149);

5. The Insect Control Act (7 U.S.C. 148 *et seq.*);

6. The Halogeton Glomeratus Act (7 U.S.C. 1651 *et seq.*);

7. The Golden Nematode Act (7 U.S.C. 150 *et seq.*);

8. Section 1773 of the Food Security Act of 1985 (7 U.S.C. 148f); and

9. Subsections (a) through (e) of section 102 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 147a).

In addition, the PPA amended 7 U.S.C. 147b, which concerns emergency transfer authority, by removing ''plant pests or'' and references to 7 U.S.C. 147a. As a result, this section no longer pertains to plant health, but only to animal health.

In this document we are also making other changes to the regulations, not related to enactment of the PPA. We are:

1. Removing from the regulations several outdated or extraneous authority citations;

2. Amending APHIS' internal organization, functions, and delegations of authority to add a citation to the statute that authorizes APHIS to be reimbursed for overtime salaries paid for inspection or quarantine services;

3. Revising authority citations throughout the regulations to reflect changes in APHIS' internal organization, functions, and delegations of authority. These internal Agency changes were set forth in a final rule published in the **Federal Register** on January 10, 2000 (65 FR 1298–1302, Docket No. 97–025–1);

4. Making nonsubstantive changes to the regulations to update the names and unit numbers of various APHIS program staffs and to correct an address that referred to the Agency's previous location in Hyattsville, MD;

5. Updating, where appropriate, the names of countries that appear in the regulations; and

6. Making nonsubstantive editorial changes to enhance the clarity and usefulness of the regulations.

This rule relates to internal agency management. Therefore, this rule is exempt from the provisions of Executive Order 12866 and 12988. Moreover, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required for this rule, and it may be made effective less than 30 days after publication in the **Federal Register**. In addition, under 5 U.S.C. 804, this rule is not subject to congressional review under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. 104–121. Finally, this action is not a rule as defined by 5 U.S.C. 601 *et seq.*, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects

7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

7 CFR Part 318

Cotton, Cottonseeds, Fruits, Guam, Hawaii, Plant diseases and pests, Puerto Rico, Quarantine, Transportation, Vegetables, Virgin Islands.

7 CFR Parts 319, 330, 340, 351, and 352

Administrative practice and procedure, Bee, Biotechnology, Coffee, Cotton, Customs duties and inspection, Fruits, Genetic engineering, Honey, Imports, Logs, Nursery Stock, Packaging and containers, Plant diseases and pests, Postal Service, Quarantine, Reporting and recordkeeping requirements, Rice, Transportation, Vegetables.

7 CFR Parts 353, 354, 355, and 360

Endangered and threatened species, Exports, Government employees, Imports, Law enforcement, Plant diseases and pests, Plants (Agriculture), Quarantine, Reporting and recordkeeping requirements, Transportation, Travel and transportation expenses, Weeds.

7 CFR Parts 371 and 380

Administrative practice and procedure, Authority delegations (Government agencies), Organization and functions (Government agencies).

9 CFR Parts 50, 51, 54, 72, 75, 79, 82, 85

Animal diseases, Bison, Cattle, Goats, Hogs, Horses, Indemnity payments, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Scrapie, Sheep, Transportation, Tuberculosis.

9 CFR Part 94

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

Accordingly, we are amending 7 CFR parts 300, 301, 302, 318, 319, 322, 330, 340, 351, 352, 353, 354, 355, 356, 360, 361, 371, 372, and 380, and 9 CFR parts 1, 2, 3, 11, 49, 50, 51, 52, 53, 54, 70, 71, 72, 73, 74, 75, 77, 79, 80, 82, 85, 89, 91, 92, 94, 95, 96, 97, 98, 99, 101, 102, 103, 104, 105, 106, 107, 108, 109, 112, 113, 114, 115, 116, 117, 118, 122, 123, 124, 145, 147, 151, 156, 160, 161, 162, 166, and 167 as follows:

TITLE 7—AGRICULTURE

PART 300—INCORPORATION BY REFERENCE

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

Authority: 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

PART 301—DOMESTIC QUARANTINE NOTICES

2. The authority citation for part 301 is revised to read as follows:

Authority: 7 U.S.C. 166, 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, and 7754; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293 and Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400.

Subpart—Black Stem Rust

§ 301.38 [Amended]

3. In § 301.38, footnote 1 is amended by removing the words ''section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 10 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff)'' and adding in their place the words ''sections 414 and 421 of the Plant Protection Act (7 U.S.C. 7714 and 7731)''.

Subpart—Gypsy Moth

§ 301.45 [Amended]

4. In § 301.45, paragraph (a) is amended by removing the words ''sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and sections 105 and 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150dd, 150ee)'' and adding in their place the words ''sections 411, 412, 414, 431, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714, 7751, and 7754)''.

§ 301.45–9 [Amended]

5. Section 301.45–9 is amended by removing the words ''section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd)'' and adding in their place the words ''sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754)''.

Subpart—Japanese Beetle

§ 301.48 [Amended]

6. In § 301.48, paragraph (a) is amended by removing the words ''sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, and

150ee)'' and adding in their place the words ''sections 411, 412, 414, 431, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714, 7751, and 7754)''.

§ 301.48–5 [Amended]

7. Section 301.48–5 is amended by removing the words ''section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd)'' and adding in their place the words ''sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754)''.

Subpart—Pine Shoot Beetle

§ 301.50 [Amended]

8. In § 301.50, footnote 1 is amended by removing the words ''section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff)'' and adding in their place the words ''sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754)''.

9. Section 301.50–5 is amended by revising paragraph (a)(3), including footnote 4, and paragraph (b)(2) to read as follows:

§ 301.50–5 Issuance and cancellation of certificates and limited permits.

(a) * * *

(3) The regulated article is to be moved in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714) [4] to prevent the spread of the pine shoot beetle; and

* * * * *

(b) * * *

(2) The regulated article is to be moved in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714) to prevent the spread of the pine shoot beetle; and

* * * * *

Subpart—Asian Longhorned Beetle

10. Section 301.51–5 is amended by revising paragraph (a)(2), including footnote 2, and paragraph (b)(2) to read as follows:.

§ 301.51–5 Issuance and cancellation of certificates and limited permits.

(a) * * *

(2) Is to be moved in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714) [2] to prevent the artificial spread of the Asian longhorned beetle; and

* * * * *

(b) * * *

(2) It is to be moved in compliance with any additional conditions that the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714) in order to prevent the spread of the Asian longhorned beetle; and

* * * * *

Subpart—Pink Bollworm

§ 301.52–8 [Amended]

11. Section 301.52–8 is amended by removing the words ''section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Plant Pest Act (7 U.S.C. 150dd)'' and adding in their place the words ''sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754)''.

Subpart—Mexican Fruit Fly Quarantine and Regulations

§ 301.64 [Amended]

12. In § 301.64, footnote 1 is amended by removing the words ''section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff)'' and adding in their place the words ''sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754)''.

13. In § 301.64–1, the definition of *Plant Protection and Quarantine* is revised to read as follows:

§ 301.64–1 Definitions.

* * * * *

Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Protection Act and related legislation, quarantines, and regulations.

* * * * *

14. In § 301.64–5, paragraphs (a)(2) and (b)(2), including footnote 5, are revised to read as follows:

§ 301.64–5 Issuance and cancellation of certificates and limited permits.

(a) * * *

(2) Determines that it is to be moved in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714) to prevent the spread of the Mexican fruit fly; [5] and

* * * * *

(b) * * *

(2) Determines that it is to be moved in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714) to prevent the spread of the Mexican fruit fly; [5] and

* * * * *

Subpart—Plum Pox

§ 301.74 [Amended]

15. In § 301.74, footnote 1 is amended by removing the words ''section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd and 150ff)'' and adding in their place the words ''sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754)''.

Subpart—Mediterranean Fruit Fly

§ 301.78 [Amended]

16. In § 301.78, footnote 1 is amended by removing the words ''section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff)'' and adding in their place the words ''sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754)''.

17. Section 301.78–5 is amended by revising paragraph (a)(3), including footnote 4, and paragraph (b)(2) to read as follows:

§ 301.78–5 Issuance and cancellation of certificates and limited permits.

(a) * * *

(3) The regulated article is to be moved in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714) [4] to

---

[4] An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

[2] An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destory, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

[5] An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

[4] An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

prevent the spread of the Mediterranean fruit fly; and

* * * * *

(b) * * *

(2) The regulated article is to be moved in compliance with any additional conditions the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714) to prevent the spread of the Mediterranean fruit fly; and

* * * * *

Subpart—Witchweed

18. In § 301.80, paragraph (a) is revised to read as follows:

§ 301.80 Quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of quarantine.* Under the authority of sections 411, 412, 414, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714, and 7754), the Secretary of Agriculture quarantines the States of North Carolina and South Carolina in order to prevent the spread of witchweed (*Striga* spp.), a parasitic plant that causes a dangerous disease of corn, sorghum, and other crops of the grass family and is not widely prevalent or distributed within and throughout the United States. Through the aforementioned authorities, the Secretary imposes a quarantine on the States of North Carolina and South Carolina with respect to the interstate movement from those States of articles described in paragraph (b) of this section, issues regulations in this subpart governing the movement of such articles, and gives notice of this quarantine action.

* * * * *

19. In § 301.80–1, the paragraph designations are removed and the definition of *Plant Protection and Quarantine Programs* is revised to read as follows:

§ 301.80–1 Definitions.

* * * * *

Plant Protection and Quarantine Programs. The organizational unit with the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Protection Act and related legislation, quarantines, and regulations.

* * * * *

§ 301.80–8 [Amended]

20. Section 301.80–8 is amended by removing the words ''section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd)'' and adding in their place the words ''sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754)''.

Subpart—Imported Fire Ant

21. Section 301.81–5 is amended by revising paragraph (a)(2), including footnote 5, and paragraph (b)(2) to read as follows:

§ 301.81–5 Issuance and cancellation of certificates and limited permits.

(a) * * *

(2) Is to be moved interstate in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714) to prevent the spread of the imported fire ant; [5] and

* * * * *

(b) * * *

(2) Is to be moved interstate in compliance with any conditions that the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714) to prevent the spread of the imported fire ant; and

* * * * *

Subpart—Golden Nematode

22. In § 301.85, paragraph (a) is revised to read as follows:

§ 301.85 Quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of quarantine.* Under the authority of sections 411, 412, 414, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714, and 7754), the Secretary of Agriculture quarantines the State of New York in order to prevent the spread of the golden nematode (*Heterodera rostochiensis*), which causes a dangerous disease of potatoes and certain other plants and is not widely prevalent or distributed within and throughout the United States. Through the aforementioned authorities, the Secretary imposes a quarantine on the State of New York with respect to the interstate movement from that State of the articles described in paragraph (b) of this section, issues regulations in this subpart governing the movement of such articles, and gives notice of this quarantine action.

* * * * *

23. In § 301.85–1, the paragraph designations are removed and the definition of *Plant Protection and Quarantine Programs* is revised to read as follows:

§ 301.85–1 Definitions.

* * * * *

Plant Protection and Quarantine Programs. The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Protection Act and related legislation, quarantines, and regulations.

* * * * *

§ 301.85–8 [Amended]

24. Section 301.85–8 is amended by removing the words ''section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd)'' and adding in their place the words ''sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754)''.

Subpart—Sugarcane Diseases

25. Section 301.87 is amended as follows:

a. In the section heading, by revising footnote 1.

b. By revising paragraph (a).

The revisions read as follows:

§ 301.87 Quarantine; restrictions on interstate movement of regulated articles.[1 2]

(a) *Notice of quarantine.* Under the authority of sections 411, 412, 414, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714, and 7754), the Secretary of Agriculture quarantines Hawaii to prevent the artificial spread of leaf scald disease and quarantines Puerto Rico to prevent the artificial spread of gummosis disease and leaf scald disease. The regulations in this subpart govern the interstate movement from Hawaii and Puerto Rico of the regulated articles described in § 301.87–2.

* * * * *

26. In § 301.87–1, the definition of *Plant Protection and Quarantine* is revised to read as follows:

§ 301.87–1 Definitions.

* * * * *

Plant Protection and Quarantine. The organizational unit within the Animal

[5] An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destory, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

[1] Any inspector is authorized to stop and inspect persons and means of conveyance, and to hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

[2] Regulations concerning the movement of gummosis bacteria and leaf scald bacteria in interstate or foreign commerce are contained in part 330 of this chapter.

and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Protection Act and related legislation, quarantines, and regulations.

* * * * *

27. In § 301.87–5, paragraphs (a)(2) and (b)(2), including footnote 6, are revised to read as follows:

§ 301.87–5 Issuance and cancellation of certificates and limited permits.

(a) * * *

(2) Determines that it is to be moved in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714) [6] to prevent the spread of sugarcane diseases; and

* * * * *

(b) * * *

(2) Determines that it is to be moved in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714)6 to prevent the spread of sugarcane diseases; and

* * * * *

Subpart—Karnal Bunt

28. Section 301.89–6 is amended by revising paragraph (a)(2), including footnote 3, and paragraph (c)(2) to read as follows:

§ 301.89–6 Issuance of a certificate or limited permit.

(a) * * *

(2) Is to be moved in compliance with any conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714) [3] to prevent the artificial spread of Karnal bunt; and

* * * * *

(c) * * *

(2) Is to be moved in compliance with any additional conditions the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714) to prevent the artificial spread of Karnal bunt; and

* * * * *

[6] An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

[3] An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 431 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

Subpart—European Larch Canker

§ 301.91 [Amended]

29. In the heading for § 301.91, footnote 1 is amended by removing the words ''section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff)'' and adding in their place the words ''sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754)''.

30. In § 301.91–1, the paragraph designations are removed and the definition of *Plant Protection and Quarantine* is revised to read as follows:

§ 301.91–1 Definitions.

* * * * *

Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Protection Act and related legislation, quarantines, and regulations.

* * * * *

31. In § 301.91–5, paragraphs (a)(2) and (b)(2), including footnote 3, are revised to read as follows:

§ 301.91–5 Issuance and cancellation of certificates and limited permits.

(a) * * *

(2) Determines that it is to be moved in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714) [3] to prevent the spread of European larch canker; and

* * * * *

(b) * * *

(2) Determines that it is to be moved in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714) [3] to prevent the spread of European larch canker; and

Subpart—Oriental Fruit Fly

§ 301.93 [Amended]

32. In § 301.93, footnote 1 is amended by removing the words ''section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff)'' and adding in their place the words ''sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754)''.

[3] An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destory, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

33. In § 301.93–5, paragraphs (a)(2) and (b)(2), including footnote 4, are revised to read as follows:

§ 301.93–5 Issuance and cancellation of certificates and limited permits.

(a) * * *

(2) The regulated article is to be moved in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714) [4] to prevent the spread of the Oriental fruit fly; and

(b) * * *

(2) The regulated article is to be moved interstate in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714) [4] to prevent the spread of the Oriental fruit fly; and

* * * * *

Subpart—Melon Fruit Fly

§ 301.97 [Amended]

34. In § 301.97, footnote 1 is amended by removing the words ''section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd and 150ff)'' and adding in their place the words ''sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754)''.

35. Section 301.97–5 is amended by revising paragraph (a)(3), including footnote 5, and paragraph (b)(2) to read as follows:

§ 301.97–5 Issuance and cancellation of certificates and limited permits.

(a) * * *

(3) The regulated article is to be moved in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714) [5] to prevent spread of the melon fruit fly; and

* * * * *

(b) * * *

(2) The regulated article is to be moved in compliance with any additional conditions the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714) to

[4] An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destory, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

[5] An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

prevent the spread of the melon fruit fly; and

* * * * *

PART 302—DISTRICT OF COLUMBIA; MOVEMENT OF PLANTS AND PLANT PRODUCTS

36. The authority citation for part 302 is revised to read as follows:

Authority: 7 U.S.C. 7712, 7714, 7715, 7731, 7732, 7735, 7736, 7745, and 7754–7756; 7 CFR 2.22, 2.80, and 371.3.

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

37. The authority citation for part 318 is revised to read as follows:

Authority: 7 U.S.C. 7711, 7712, 7714, 7731, 7754, and 7756; 7 CFR 2.22, 2.80, and 371.3.

Subpart—Hawaiian Fruits and Vegetables

38. In § 318.13, paragraph (a) is revised to read as follows:

§ 318.13 Notice of quarantine.

(a) Under the authority of sections 411, 412, 414, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714, and 7754), the State of Hawaii is quarantined to prevent the spread of dangerous plant diseases and pests, including the Mediterranean fruit fly (*Ceratitis capitata* (Wied.)), the melon fly (*Bactrocera cucurbitae* Coq.), the oriental fruit fly (*Bactrocera dorsalis* Hendl.), green coffee scale (*Coccus viridis* (Green)), the bean pod borer (*Maruca testulalis* (Geyer)), the bean butterfly (*Lampides boeticus* (L.)), the Asiatic rice borer (*Chilo suppressalis*), the mango weevil (*Sternochetus mangiferae* (F.)), the Chinese rose beetle (*Adoretus sinicus* Burm.), and a cactus borer (*Cactoblastis cactorum* (Berg.)), which are new to or not known to be widely prevalent or distributed within and throughout other States.

* * * * *

§ 318.13–12 [Amended]

39. In § 318.13–12, paragraph (a) is amended by removing the words ''Plant Quarantine Act'' and adding in their place the words ''Plant Protection Act''.

Subpart—Sweetpotatoes

40. In § 318.30, paragraph (b) is revised to read as follows:

§ 318.30 Notice of quarantine.

* * * * *

(b) Under the authority of sections 411, 412, 414, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714, and 7754), Hawaii, Puerto Rico, and the Virgin Islands of the United States are quarantined to prevent the spread of the sweetpotato scarabee (*Euscepes postfasciatus* Fairm.) and the sweetpotato stem borer (*Omphisa anastomosalis* Guen.).

* * * * *

Subpart—Territorial Cotton, Cottonseed, and Cottonseed Products

41. In § 318.47, paragraph (b) is revised to read as follows:

§ 318.47 Notice of quarantine.

* * * * *

(b) Under the authority of sections 411, 412, 414, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714, and 7754), Hawaii, Puerto Rico, and the Virgin Islands of the United States are quarantined to prevent the spread of the aforementioned insect pests.

* * * * *

Subpart—Fruits and Vegetables From Puerto Rico or Virgin Islands

42. In § 318.58, paragraph (a) is revised to read as follows:

§ 318.58 Notice of quarantine.

(a) Under the authority of sections 411, 412, 414, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714, and 7754), Puerto Rico and the Virgin Islands of the United States are quarantined to prevent the spread of certain dangerous insects that are not widely prevalent or distributed within and throughout the United States, including the fruit flies *Anastrepha suspensa* (Loew) and *A. mombinpraeoptans* Sein; the bean pod borer *Maruca testulalis* (Geyer); and a cactus borer, *Cactoblastis cactorum* (Berg.).

* * * * *

Subpart—Sand, Soil, or Earth, with Plants from Territories and Districts

43. In § 318.60, paragraph (b) is revised to read as follows:

§ 318.60 Notice of quarantine.

* * * * *

(b) Under the authority of sections 411, 412, 414, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714, and 7754), Hawaii, Puerto Rico, and the Virgin Islands of the United States are quarantined to prevent the spread of the aforementioned dangerous insects.

* * * * *

Subpart—Guam

44. In § 318.82, paragraph (a) is revised to read as follows:

§ 318.82 Notice of quarantine.

(a) Under the authority of sections 411, 412, 414, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714, and 7754), Guam is quarantined to prevent the spread of dangerous plant pest and diseases that are new to or not widely prevalent or distributed within and throughout the United States. Such plant pests and diseases include: *Icerya aegyptiaca* (Dougl.), *Xanthomonas citri* (Hasse) Dowson, *Aleurocanthus spiniferus* (Q.), *Phyllocnistis citrella* (Stainton), *Coccus viridis* (Green), *Anomala sulcatula* Burm., *Furcaspis oceanica* Ldgr., *Stephanoderes hampei* (Ferr.), *Pectinophora scutigera* (Holdaway), *Bactrocera dorsalis* Hend., *Bactrocera cucurbitae* (Coq.), *Maruca testulalis* (Geyer), *Lampides boeticus* (L.), *Prays endocarpa* Meyr., *Prodenia litura* (F.), *Euscepes postfasciatus* (Fairm.), *Earias fabia* (Stoll), *Elsinoe batatas* (Saw.) Viegas and Jenkins, *Uredo dioscoreae-alatae* Rac., *Cercospora batatae* Zimm., *Coniothyrium* sp., *Phyllosticta colocasiophila* Weed., *Xanthomonas vasculorum* (Cobb) Dowson, *Rhabdoscelus obscurus* (Boisd.), *Neomaskellia bergeii* (Sign.), *Pyrausta nubilalis* (Hbn.), *Physoderma zeaemaydis* Shaw, *Leptocorisa acuta* (Thunb.), *Adoretus sinicus* Burm., and *Holotrichia mindanaona* Brenske. The regulations in this subpart govern the movement of carriers of these pests.

* * * * *

PART 319—FOREIGN QUARANTINE NOTICES

45. The authority citation for part 319 is revised to read as follows:

Authority: 7 U.S.C. 166, 450, 7711–7714, 7718, 7731, 7732, and 7751–7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Subpart—Foreign Cotton and Covers

46. Section 319.8 is amended as follows:

a. In the first sentence, by removing the words ''sections 5 and 7 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 159, 160)'' and adding in their place the words ''sections 411–414 and 434 of the Plant Protection Act (7 U.S.C. 7711–7714 and 7754)''.

b. In the second sentence, by removing the words ''the provisions of sections 1, 2, 3, and 4 of said Plant Quarantine Act (7 U.S.C. 154, 156, 157, and 158):'' and adding in their place the

words ''sections 411–414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7711–7714, 7731, and 7754).''

47. In § 319.8–1, the paragraph designations are removed, the defined terms are placed in alphabetical order, and the definition of *Inspector* is revised to read as follows:

§ 319.8–1 Definitions.

* * * * *

Inspector. A properly identified employee of the U.S. Department of Agriculture or other person authorized to enforce the provisions of the Plant Protection Act.

* * * * *

§§ 319.8–2, 319.8–4, and 319.8–5 [Amended]

48. At the end of §§ 319.8–2, 319.8–4, and 319.8–5, the statutory authority citation ''(44 U.S.C. 35)'' is removed.

§ 319.8–26 [Amended]

49. Section 319.8–26 is amended by removing the words ''section 10 of the Plant Quarantine Act (7 U.S.C. 164a)'' and adding in their place the words ''sections 414 and 421 of the Plant Protection Act (7 U.S.C. 7714 and 7731)''.

Subpart—Sugarcane

50. In § 319.15, paragraph (a) is revised to read as follows:

§ 319.15 Notice of quarantine.

(a) The importation into the United States of sugarcane and its related products, including cuttings, canes, leaves, and bagasse, from all foreign countries and localities is prohibited, except for importations by the U.S. Department of Agriculture for scientific or experimental purposes and importations authorized under a permit issued by the Department specifying conditions under which the materials have been or are to be subjected to mitigate any pest risk.

* * * * *

Subpart—Corn Diseases

51. In § 319.24, paragraph (b) is revised to read as follows:

§ 319.24 Notice of quarantine.

* * * * *

(b) Except as otherwise provided in this subpart, the importation into the United States of raw or unmanufactured corn seed and all other portions of Indian corn or maize and related plants, including all species of teosinte (*Euchlaena*), jobs-tears (*Coix*), *Polytoca, Chionachne,* and *Sclerachne,* from southeastern Asia (including India, Indochina, and the People's Republic of China), Malayan Archipelago, Australia, New Zealand, Oceania, Philippine Islands, Manchuria, Japan, and adjacent islands is prohibited. However, this prohibition does not apply to importations of such items by the U.S. Department of Agriculture for scientific or experimental purposes. And further, when the public interests will permit, the Deputy Administrator of the Plant Protection and Quarantine Programs may, upon request in specific cases, authorize such importations into Guam under conditions specified in the permit that are less stringent than those contained in this subpart.

* * * * *

§§ 319.24–1, 319.24–3, and 319.24–4 [Amended]

52. At the end of §§ 319.24–1, 319.24–3, and 319.24–4, the statutory authority citation ''(44 U.S.C. 35)'' is removed.

Subpart—Citrus Fruit

53. In § 319.28, paragraph (a) is revised to read as follows:

§ 319.28 Notice of quarantine.

(a)(1) To prevent the introduction into the United States of citrus canker disease *Xanthomonas campestris* pv. *citri* (Hasse) Dye, the importation of all fruits and peel of all genera, species, and varieties of the subfamilies *Aurantioideae, Rutoideae,* and *Toddalioideae* of the botanical family *Rutaceae* from eastern and southeastern Asia (including India, Myanmar, Sri Lanka, Thailand, Indochina, and the People's Republic of China); the Malay Archipelago; the Philippine Islands; Oceania (except Australia and Tasmania); Japan and adjacent islands; the Republic of Korea; Mauritius; Seychelles; Argentina (except for the States of Catamarca, Jujuy, Salta, and Tucuman, which are considered free of citrus canker); Brazil; and Paraguay is prohibited.

(2) To prevent the introduction into the United States of sweet orange scab (*Elsinoe australis* Bitanc. and Jenkins), the importation of fruits and peel of all species and varieties of the genus *Citrus,* including *Citrus aurantifolia* (Christm.) Swingle, *C. aurantium* L., *C. hystrix* DC., *C. limon* (L.) Burm. f., *C. paradisi* Macf., *C. reticulata* Blanco, *C. sinensis* (L.) Osbeck, and *Fortunella margarita* (Lour.) Swingle, from Argentina (except as provided by § 319.56–2f of this part), Brazil, Paraguay, and Uruguay is prohibited.

(3) To prevent the introduction into the United States of the bacterial disease ''Cancrosis B,'' the importation of fruits and peel of all species and varieties of the genus *Citrus,* including those indicated in the previous paragraph, is prohibited from Argentina (except for the States of Catamarca, Jujuy, Salta, and Tucuman, which are considered free of Cancrosis B), Paraguay, and Uruguay. Seeds and processed peel of fruits designated in this section are excluded from this prohibition. Such seeds, however, are subject to the requirements of §§ 319.37 through 319.37–27.

* * * * *

Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products

54. In § 319.37–1, the definition of *Plant Protection and Quarantine Programs* is revised to read as follows:

§ 319.37–1 Definitions.

* * * * *

Plant Protection and Quarantine Programs. The organizational unit with the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Protection Act and related legislation, quarantines, and regulations.

* * * * *

55. Section 319.37–3 is amended as follows:

a. By revising paragraphs (c) and (f), including footnote 5.

b. By removing the statutory authority citation ''(44 U.S.C. 35)'' at the end of the section.

The revisions read as follows:

* * * * *

§ 319.37–3 Permits.

* * * * *

(c) A permit indicating the applicable conditions for importation under this subpart will be issued by Plant Protection and Quarantine Programs if, after review of the application, the articles are deemed eligible to be imported into the United States under the conditions specified in the permit. However, even if such a permit is issued, the regulated article may be imported only if all applicable requirements of this subpart are met and only if an inspector at the port of entry determines that no remedial measures pursuant to the Plant Protection Act are necessary with respect to the regulated article.[5]

* * * * *

[5] An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destory, or otherwise dispose of plants, plant pests, or other

Continued

(f) An oral permit for importation of an article shall be issued at a port of entry by an inspector only if all applicable requirements of this subpart are met, such article is eligible to be imported under an oral permit, and an inspector at the port of entry determines that no measures pursuant to section 414 of the Plant Protection Act (7 U.S.C. 7714) are necessary with respect to such article.[5]

* * * * *

§ 319.37–5 [Amended]

56. At the end of § 319.37–5, the statutory authority citation ''(44 U.S.C. 35)'' is removed.

§ 319.37–7 [Amended]

57. Section 319.37–7 is amended as follows:

a. In paragraph (f)(4), by removing the words ''7 U.S.C. 150gg and 163'' and adding in their place the words ''7 U.S.C. 7734''.

b. At the end of the section, by removing the statutory authority citation ''(44 U.S.C. 35)''.

§ 319.37–8 [Amended]

58. At the end of § 319.37–8, the statutory authority citation beginning with the words ''(Secs. 1, 5 and 9,'' and ending with the words ''38 FR 19141)'' is removed.

§§ 319.37–10 and 319.37–11 [Amended]

59. At the end of §§ 319.37–10 and 319.37–11, the statutory authority citation ''(44 U.S.C. 35)'' is removed.

Subpart—Logs, Lumber, and Other Unmanufactured Wood Articles

60. In § 319.40–4, paragraph (c), including footnote 2, is revised to read as follows:

§ 319.40–4 Application for a permit to import regulated articles; issuance and withdrawal of permits.

* * * * *

(c) *Permit does not guarantee eligibility for import.* Even if a permit has been issued for the importation of a regulated article, the regulated article may be imported only if all applicable requirements of this subpart are met and only if an inspector at the port of first arrival determines that no remedial measures are necessary pursuant to the Plant Protection Act with respect to the regulated article.[2]

* * * * *

§ 319.40–9 [Amended]

61. In § 319.40–9, paragraph (a)(4)(i), footnote 3 is amended by removing the words ''Noxious Weed Act'' and adding in their place the words ''the noxious weed''.

Subpart—Indian Corn or Maize, Broomcorn, and Related Plants

62. In § 319.41, paragraphs (b) and (c) are revised to read as follows:

§ 319.41 Notice of quarantine.

* * * * *

(b) To prevent the introduction of these plant pests, the following articles may not be imported into the United States except in accordance with this subpart: The raw or unmanufactured stalk and all other parts of Indian corn or maize (*Zea mays* L.), broomcorn (*Andropogon sorghum* var. *technicus*), sweet sorghums (*Andropogon sorghum*), grain sorghums (*Andropogon sorghum*), Sudan grass (*Andropogon sorghum* sudanensis), Johnson grass (*Andropogon halepensis*), sugarcane (*Saccharum officinarum*), including Japanese varieties, pearl millet (*Pennisetum glaucum*), napier grass (*Pennisetum purpureum*), teosinte (*Euchlaena luxurians*), and jobs-tears (*Coix lachryma-Jobi*).

(c) When the public interests will permit, the Deputy Administrator of the Plant Protection and Quarantine Programs may, upon request in specific cases, authorize such importations into Guam under conditions specified in the permit that are less stringent than those contained in this subpart.

* * * * *

§§ 319.41–2, 319.41–4, and 319.41–6 [Amended]

63. At the end of §§ 319.41–2, 319.41–4, and 319.41–6, the statutory authority citation ''(44 U.S.C. 35)'' is removed.

Subpart—Rice

64. In § 319.55, paragraphs (b) and (c) are revised to read as follows:

§ 319.55 Notice of quarantine.

* * * * *

(b) To prevent the introduction into the United States of the plant pests and diseases indicated above, the Secretary has determined that it is necessary to prohibit the importation into the United States of seed or paddy rice from all foreign locations except the Republic of Mexico and to restrict the importation of seed or paddy rice, rice straw, and rice hulls from the Republic of Mexico and all other foreign locations, except as otherwise provided in this subpart.

(c) When the public interests will permit, the Deputy Administrator of the Plant Protection and Quarantine Programs may, upon request in specific cases, authorize such importations into Guam under conditions specified in the permit that are less stringent than those contained in this subpart.

* * * * *

§§ 319.55–2, 319.55–5, and 319.55–7 [Amended]

65. At the end of §§ 319.55–2, 319.55–5, and 319.55–7, the statutory authority citation ''(44 U.S.C. 35)'' is removed.

Subpart—Fruits and Vegetables

66. In § 319.56, paragraphs (b) and (c) are revised to read as follows:

§ 319.56 Notice of quarantine.

* * * * *

(b) To prevent the introduction into the United States of the aforementioned injurious insects, the Secretary has determined that it is necessary to prohibit the importation into the United States of fruits and vegetables, and the plants or portions of plants used as packing material for such fruits and vegetables, except as otherwise provided in this subpart.

(c) When the public interests will permit, the Deputy Administrator of the Plant Protection and Quarantine Programs may, upon request in specific cases, authorize such importations into Guam under conditions specified in the permit that are less stringent than those contained in this subpart.

* * * * *

§ 319.56–2j [Amended]

67. At the end of § 319.56–2j, the statutory authority citation beginning with the words ''(Secs. 5 and 9,'' and ending with the words ''38 FR 19141)'' is removed.

§§ 319.56–3 and 319.56–5 [Amended]

68. At the end of §§ 319.56–3 and 319.56–5, the statutory authority citation ''(44 U.S.C. 35)'' is removed.

Subpart—Wheat Diseases

69. At the beginning of the subpart, the statutory authority citation for ''Subpart Wheat—Diseases'' is removed.

70. Section 319.59 is amended as follows:

a. By revising paragraph (a).

b. In paragraph (b), by revising the last sentence.

---

articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

[2] An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

The revisions read as follows:

§ 319.59 Prohibitions on importation; disposal of articles refused importation.

(a) To prevent the introduction into the United States of foreign strains of flag smut and Karnal bunt, the importation of the articles designated in § 319.59–2(a) and (b) may not be imported into the United States except as provided in § 319.59–2(c).

(b) * * * If the article is not promptly safeguarded, removed from the United States, or destroyed as deemed necessary by an inspector at the expense of the importer, it may be seized, destroyed, or otherwise disposed of in accordance with section 414 of the Plant Protection Act (7 U.S.C. 7714).

71. In § 319.59–1, the definition of *Plant Protection and Quarantine* is revised to read as follows:

§ 319.59–1 Definitions.

* * * * *

Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Protection Act and related legislation, quarantines, and regulations.

* * * * *

Subpart—Khapra Beetle

72.–73. In § 319.75, paragraph (b), the last sentence is revised to read as follows:

§ 319.75 Restrictions on importation of restricted articles; disposal of articles refused importation.

* * * * *

(b) * * * If the article is not promptly safeguarded, removed from the United States, or abandoned by the importer for destruction, it may be seized, destroyed, or otherwise disposed of in accordance with section 414 of the Plant Protection Act (7 U.S.C. 7714).

* * * * *

74. In § 319.75–1, the definition of *Plant Protection and Quarantine* is revised to read as follows:

§ 319.75–1 Definitions.

* * * * *

Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Protection Act and related legislation, quarantines, and regulations.

* * * * *

75. Section 319.75–3 is amended as follows:

a. By revising paragraph (c), including footnote 5.

b. By removing the statutory authority citation ''(44 U.S.C. 35)'' at the end of the section.

The revisions read as follows:

§ 319.75–3 Permits.

* * * * *

(c) A permit indicating the applicable conditions for importation under this subpart will be issued by Plant Protection and Quarantine Programs if, after review of the application, the articles are deemed eligible to be imported into the United States under the conditions specified in the permit. However, even if such a permit is issued, the regulated article may be imported only if all applicable requirements of this subpart are met and only if an inspector at the port of entry determines that no remedial measures pursuant to section 414 of the Plant Protection Act (7 U.S.C. 7714) are necessary with respect to the regulated article.[5]

* * * * *

§ 319.75–5 [Amended]

76. At the end of § 319.75–5, the statutory authority citation ''(44 U.S.C. 35)'' is removed.

§ 319.75–6 [Amended]

77. At the end of § 319.75–6, the statutory authority citation ''(44 U.S.C. 35)'' is removed.

Subpart—Exotic Bee Diseases and Parasites

78. In § 319.76, paragraph (b), the second sentence is revised to read as follows:

§ 319.76 Restrictions on importation of restricted articles; disposal of articles refused importation.

* * * * *

(b) * * * If the article is not promptly safeguarded, removed from the United States, or abandoned for destruction by the importer, it may be seized, destroyed, or otherwise disposed of in accordance with section 414 of the Plant Protection Act (7 U.S.C. 7714).

* * * * *

79. In § 319.76–1, the definition of *Plant Protection and Quarantine* is revised to read as follows:

§ 319.76–1 Definitions.

* * * * *

Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Protection Act and related legislation, quarantines, and regulations.

* * * * *

80. In § 319.76–3, paragraph (c), including footnote 2, is revised to read as follows:

§ 319.76–3 Permits.

* * * * *

(c) A permit indicating the applicable conditions for importation under this subpart will be issued by Plant Protection and Quarantine Programs if, after review of the application, the articles are deemed eligible to be imported into the United States under the conditions specified in the permit. However, even if such a permit is issued, the regulated article may be imported only if all applicable requirements of this subpart are met and only if an inspector at the port of entry determines that no remedial measures pursuant to section 414 of the Plant Protection Act (7 U.S.C. 7714) are necessary with respect to the regulated article.[2]

* * * * *

Subpart—Gypsy Moth Host Material from Canada

§ 319.77–5 [Amended]

81. In § 319.77–5, the second sentence, the words ''section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd and 150ff)'' are removed, and the words ''section 414 of the Plant Protection Act (7 U.S.C. 7714)'' are added in their place.

PART 322—HONEYBEES AND HONEYBEE SEMEN

82. The authority citation for part 322 is revised to read as follows:

Authority: 7 U.S.C. 281; 7 CFR 2.22, 2.80, and 371.3.

[5] An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destory, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

[2] An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destory, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

PART 330—FEDERAL PLANT PEST REGULATIONS; GENERAL; PLANT PESTS; SOIL, STONE, AND QUARRY PRODUCTS; GARBAGE

83. The authority citation for part 330 is revised to read as follows:

Authority: 7 U.S.C. 450, 2260, 7711, 7712, 7714, 7718, 7731, 7734, 7751, and 7754; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.3.

Subpart—General Provisions

84. Section 330.100 is amended as follows:

a. By revising the definition of *Inspector.*

b. By removing the definitions for *Plant Quarantine Act* and *The Federal Plant Pest Act.*

c. By adding a new definition for *Plant Protection Act*, in alphabetical order.

The revision and addition read as follows:

§ 330.100 Definitions.

* * * * *

Inspector. A properly identified employee of the U.S. Department of Agriculture or other person authorized by the Department to enforce the provisions of the Plant Protection Act and related legislation, quarantines, and regulations.

* * * * *

Plant Protection Act. Title IV of Public Law 106–224, 114 Stat. 438, 7 U.S.C. 7701–7772, which was enacted June 20, 2000.

* * * * *

85. Section 330.102 is revised to read as follows:

§ 330.102 Basis for certain regulations.

Under the authority of the Plant Protection Act, the Secretary may prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of any plant, plant product, biological control organism, noxious weed, article (including baggage, mail, garbage, earth, stone, and quarry products) or means of conveyance if such actions are necessary to prevent the introduction into or the dissemination within the United States of a plant pest or noxious weed.

§ 330.106 [Amended]

86. In § 330.106, paragraph (a) is amended by removing the words ''Plant Quarantine Act'' and adding in their place the words ''Plant Protection Act''.

Subpart—Movement of Plant Pests

§§ 330.205, 330.207, and 330.208 [Amended]

87. Sections 330.205, 330.207, and 330.208 are amended by removing the words ''Federal Plant Pest Act'' each time they appear and by adding in their place the words ''Plant Protection Act''.

§ 330.210 [Amended]

88. Section 330.210 is amended by removing the words ''Plant Quarantine Act'' and adding in their place the words ''Plant Protection Act''.

89. In § 330.211, the section heading and paragraph (c), including footnote 2, are revised to read as follows:

§ 330.211 Labeling of plant pests for movement under permits.

* * * * *

(c) *Misuse of labels.* No labels unused in accordance with the terms of the permit may be used for the movement of any other plant pest. The Plant Protection Act provides for a penalty [2] for the misuse of such labels. Any unauthorized movement of plant pests under a label will be refused by the inspector, and the plant pests may be destroyed or otherwise dealt with as set forth in § 330.106 if deemed necessary as an emergency measure.

Subpart—Garbage

90. In § 330.400, paragraph (f) is revised to read as follows:

§ 330.400 Regulation of certain garbage.

* * * * *

(f) *Restrictions on regulated garbage.*

(1) Regulated garbage may not be disposed of, placed on, or removed from a means of conveyance except in accordance with this part.

(2) Regulated garbage is subject to general surveillance for compliance with this section by Animal and Plant Health Inspection Service inspectors and to disposal measures authorized by sections 414 and 421 of the Plant Protection Act (7 U.S.C. 7714 and 7731), section 2 of the Act of February 2, 1903, as amended (21 U.S.C. 111), and section 306 of the Act of July 17, 1930, as amended (19 U.S.C. 1306), to prevent the introduction and dissemination of pests and diseases of plants, livestock, and poultry.

* * * * *

PART 340—INTRODUCTION OF ORGANISMS AND PRODUCTS ALTERED OR PRODUCED THROUGH GENETIC ENGINEERING WHICH ARE PLANT PESTS OR WHICH THERE IS REASON TO BELIEVE ARE PLANT PESTS

91. The authority citation for part 340 is revised to read as follows:

Authority: 7 U.S.C. 166, 1622n, 7756, and 7761–7772; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

92. In § 340.0, footnotes 1 in paragraphs (a)(2) and 2 in paragraph (b) are revised to read as follows:

§ 340.0 Restrictions on the introduction of regulated articles.

(a) * * *

(2) * * *[1]

(b)(2) * * *[2]

§ 340.3 [Amended]

93. In § 340.3, paragraph (b)(1) is amended by removing the words ''Federal Noxious Weed Act (7 U.S.C. 2809)'' and adding in their place the words ''Plant Protection Act (7 U.S.C. 7712)''.

PART 351—IMPORTATION OF PLANTS OR PLANT PRODUCTS BY MAIL

94. The authority citation for part 351 is revised to read as follows:

---

[2] Section 424 of the Plant Protection Act (7 U.S.C. 7734) provides that persons who violate this act, or who forge, counterfeit or—without authority from the Secretary—use, alter, deface, or destroy any certificate, permit or other document may, after notice and opportunity for a hearing, be assessed a civil penalty that does not exceed the greater of: (a) $50,000 for individuals, except that the civil penalty may not exceed $1,000 in the case of an initial violation by an individual moving regulated articles not for monetary gain; $250,000 for any other person or legal entity, such as partnerships, corporations, associations, or joint ventures; and $500,000 for all violations adjudicated in a single proceeding; or (b) twice the gross pecuniary gain derived from or loss caused by any violation, forgery, counterfeiting, unauthorized use, defacing, or destruction of a certificate, permit, or other document provided for by this act. Section 424 of the Plant Protection Act also provides penalties for criminal violations, under which knowing violators of the act may be found guilty of a misdemeanor and, upon conviction, fined in accordance with title 18 of the United States Code, imprisoned for a period not to exceed 1 year, or both.

[1] Part 340 regulates, among other things, the introduction of organisms and products altered or produced through genetic engineering that are plant pests or are believed to be plant pests. The introduction into the United States of such articles also may be subject to other regulations promulgated under the Plant Protection Act (7 U.S.C. 7701–7772) and found in 7 CFR parts 319, 330, and 360. For example, under regulations promulgated in ''Subpart-Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products'' (7 CFR 319.37–3), a permit is required for the importation of certain classes of nursery stock whether such stock is genetically engineered or not. Accordingly, individuals should refer to those regulations before importing any nursery stock.

[2] An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 411, 412, 421, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7731, and 7754).

Authority: 7 U.S.C. 7711–7714, 7721, 7754, and 7755; 7 CFR 2.22, 2.80, and 371.3.

95. Section 351.1 is revised to read as follows:

§ 351.1 Joint treatment generally.

The entry into the United States of certain plants, plant products, and soil is prohibited or restricted through various orders, quarantines, and regulations promulgated by the Administrator of the Animal and Plant Health Inspection Service (APHIS) under the authority of the Plant Protection Act (7 U.S.C. 7701–7772). To assist in enforcing the aforementioned orders, quarantines, and regulations, the Plant Protection and Quarantine Programs of APHIS have made provisions with the U.S. Postal and Customs Services to ensure closer inspection of prohibited or restricted imported articles.

PART 352—PLANT QUARANTINE SAFEGUARD REGULATIONS

96. The citation for part 352 is revised to read as follows:

Authority: 7 U.S.C. 2260, 7711–7714, 7731, and 7734; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

97. Section 352.1 is amended as follows:

a. The paragraph designations for paragraphs (b)(1) through (b)(32) are removed and the defined terms are placed in alphabetical order.

b. The definitions for *Plant Quarantine Act* and *The Federal Plant Pest Act* are removed.

c. The definitions for *Customs* and *Inspector* are revised.

d. A definition for *Plant Protection Act* is added in alphabetical order.

The revisions and addition read as follows:

§ 352.1 Definitions.

* * * * *

(b) * * *

Customs. The U.S. Customs Service, Department of the Treasury, or, with reference to Guam, the Customs Office of the Government of Guam.

* * * * *

Inspector. A properly identified employee of the U.S. Department of Agriculture or other person authorized by the Department to enforce the provisions of the Plant Protection Act and related legislation, quarantines, and regulations.

* * * * *

Plant Protection Act. Title IV of Public Law 106–224, 114 Stat. 438, 7 U.S.C. 7701–7772, which was enacted June 20, 2000.

* * * * *

98. Section 352.2 is amended by revising paragraphs (a), (b), and (c)(1) to read as follows:

§ 352.2 Purpose; relation to other regulations; applicability.

(a) Importations of plants, plant products, plant pests, soil, and other products and articles that may be infested or infected by or contain plant pests or noxious weeds are exempt from the prohibitions or restrictions contained in parts 319 and 330 of this chapter if they meet one of the conditions in paragraphs (a)(1) through (a)(4) of this section and are moved into the United States and handled in compliance with this part. *Provided:* That these exemptions do not apply to cotton and covers imported into the United States from any country for exportation or transshipment and exportation or transportation and exportation as provided in §§ 319.8 through 319.8–26 of this chapter. Moreover, the applicable provisions of §§ 330.100 through 330.109 and 330.400 of this chapter also apply to products and articles subject to this part.

(1) They are brought in temporarily where loading and landing is not intended;

(2) They are unloaded or landed for transshipment and exportation;

(3) They are unloaded or landed for transportation and exportation; or

(4) They are intended for unloading and entry at a port other than the port of arrival.

(b) Prohibited or restricted products and articles offered for and refused entry into the United States under parts 319 or 330 of this chapter are subject to the applicable provisions in this part regarding their subsequent handling in this country.

(c)(1) The provisions in this part apply whether the controls over arrival, temporary stay, unloading, landing, transshipment and exportation, or transportation and exportation, or other movement or possession in the United States and Guam are maintained by entry or other procedures of the U.S. Customs Service, Department of the Treasury, or the Customs Office of the Government of Guam, respectively. Such provisions will apply to arrivals in the United States, including arrivals in a foreign trade zone in the United States to which admission is sought in accordance with the Customs regulations in 19 CFR chapter I. Prohibited or restricted products and articles that have entered the United States, been exported pursuant to this part, and returned to the United States are subject to the applicable requirements of this part upon reentry.

* * * * *

99. In § 352.3, paragraph (a) is revised to read as follows:

§ 352.3 Enforcement and administration.

(a) Plants, plant products, plant pests, soil, and other products and articles subject to the regulations in this part that are unloaded, landed, or otherwise brought or moved into or through the United States in violation of this part may be seized, destroyed, or otherwise disposed of in accordance with section 414 of the Plant Protection Act (7 U.S.C. 7714). Any person who unloads, lands, or otherwise brings or moves into or through the United States any regulated plants, plant products, plant pests, soil, or other products or articles in violation of this part will be subject to prosecution under the applicable provisions of law.

* * * * *

§ 352.5 [Amended]

100. In § 352.5, paragraph (d), is amended by removing the words ''319, 321,'' each time they appear and adding in their place the word ''319''.

§§ 352.6 and 352.7 [Amended]

101. At the end of §§ 352.6 and 352.7, the statutory authority citation ''(44 U.S.C. 35)'' is removed.

§ 352.10 [Amended]

102. In § 352.10, paragraph (a), the third sentence; paragraph (b)(1), the second-to-last sentence; and paragraph (b)(2), the second sentence, are amended by removing the words ''319, 321,'' each time they appear and adding in their place the word ''319''.

§ 352.13 [Amended]

103. In § 352.13, the first sentence is amended by removing the words ''319, 321,'' and adding in their place the word ''319''.

PART 353—EXPORT CERTIFICATION

104. The authority citation for part 353 is revised to read as follows:

Authority: 7 U.S.C. 7711, 7712, 7718, 7751, and 7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

105. In § 353.1, the definition of *The Act* is revised to read as follows:

§ 353.1 Definitions.

* * * * *

The Act. Title IV of Public Law 106–224, 114 Stat. 438, 7 U.S.C. 7701–7772, which was enacted June 20, 2000.

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS; AND USER FEES

106. The authority citation for part 354 is revised to read as follows:

Authority: 7 U.S.C. 2260; 21 U.S.C. 136 and 136a; 49 U.S.C. 1741; 7 CFR 2.22, 2.80, and 371.3.

§ 354.1 [Amended]

107. Section 354.1 is amended by removing the statutory authority citation ''(64 Stat. 561 (7 U.S.C. 2260) and sec. 15, Pub. L. 94–353 (49 U.S.C. 1741))'' at the end of the section.

§ 354.3 [Amended]

108. In § 354.3, paragraph (a), the definition of *Designated State or county inspector* is amended by removing the words ''Department of Agriculture Organic Act of 1944'' and adding in their place the words ''Plant Protection Act''.

PART 355—ENDANGERED SPECIES REGULATIONS CONCERNING TERRESTRIAL PLANTS

109. Part 355 is amended as follows:

a. By revising the authority citation to read as follows.

Authority: 16 U.S.C. 1532, 1538, and 1540; 7 CFR 2.22, 2.80, and 371.3.

b. In the part heading, by removing footnotes 1 and 2 and the references to them.

Subpart—Purpose and Definitions

110. Section 355.1 is revised to read as follows:

§ 355.1 Purpose.

Pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), the Secretary is responsible for the enforcement of the provisions of the Act and Convention that pertain to the importation, exportation, or reexportation of terrestrial plants.[1] The regulations in this part are for the purpose of implementing this authority. Regulations of the U.S. Department of the Interior that correlate with the regulations in this part are contained in 50 CFR chapter I.[2]

111. In § 355.11, footnote 3 is revised to read as follows:

§ 355.11 General permits.[3]

* * * * *

[3] This permit is named a ''general permit'' in order to avoid confusion with ''permits'' obtained under the Act from the U.S. Department of the Interior to accompany the importation, exportation, or reexportation of plants under U.S. Department of the Interior regulations. General permits are also so named to avoid confusion with permits obtained from Plant Protection and Quarantine for the importation of plants under the Plant Protection Act (7 U.S.C. 7701–7772) and 7 U.S.C. 2801 note and 7 U.S.C. 2814.

PART 356—FORFEITURE PROCEDURES

112. The authority citation for part 356 is revised to read as follows:

Authority: 16 U.S.C. 1540(f); 16 U.S.C. 3374; 7 CFR 2.22, 2.80, and 371.3.

PART 360—NOXIOUS WEED REGULATIONS

113. The authority citation for part 360 is revised to read as follows:

Authority: 7 U.S.C. 7711–7714, 7718, 7731, 7751, and 7754; 7 CFR 2.22, 2.80, and 371.3.

114. In § 360.200, the section heading and the introductory text are revised to read as follows:

§ 360.200 Designation of noxious weeds.

As authorized under section 412 of the Plant Protection Act (7 U.S.C. 7712), the Secretary of Agriculture has determined that the following plants[1] or plant products fall within the definition of ''noxious weed'' as defined in section 403 of the Act (7 U.S.C. 7702(10)). Accordingly, the dissemination in the United States of the following plants or plant products may reasonably be expected to have the effects specified in section 403 of the Act:

* * * * *

§ 360.300 [Amended]

115. At the end of § 360.300, the statutory authority citation ''(44 U.S.C. 35)'' is removed.

PART 361—IMPORTATION OF SEED AND SCREENINGS UNDER THE FEDERAL SEED ACT

116. The authority citation for part 361 is revised to read as follows:

Authority: 7 U.S.C. 1581–1610; 7 CFR 2.22, 2.80, and 371.3.

PART 371—ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

117. The authority citation for part 371 continues to read as follows:

Authority: 5 U.S.C. 301.

118. Section 371.3 is amended as follows:

a. By removing paragraphs (b)(2)(i) through (b)(2)(v).

b. By redesignating paragraphs (b)(2)(vi) through (b)(2)(xv) as paragraphs (b)(2)(i) through (b)(2)(x), respectively.

c. By revising newly redesignated paragraph (b)(2)(iii).

d. By revising newly redesignated paragraph (b)(2)(v).

e. By removing the periods at the end of newly redesignated paragraphs (b)(2)(ix) and (b)(2)(x) and adding semicolons in their place.

f. By adding new paragraph (b)(2)(xi).

The revisions and additions read as follows:

§ 371.3 Plant Protection and Quarantine.

* * * * *

(b) * * *

(2) * * *

(iii) Sections 1 and 15 of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 note and 7 U.S.C. 2814);

* * * * *

(v) Executive Order 13112;

* * * * *

(xi) Authority to collect reimbursement for overtime paid to employees for inspection or quarantine services (7 U.S.C. 2260).

* * * * *

PART 372—NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES

119. The authority citation for part 372 is revised to read as follows:

Authority: 42 U.S.C. 4321 *et seq.*; 40 CFR parts 1500–1508; 7 CFR parts 1b, 2.22, 2.80, and 371.9.

PART 380—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER CERTAIN ACTS

120. The authority citation for part 380 is revised to read as follows:

---

[1] Under section 11 of the Act (16 U.S.C. 1540), it is unlawful for any person to knowingly violate any provision of the Act, any permit or certificate issued under the Act, or any regulation promulgated under the Act. Section 11 of the Act also provides for criminal, civil, and administrative penalties for any such violation.

[2] Plant Protection and Quarantine also administers programs under the Lacey Act Amendments of 1981, as amended (16 U.S.C. 3371 through 3378), 7 U.S.C. 2814, and the Plant Protection Act (7 U.S.C. 7701–7772), which authorize additional prohibitions and restrictions on the importation of plants subject to this part (see other parts of 7 CFR chapter III for regulations containing prohibitions and restrictions under these authorities).

[1] One or more of the common names of weeds are given in parentheses after most scientific names to help identify the weeds represented by such scientific names; however, a scientific name is intended to include all weeds within the genus or species represented by the scientific name, regardless of whether the common name or names are as comprehensive in scope as the scientific name.

Authority: 7 U.S.C. 7702–7772; 16 U.S.C. 1540(a), 3373(a) and (b); 7 CFR 2.22, 2.80, and 371.3.

Subpart A—General

121. Section 380.1 is revised to read as follows:

§ 380.1 Scope and applicability of rules of practice.

(a) The Uniform Rules of Practice for the Department of Agriculture promulgated in subpart H of part 1, subtitle A, title 7 CFR are the Rules of Practice applicable to adjudicatory administrative proceedings under the following statutory provisions:

(1) The Plant Protection Act, section 424 (7 U.S.C. 7734),

(2) Endangered Species Act Amendments of 1973, as amended, section 11(a), 16 U.S.C. 1540(a), and

(3) Lacey Act Amendments of 1981, as amended, section 4(a) and (b), (16 U.S.C. 3373 (a) and (b)).

(b) In addition, the Supplemental Rules of Practice set forth in subpart B of this part are applicable to such proceedings.

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

PART 1—DEFINITIONS OF TERMS

PART 2—REGULATIONS

122. The authority citation for parts 1 and 2 is revised to read as follows:

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.7.

PART 11—HORSE PROTECTION REGULATIONS

123. The authority citation for part 11 is revised to read as follows:

Authority: 15 U.S.C. 1823–1825 and 1828; 44 U.S.C. 3506; 7 CFR 2.22, 2.80, and 371.7.

PART 49—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER CERTAIN ACTS

124. The authority citation for part 49 is revised to read as follows:

Authority: 21 U.S.C. 111–114, 114a, 114a–1, 115, 117, 120, 122, 123, 125–127, 134b, 134c, 134e, and 134f; 7 CFR 2.22, 2.80, and 371.4.

PART 50—ANIMALS DESTROYED BECAUSE OF TUBERCULOSIS

125. The authority citation for part 50 is revised to read as follows:

Authority: 21 U.S.C. 111–114, 114a, 114a–1, 120, 121, 125, and 134b; 7 CFR 2.22, 2.80, and 371.4.

§ 50.3 [Amended]

126. At the end of § 50.3, the statutory authority citation beginning with the words ''(Secs. 3, 4, 5, 11, and 13,'' and ending with the words ''7 CFR 2.17, 2.51, and 317.2(d))'' is removed.

§ 50.16 [Amended]

127. In § 50.16, paragraph (a)(4), including footnote 1, is revised to read as follows:

§ 50.16 Certain cattle on the Island of Molokai in Hawaii.

(a) * * *

(4) The purchaser of the exposed cattle has entered into a compliance agreement [1] with APHIS, which specifies that the cattle will be moved under permit directly from the premises of origin to the quarantined feedlot. Upon movement from the quarantined feedlot, the cattle will either be shipped under permit directly to a Federal or State-inspected slaughtering establishment for slaughter, or the cattle will be disposed of by rendering, burial, or incineration in an approved manner under the supervision of an APHIS or State employee. Exposed cattle are not to be sold prior to destruction unless the purchaser enters into a compliance agreement agreeing to the provisions in this paragraph.

* * * * *

PART 51—ANIMALS DESTROYED BECAUSE OF BRUCELLOSIS

128. The authority citation for part 51 is revised to read as follows:

Authority: 21 U.S.C. 111–114, 114a, 114a–1, 120, 121, 125, and 134b; 7 CFR 2.22, 2.80, and 371.4.

129. Section 51.1 is amended as follows:

a. By revising footnote 1 in the definition of *Recognized slaughtering establishment.*

b. At the end of the section, by removing the statutory authority citation beginning with the words ''(Secs. 3, 4, 5, 11, and 13,'' and ending with the words ''7 CFR 2.17, 2.51, and 371.2 (d))''.

The revision reads as follows:

§ 51.1 Definitions.

* * * * *

Recognized slaughtering establishment.* * * [1]

[1] Compliance Agreement forms are available without charge from the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs, 4700 River Road, Unit 43, Riverdale, Maryland 20737–1231, and from local offices of APHIS' Veterinary Services program. (Local offices are listed in telephone directories.)

[1] A list of recognized slaughtering establishments is available upon request from the Animal and Plant Health Inspection Service, 4700 River Road Unit 37, Riverdale, MD 20737–1231.

PARTS 52 AND 53 [Amended]

130. The authority citation for part 52 is revised to read as follows:

Authority: 21 U.S.C. 111–113, 114, 114a, 114a–1, 120, 121, 125, and 134b; and 7 CFR 2.22, 2.80, and 371.4.

130a. The authority citation for part 53 is revised to read as follows:

Authority: 21 U.S.C. 111, 114, and 114a; 7 CFR 2.22, 2.80, and 371.4.

PART 54—CONTROL OF SCRAPIE

131. The authority citation for part 54 is revised to read as follows:

Authority: 21 U.S.C. 111, 114, 114a, and 134a–134h; 7 CFR 2.22, 2.80, and 371.4.

132. In § 54.1, in the definition of *Uniform methods and rules—voluntary scrapie flock certification,* footnote 1 is revised to read as follows.

§ 54.1 Definitions.

* * * * *

Uniform methods and rules voluntary scrapie flock certification.* * *[1]

PART 70—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER CERTAIN ACTS

133. The authority citation for part 70 is revised to read as follows:

Authority: 21 U.S.C. 111–114, 114a, 114a–1, 115, 117, 120, 122, 123, 125–127, 134b, 134c, 134e, and 134f; 7 CFR 2.22, 2.80, and 371.4.

PART 71—GENERAL PROVISIONS

134. The authority citation for part 71 is revised to read as follows:

Authority: 21 U.S.C. 111–113, 114a, 114a–1, 115–117, 120–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.4.

PART 72—TEXAS (SPLENETIC) FEVER IN CATTLE

135. The authority citation for part 72 is revised to read as follows:

Authority: 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.4.

136. Section 72.6, including footnote 3, is revised to read as follows:

[1] Copies of the UM&R are available from the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs, 4700 River Road Unit 43, Riverdale, MD 20737–1231, or from the American Sheep Industry Association, Inc., Producer Services, 6911 S. Yosemite Street, Suite 200, Englewood, CO 80112–1414, telephone (303) 771–3500.

§ 72.6 Interstate movement of cattle from quarantined areas not eradicating ticks.

Cattle in quarantined areas where tick eradication is not being conducted[3] may be shipped or transported interstate in accordance with §§ 72.9 through 72.15 under the following conditions: The cattle must have been dipped twice with a permitted dip as provided in § 72.13, with an interval of 7 to 12 days between dippings immediately preceding shipment, at a designated dipping station approved under § 72.16 and located in the State of origin of the shipment or, in specific cases, after having been otherwise treated at a designated dipping station under the supervision of an APHIS inspector and in a manner approved by the Administrator. In all cases, the cattle must be inspected by an APHIS inspector just prior to final dipping, found to be apparently free of ticks, and be certified as such by APHIS before the cattle may be released for interstate movement.

137. In § 72.13, paragraph (a), footnote 4 is revised to read as follows:

§ 72.13 Permitted dips and procedures.

(a) * * *[4]

[4] Care is required when treating animals and in maintaining the required concentration of chemicals in dipping baths. Detailed information concerning the use of, criteria for, and names of proprietary brands of permitted dips—as well the use of compressed air, vat management techniques, and other information—is available from the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs, 4700 River Road Unit 43, Riverdale, MD 20737–1231.

PART 73—SCABIES IN CATTLE

138. The authority citation for part 73 is revised to read as follows:

Authority: 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.4.

§§ 73.2, 73.3, 73.5, 73.6, and 73.12 [Amended]

139. At the end of §§ 73.2, 73.3, 73.5, 73.6, and 73.12, the statutory authority citation beginning with the words ''(Secs. 4–7, 23 Stat. 32, as amended;'' and ending with the words ''7 CFR 2.17, 2.51, and 371.2 (d))'' is removed.

[3] Information regarding the identities of such areas may be obtained from the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs, 4700 River Road Unit 43, Riverdale, MD 20737–1231.

PART 74—PROHIBITION OF INTERSTATE MOVEMENT OF LAND TORTOISES

140. The authority citation for part 74 is revised to read as follows:

Authority: 21 U.S.C. 111–113, 114a, 115, 117, 120, 122–126, 134b, 134f; 7 CFR 2.22, 2.80, and 371.4.

PART 75—COMMUNICABLE DISEASES IN HORSES, ASSES, PONIES, MULES, AND ZEBRAS

141. The authority citation for part 75 is revised to read as follows:

Authority: 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, and 134–134h; 7 CFR 2.22, 2.80, and 371.4.

§ 75.4 [Amended]

142. In § 75.4, footnotes 1 in the definition of Officially identified, 2 in paragraph (c)(1)(v), and 3 in paragraph (c)(2) are amended by removing the words ''Sheep, Goat, Equine, and Poultry Diseases'' and adding in their place the words ''National Animal Health Programs''.

PART 79—SCRAPIE IN SHEEP AND GOATS

143. The authority citation for part 79 is revised to read as follows:

Authority: 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.4.

§ 79.2 [Amended]

144. In § 79.2, paragraph (a)(2), introductory text, footnote 1 is amended by removing the words ''Sheep, Goat, Equine, and Poultry Diseases'' and adding in their place the words ''National Animal Health Programs''.

§ 79.3 [Amended]

145. In § 79.3, paragraph (b), footnote 2 is amended by removing the words ''Sheep, Goat, Equine, and Poultry Diseases,'' and adding in their place the words ''National Animal Health Programs''.

PART 80—JOHNE'S DISEASE IN DOMESTIC ANIMALS

146. The authority citation for part 80 is revised to read as follows:

Authority: 21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, and 125; 7 CFR 2.22, 2.80, and 371.4.

PART 82—EXOTIC NEWCASTLE DISEASE (END) AND CHLAMYDIOSIS; POULTRY DISEASE CAUSED BY SALMONELLA ENTERITIDIS SEROTYPE ENTERITIDIS

147. The authority citation for part 82 is revised to read as follows:

Authority: 21 U.S.C. 111–113, 115, 117, 120, 123–126, 134a, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.4.

Subpart C—Poultry Disease Caused by Salmonella Enteritidis Serotype Enteritidis

148. In § 82.30, the definition of *Authorized laboratory* is amended as follows:

a. In the first undesignated paragraph, by removing the words ''c/o Sheep, Goat, Equine, and Poultry Diseases Staff, Veterinary Services, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782'' and adding in their place the words ''Veterinary Services, Center for Planning, Certification, and Monitoring, 4700 River Road Unit 46, Riverdale, MD 20737–1231''.

b. By revising footnote 1 in paragraph (8) to read as follows:

§ 82.30 Definitions.

* * * * *

Authorized laboratory.

* * *

(8)* * *

[1] Training requirements, standard test protocols, and check test proficiency requirements prescribed by the National Veterinary Services Laboratories and the names and addresses of authorized laboratories are available from the Animal and Plant Health Inspection Service, Veterinary Services, Center for Planning, Certification, and Monitoring, 4700 River Road Unit 46, Riverdale, MD 20737–1231.

§ 82.32 [Amended]

149. In § 82.32, footnote 2 is amended by removing the words ''Sheep, Goat, Equine, and Poultry Diseases, 4700 River Road Unit 43'' and adding in their place the words ''Center for Planning, Certification, and Monitoring, 4700 River Road Unit 46''.

§ 82.33 [Amended]

150. In § 82.33, paragraph (a)(2), footnote 4 is amended by removing the words ''Sheep, Goat, Equine, and Poultry Diseases, 4700 River Road Unit 43'' and adding in their place the words ''Center for Planning, Certification, and Monitoring, 4700 River Road Unit 46''.

§ 82.37 [Amended]

151. In § 82.37, footnote 7 is amended by removing the words ''Sheep, Goat,

Equine, and Poultry Diseases, 4700 River Road Unit 43'' and adding in their place the words ''Center for Planning, Certification, and Monitoring, 4700 River Road Unit 46''.

PART 85—PSEUDORABIES

152. The authority citation for part 85 is revised to read as follows:

Authority: 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.4.

§ 85.1 [Amended]

153. In § 85.1, in the definition of *Approved differential pseudorabies test,* footnote 1 is amended by removing the words ''Swine Health, 4700 River Road Unit 37'' and adding in their place the words ''Operational Support, 4700 River Road Unit 33''.

PART 89—STATEMENT OF POLICY UNDER THE TWENTY-EIGHT HOUR LAW

154. The authority citation for part 89 is revised to read as follows:

Authority: 34 Stat. 607; 45 U.S.C. 71–74; 19 FR 74, as amended; 7 CFR 2.22, 2.80, and 371.4.

PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION

155. The authority citation for part 91 is revised to read as follows:

Authority: 21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 136, 136a, 612, 613, 614, and 618; 46 U.S.C. 466a and 466b; 49 U.S.C. 1509(d); 7 CFR 2.22, 2.80, and 371.4.

PART 92—IMPORTATION OF ANIMALS AND ANIMAL PRODUCTS: PROCEDURES FOR REQUESTING RECOGNITION OF REGIONS

155a. The authority citation for part 92 is revised to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

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

156. The authority citation for part 94 is revised to read as follows:

Authority: 7 U.S.C. 450, 7711, 7712, 7713, 7714, 7751, and 7754; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

157. In § 94.5, paragraph (e)(2) is revised to read as follows:

§ 94.5 Regulation of certain garbage.

* * * * *

(e) * * *

(2) To prevent the dissemination of plant pests and livestock or poultry diseases, regulated garbage is subject to general surveillance for compliance with this section by Animal and Plant Health Inspection Service inspectors and to disposal measures authorized by sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754), section 2 of the Act of February 2, 1903, as amended (21 U.S.C. 111), and section 306 of the Act of July 17, 1930, as amended (19 U.S.C. 1306).

* * * * *

PART 95—SANITARY CONTROL OF ANIMAL BYPRODUCTS (EXCEPT CASINGS) AND HAY AND STRAW OFFERED FOR ENTRY INTO THE UNITED STATES

158. The authority citation for part 95 is revised to read as follows:

Authority: 21 U.S.C. 111, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4

PART 96—RESTRICTION OF IMPORTATION OF FOREIGN ANIMAL CASINGS OFFERED FOR ENTRY INTO THE UNITED STATES

158a. The authority citation for part 96 is revised to read as follows:

Authority: 21 U.S.C. 111, 136, and 136a; 7 CFR 2.22, 2.80, and 371.4.

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

158b. The authority citation for part 97 is revised to read as follows:

Authority: 7 U.S.C. 2260; 49 U.S.C. 1741; 7 CFR 2.22, 280, and 371.4.

PART 98—IMPORTATION OF CERTAIN ANIMAL EMBRYOS AND ANIMAL SEMEN

158c. The authority citation for part 98 is revised to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 103–105, 111, 134a, 134b, 134c, 134d, 134f, 136 and 136a; 31 U.S.C.

PART 99—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER CERTAIN ACTS

159. The authority citation for part 99 is revised to read as follows:

Authority: 21 U.S.C. 102–105, 111, 112, 114a, 117, 120, 122, 134b, 134c, 134e, 134f, 135, and 135a; 7 CFR 2.22, 2.80, and 371.4.

PART 101—DEFINITIONS

PART 102—LICENSES FOR BIOLOGICAL PRODUCTS

160. The authority citation for parts 101 and 102 is revised to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.4.

PART 103—EXPERIMENTAL PRODUCTION, DISTRIBUTION, AND EVALUATION OF BIOLOGICAL PRODUCTS PRIOR TO LICENSING

161. The authority citation for part 103 is revised to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.4.

§ 103.2 [Amended]

162. At the end of § 103.2, the statutory authority citation ''(44 U.S.C. 3506)'' is removed.

PART 104—PERMITS FOR BIOLOGICAL PRODUCTS

PART 105—SUSPENSION, REVOCATION, OR TERMINATION OF BIOLOGICAL LICENSES OR PERMITS

163. The authority citation for parts 104 and 105 is revised to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.4.

PART 106—EXEMPTION FOR BIOLOGICAL PRODUCTS USED IN DEPARTMENT PROGRAMS OR UNDER DEPARTMENT CONTROL OR SUPERVISION

164. The authority citation for part 106 is revised to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.4.

PART 107—EXEMPTIONS FROM PREPARATION PURSUANT TO AN UNSUSPENDED AND UNREVOKED LICENSE

PART 108—FACILITY REQUIREMENTS FOR LICENSED ESTABLISHMENTS

PART 109—STERILIZATION AND PASTEURIZATION AT LICENSED ESTABLISHMENTS

PART 112—PACKAGING AND LABELING

PART 113—STANDARD REQUIREMENTS

PART 114—PRODUCTION REQUIREMENTS FOR BIOLOGICAL PRODUCTS

165. The authority citation for parts 107–109 and 112–114 is revised to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.4.

PART 115—INSPECTIONS

166. The authority citation for part 115 is revised to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.4.

PART 116—RECORDS AND REPORTS

167. The authority citation for part 116 is revised to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.4.

§§ 116.1, 116.2, 116.3, 116.4, and 116.6 [Amended]

168. At the end of §§ 116.1, 116.2, 116.3, 116.4, and 116.6, the statutory authority citation ''(44 U.S.C. 3506)'' is removed.

PART 117—ANIMALS AT LICENSED ESTABLISHMENTS

PART 118—DETENTION, SEIZURE, AND CONDEMNATION

169. The authority citation for parts 117 and 118 is revised to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.4.

PART 122—ORGANISMS AND VECTORS

170. The authority citation for part 122 is revised to read as follows:

Authority: 21 U.S.C. 111 and 151–158; 7 CFR 2.22, 2.80, and 371.4.

PART 123—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE VIRUS-SERUM-TOXIN ACT

171. The authority citation for part 123 is revised to read as follows:

Authority: 21 U.S.C. 111 and 151–159; 7 CFR 2.22, 2.80, and 371.4.

PART 124—PATENT TERM RESTORATION

172. The authority citation for part 124 is revised to read as follows:

Authority: 35 U.S.C. 156; 7 CFR 2.22, 2.80, and 371.4.

PART 145—NATIONAL POULTRY IMPROVEMENT PLANT

PART 147—AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENTPLAN

172a. The authority citation for parts 145 and 147 is revised to read as follows:

Authority: 7 U.S.C. 429; 7 CFR 2.22, 2.80, and 371.4.

PART 151—RECOGNITION OF BREEDS AND BOOKS OF RECORDS OF PUREBRED ANIMALS

172b. The authority citation for part 151 is revised to read as follows:

Authority: 19 U.S.C. 1202; 7 CFR 2.22, 2.80, and 371.4.

PART 156—VOLUNTARY INSPECTION AND CERTIFICATION SERVICE

172c. The authority citation for part 156 is revised to read as follows:

Authority: 7 U.S.C. 1622 and 1624; 21 U.S.C. 136a; 7 CFR 2.22, 2.80, and 371.4.

PART 160—DEFINITION OF TERMS

PART 161—REQUIREMENTS AND STANDARDS FOR ACCREDITED VETERINARIANS AND SUSPENSION OR REVOCATION OF SUCH ACCREDITATION

PART 162—RULES OF PRACTICE GOVERNING REVOCATION OR SUSPENSION OF VETERINARIANS' ACCREDITATION

172d. The authority citation for parts 160, 161, and 162 is revised to read as follows:

Authority: 15 U.S.C. 1828; 21 U.S.C. 105, 111–114, 114a, 114a–1, 115, 116, 120, 121, 125, 134b, 134f, 612, and 613; 7 CFR 2.22, 2.80, and 371.4. 9701; 7 CFR 2.22, 2.80, and 371.4.

PART 166—SWINE HEALTH PROTECTION

173. The authority citation for part 166 is revised to read as follows:

Authority: 7 U.S.C. 3802–3804, 3808, 3809, and 3811; 7 CFR 2.22, 2.80, and 371.4.

§§ 166.1, 166.2, and 166.10 [Amended]

174. At the end of §§ 166.1, 166.2, and 166.10, the statutory authority citation beginning with the words ''(Sec. 511,'' and ending with the words ''7 CFR 2.17, 2.51, and 371.2(d))'' is removed.

PART 167—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE SWINE HEALTH PROTECTION ACT

175. The authority citation for part 167 is revised to read as follows:

Authority: 7 U.S.C. 3804, 3805, and 3811; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 16th day of April 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–9797 Filed 4–26–01; 8:45 am]

BILLING CODE 3410–34–U

FARM CREDIT ADMINISTRATION

12 CFR Part 620

RIN 3052–AB94

Disclosure to Shareholders; Annual Report; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final rule under part 620 on March 12, 2001 (66 FR 14299). This final rule provides that a bank need not distribute its annual report to the shareholders of its related associations unless it experiences a ''significant event.'' The final rule also requires all associations to disclose, in a separate section of their annual report, specified information about their financial and supervisory relationship with their funding bank. This final rule benefits banks, associations, and their shareholders because it allows the banks and associations to share necessary information with shareholders at a reduced cost. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the

records of the sessions of Congress, the effective date of the regulations is April 27, 2001.

EFFECTIVE DATE: The regulation amending 12 CFR part 620 published on March 12, 2001 (66 FR 14299) is effective April 27, 2001.

FOR FURTHER INFORMATION CONTACT:

Tong-Ching Chang, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498;

or

Alison C. Samarias, Attorney Advisor, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

(12 U.S.C. 2252(a)(9) and (10))

Dated: April 24, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 01–10556 Filed 4–26–01; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 43, 45, 65, 91, 142, 145, 161, and 170

[Docket No. 28154, Amdt. Nos. 21–79, 43–37, 45–22, 65–41, 91–267, 142–4, 145–25, 161–2 and 170–3]

Commuter Operations and General Certification and Operations Requirements

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; technical amendment.

SUMMARY: The Federal Aviation Administration (FAA) is making minor technical changes to a final rule on commuter operations and general certification and operations requirements published in the **Federal Register** on December 20, 1995, effective January 19, 1996. That final rule removed part 127 of title 14, but did not make conforming amendments to remove all references to part 127. This technical amendment removes all references to part 127 from the Code of Federal Regulations. None of these changes are substantive in nature and the rule will not impose any additional burden or restriction on persons or organizations affected by these regulations.

EFFECTIVE DATE: Effective on April 27, 2001.

FOR FURTHER INFORMATION CONTACT: Alberta Brown, (202) 267–8321; Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION:

Background

The Federal Aviation Administration (we) published in the **Federal Register** on December 20, 1995 (60 FR 65832) a document that amended the regulations on commuter operations and general certification and operations requirements, to include the removal of part 127 from title 14 (60 FR 65937). We did not include amendments removing all references to part 127, which are now obsolete. This document makes the appropriate technical changes to remove all references to part 127 from the Code of Federal Regulations.

Under the Administrative Procedure Act, an agency doesn't have to issue a notice of proposed rulemaking when the agency for good cause finds that notice and public procedure are ''impracticable, unnecessary, or contrary to the public interest.'' See 5 U.S.C. 553(b). Because this technical amendment simply corrects obsolete references, we find that publishing the change for public notice and comment is unnecessary.

The Administrative Procedure Act also states that an agency must publish a substantive rule not less than 30 days before its effective date, except as otherwise provided by the agency for good cause. See 5 U.S.C. 553(d). We find that this technical amendment imposes no additional burden or requirement on the regulated industry, and is not substantive in nature. Moreover, we find that there is good cause to make the changes effective immediately upon publication in the **Federal Register**. It is in the public interest to remove these obsolete references from our regulations without further delay.

This regulation is editorial in nature and imposes no additional burden on any person or organization. Accordingly, we have determined that the action: (1) is not a significant rule under Executive Order 12866; and (2) is not a significant rule under Department of Transportation Regulatory Policy and Procedures. No impact is expected to result, and a full regulatory evaluation is not required. In addition, the FAA certifies that the rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects

14 CFR Part 21

Aircraft, Aviation safety, Exports, Imports, Reporting and recordkeeping requirements.

14 CFR Part 43

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 45

Aircraft, Exports, Signs and symbols.

14 CFR Part 65

Air traffic controllers, Aircraft, Airmen, Airports, Alcohol abuse, Drug abuse, Reporting and recordkeeping requirements.

14 CFR Part 91

Afghanistan, Agriculture, Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Canada, Cuba, Freight, Mexico, Noise control, Political candidates, Reporting and recordkeeping requirements, Former Yugoslavia.

14 CFR Part 142

Administrative practice and procedure, Airmen, Educational facilities, Reporting and recordkeeping requirements, Schools, Teachers.

14 CFR Part 145

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 161

Administrative practice and procedure, Aircraft, Airports, Noise control, Reporting and recordkeeping requirements.

14 CFR Part 170

Air traffic control, Airports.

In consideration of the foregoing, the Federal Aviation Administration amends parts 21, 43, 45, 65, 91, 142, 145, 161, and 170 of title 14 of the Code of Federal Regulations as follows:

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

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

Authority: 42 U.S.C. 7572; 49 U.S.C. 106(g), 40105, 40113, 44701–44702, 44707, 44709, 44711, 44713, 44715, 45303.

§ 21.183 Issue of standard airworthiness certificates for normal, utility, acrobatic, commuter, and transport category aircraft; manned free balloons; and special classes of aircraft. [Amended]

2. Amend § 21.183 by removing the words ''or 127'' from paragraph (d)(2)(iv).

§ 21.197 Special flight permits.

3. Amend § 21.197 by removing the words ''§§ 121.79, 127.27, and 135.17'' from paragraph (c) introductory text and replacing them with ''§§ 121.79 and 135.17''; and by removing the words ''or Part 127'' from paragraph (c)(1).

§ 21.213 Eligibility.

4. Amend § 21.213 by removing the works ''or Part 127'' from paragraph (b).

§ 21.329 Issue of export certificates of airworthiness for Class I products.

5. Amend § 21.329 by removing the words ''or 127'' from paragraph (c).

§ 21.337 Performance of inspections and overhauls.

6. Amend § 21.337 by removing the words ''or 127'' from paragraph (e).

PART 43—MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION

7. The authority citation for part 43 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44703, 44705, 44707, 44711, 44713, 44717.

§ 43.1 Applicability.

8. Amend § 43.1 by removing the words ''Part 121, 127, or 135'' from paragraph (a)(2) and adding in their place the words ''Part 121 or 135''.

§ 43.3 Persons authorized to perform maintenance, preventive maintenance, rebuilding, and alterations.

9. Amend § 43.3 as follows:

a. In paragraph (f) remove the words ''Part 121, 127, or 135'' both places they appear and add in their place the words ''Part 121 or 135''.

b. In paragraph (g) remove the words ''Part 121, 127, 129, or 135'' and add in their place the words ''Part 121, 129, or 135''.

§ 43.7 Persons authorized to approve aircraft, airframes, aircraft engines, propellers, appliances, or component parts for return to service after maintenance, preventive maintenance, rebuilding, or alteration.

10. Amend § 43.7 by removing the words ''Part 121, 127, or 135'' from paragraph (e) both places they appear and adding in their place the words ''Part 121 or 135''.

§ 43.9 Content, form, and disposition of maintenance, preventive maintenance, rebuilding, and alteration records (except inspections performed in accordance with part 91, part 123, part 125, § 135.411(a)(1), and § 135.419 of this chapter).

11. Amend § 43.9 by removing the words ''Part 121, 127, or 135'' from paragraph (b) both places they appear and adding in their place the words ''Part 121 or 135''.

§ 43.13 Performance rules (general).

12. Amend § 43.13 by removing the words ''Part 121, 127, or 135'' from paragraph (c) both places they appear and adding in their place the words ''Part 121 or 135''.

§ 43.16 Airworthiness Limitations.

13. Amend § 43.16 by removing the words ''Parts 121, 123, 127, or 135'' and adding in their place the words ''Parts 121, 123, or 135''.

PART 45—IDENTIFICATION AND REGISTRATION MARKING

14. The authority citation for part 45 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40109, 40113–40114, 44101–44105, 44107–44108, 44110–44111, 44504, 44701, 44708–44709, 44711–44713, 45302–45303, 46104, 46304, 46306, 47122.

§ 45.22 Exhibition, antique, and other aircraft: Special rules.

15. Amend § 45.22 by removing the words ''Part 121, 127, 133, 135, or 137'' from paragraph (c)(3) and adding in their place the words ''Part 121, 133, 135, or 137''.

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

16. The authority citation for part 65 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

§ 65.95 Inspection authorization: Privileges and limitations.

17. Amend § 65.95 by removing the words ''or 127'' from paragraph (a)(1).

PART 91—GENERAL OPERATING AND FLIGHT RULES

18. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

§ 91.23 Truth-in-leasing clause requirement in leases and conditional sales contracts.

19. Amend § 91.23 by removing the words ''part 121, 125, 127, 135, or 141'' from paragraph (b)(1)(i) and adding in their place the words ''part 121, 125, 135, or 141''.

§ 91.175 Takeoff and landing under IFR.

20. Amend § 91.175 by removing the words ''parts 121, 125, 127, 129, or 135'' from paragraph (f) and adding in their place the words ''parts 121, 125, 129, or 135''.

§ 91.215 ATC transponder and altitude reporting equipment and use.

21. Amend § 91.215 by removing the words ''part 121, 127 or 135'' from paragraph (a) and adding in their place the words ''part 121 or 135''.

§ 91.401 Applicability.

22. Amend § 91.401 by removing the words ''part 121, 127, 129, or § 135.411(a)(2) ''from paragraph (b) and adding in their place the words ''part 121, 129, or § 135.411(a)(2).''

§ 91.403 General.

23. Amend § 91.403 by removing the words ''part 121, 127 or 135'' from paragraph (c) and adding in their place the words ''part 121 or 135''.

§ 91.409 Inspections.

24. Amend § 91.409 as follows:

a. In paragraph (c)(2) remove the words ''part 125, 127, or 135'' and add in their place the words ''part 125 or 135''.

b. In paragraph (f)(1) remove the words ''part 121, 127, or 135'' and add in their place the words ''part 121 or 135''.

§ 91.413 ATC transponder tests and inspections.

25. Amend § 91.413 as follows:

a. In paragraph (a) remove the words ''in 91.215(a), 121.345(c), 127.123(b), or § 135.143(c)'' and add in their place the words ''in 91.215(a), 121.345(c), or § 135.143(c)''.

b. In paragraph (c)(2) remove the words ''part 121, 127 or § 135.411(a)(2)'' and add in their place the words ''part 121 or § 135.411(a)(2).''

PART 142—TRAINING CENTERS

26. The authority citation for part 142 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 44101, 44701–44703, 44705, 44707, 44709–44711, 45102–45103, 45301–45302.

§ 142.1 Applicability.

27. Amend § 142.1 as follows:

a. In paragraph (a) remove the words ''parts 61, 63, 121, 125, 127, 135, or 137'' and add in their place the words ''parts 61, 63, 121, 125, 135, or 137''.

b. In paragraph (b)(1) remove the words ''parts 63, 121, 125, 127, 135, and

137'' and add in their place the words ''parts 63, 121, 125, 135, and 137''.

PART 145—REPAIR STATIONS

28. The authority citation for part 145 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44707, 44717.

§ 145.2 Performance of maintenance, preventive maintenance, alterations and required inspections for an air carrier or commercial operator under the continuous airworthiness requirements of parts 121 and 127, and for airplanes under the inspection program required by part 125.

29. Amend § 145.2 as follows:

a. In the section heading remove the words ''parts 121 and 127'' and add in their place the words ''part 121''.

b. In paragraph (a) remove the words ''or part 127''; and remove the words ''or subpart I of part 127 (except §§ 127.131, 127.134, 127.136, and 127.140)''.

§ 145.63 Reports to defects or unairworthy conditions.

30. Amend § 145.63(c) by removing the words ''part 121, 127, or 135'' and adding in their place the words ''part 121 or 135''; and by removing the words ''under § 21.3, § 37.17, § 121.703, § 127.313, or § 135.57'' and adding in their place the words ''under § 21.3, § 37.17, § 121.703, or § 135.57''.

PART 161—NOTICE AND APPROVAL OF AIRPORT NOISE AND ACCESS RESTRICTIONS

31. The authority citation for part 161 continues to read as follows:

Authority: 49 U.S.C. 106(g), 47523–47527, 47533.

§ 161.5 Definitions.

32. Amend § 161.5 by removing the words ''under parts 127 and 135'' from the definition for *Aviation user class* and adding in their place the words ''under part 135''.

PART 170—ESTABLISHMENT AND DISCONTINUANCE CRITERIA FOR AIR TRAFFIC CONTROL SERVICES AND NAVIGATIONAL FACILITIES

33. The authority citation for part 170 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103–40107, 40113, 44502, 44701–44702, 44708–44709, 44719, 44721–44722, 46308.

§ 170.3 Definitions

34. Amend § 170.3 by removing the words ''parts 121, 127, and 135'' from the definition for *Scheduled commercial service* and adding in their place the words ''parts 121 and 135''.

Issued in Washington, DC on April 19, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

[FR Doc. 01–10239 Filed 4–26–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–29–AD; Amendment 39–12192; AD 2001–08–15]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Corporation (Formerly Allison Engine Company) AE 3007 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Rolls-Royce Corporation (formerly Allison Engine Company) AE 3007A, AE 3007A1/1, AE 3007A1/2, AE 3007A1, AE 3007A1/3, AE 3007A1P, and AE 3007A3 turbofan engines. This action requires initial and repetitive inspections for bearing material contamination of the engine oil system. This amendment is prompted by reports of rapid failures of the No. 1 bearing. The actions specified in this AD are intended to detect the rapid failure of the No. 1 bearing, which could result in smoke in the cabin and an uncommanded in-flight engine shutdown.

DATES: Effective May 14, 2001. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of May 14, 2001.

Comments for inclusion in the Rules Docket must be received on or before June 26, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–29–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: 9-ane-adcomment@faa.gov. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Allison Engine Company, Inc., P.O. Box 420, Indianapolis, IN 46206 USA, Phone: (317) 230–6400; Fax: (317) 230–4243. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Kyri Zaroyiannis, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone: (847) 294–7836; fax: (847) 294–7834.

SUPPLEMENTARY INFORMATION: The Rolls-Royce Corporation (RR) (formerly Allison Engine Company) has notified the FAA that there is a design problem with the No. 1 bearing installed on the AE 3007A, AE 3007A1/1, AE 3007A1/2, AE 3007A1, AE 3007A1/3, AE 3007A1P, and AE 3007A3 turbofan engines. This can lead to an event involving smoke in cabin, followed by an uncommanded in-flight engine shutdown. RR has determined that this problem is the result of the rapid failure of the number 1 bearing installed on the AE 3007A, AE 3007A1/1, AE 3007A1/2, AE 3007A1, AE 3007A1/3, AE 3007A1P and AE 3007A3 turbofan engines. This condition, if not corrected, could result in the rapid failure of the number 1 bearing, which could result in smoke in the cabin and an uncommanded in-flight engine shutdown.

RR is developing a number of design modifications for affected models which, if installed, may reduce the rate of No. 1 bearing distress. The FAA may take additional mandatory action to incorporate these modifications and to eliminate the need for the inspections mandated by this AD. The compliance time of this AD was chosen based on the failure sequence of the number 1 bearing.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of Rolls-Royce Alert Service Bulletin (ASB) AE 3007A–A–79–027, dated August 17, 2000, that provides procedures for inspecting for bearing material contamination of the engine oil system.

Determination of an Unsafe Condition

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design, this AD is being issued to require initial and repetitive inspections for bearing material contamination of the engine oil system, to prevent events caused by the rapid failure of the

number 1 bearing. The actions are required to be accomplished in accordance with the ASB described previously.

Immediate Adoption of This AD

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000-NE–29-AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

This final rule does not have federalism implications, as defined in Executive Order No. 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of 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:

2001–08–15 Rolls-Royce Corporation: Amendment 39–12192. Docket 2000–NE–29–AD.

Applicability: This airworthiness directive (AD) is applicable to Rolls-Royce Corporation (formerly Allison Engine Company) AE 3007A, AE 3007A1/1, AE 3007A1/2, AE 3007A1, AE 3007A1/3, AE 3007A1P, and AE 3007A3 turbofan engines. These engines are installed on, but not limited to, Embraer Model EMB–145, EMB–145ER, EMB–145MR, EMB–145LR, EMB–135ER and EMB–135LR airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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: Compliance with this AD is required as indicated, unless already done.

Compliance

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

To detect the rapid failure of the No. 1 bearing, which could result in smoke in the cabin and an uncommanded in-flight engine shutdown, do the following:

Inspection for Bearing Material Contamination of the Oil System

(a) Inspect for bearing material contamination of the oil system in accordance with 2.A.(1) through 2.A.(2) of the Accomplishment Instructions of Rolls-Royce alert service bulletin (ASB) No. AE 3007A–A–79–027, dated August 17, 2000, as follows:

(1) Do an initial inspection within 30 flight hours, or three flight days after the effective date of this AD, whichever occurs first.

(2) Thereafter, inspect for every 30 flight hours, or every three flight days, whichever occurs first.

Terminating Action

(b) Incorporation of Embraer Service Bulletin 145–79–0001, dated April 24, 1998, is considered terminating action for the inspections required by paragraphs (a)(1) and (a)(2) of this AD.

Alternative Methods of Compliance

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

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

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

(e) The inspection shall be done in accordance with Rolls-Royce alert service bulletin No. AE 3007A–A–79–027, dated August 17, 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 Allison Engine Company, Inc., P.O. Box 420, Indianapolis, IN 46206 USA, Phone:

317–230–6400; Fax: 317–230–4243. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(f) This amendment becomes effective on May 14, 2001.

Issued in Burlington, Massachusetts, on April 16, 2001.

Francis A. Favara,

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

[FR Doc. 01–10022 Filed 4–26–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–87–AD; Amendment 39–12200; AD 2001–08–23]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200 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 767–200 series airplanes. This action requires repetitive inspections for cracking of the outboard pitch load fittings of the wing front spar, and corrective action, if necessary. This action also provides a terminating action for the repetitive inspections, which is optional for uncracked pitch load fittings. This action is necessary to find and fix cracking of the outboard pitch load fittings of the wing front spar, which could lead to loss of the upper link load path and result in separation of the strut and engine from the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective May 14, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 14, 2001.

Comments for inclusion in the Rules Docket must be received on or before June 26, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–87–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–87–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: John Craycraft, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2782; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received reports that fatigue cracking of the outboard pitch load fittings on the wing front spar has been found on certain Boeing Model 767–200 series airplanes. Recently, the FAA has received new reports that such fatigue cracking was found on four out of seven inspected airplanes. The outboard pitch load fittings on the wing front spar are part of the upper link load path. Such cracking, if not corrected, could lead to loss of the upper link load path and result in separation of the strut and engine from the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 767–57A0070, Revision 1, dated November 16, 2000, which describes procedures for repetitive high frequency eddy current (HFEC) inspections for cracking of the outboard pitch load fitting of the wing front spar on the left and right sides of the airplane, and corrective action, if necessary. The corrective action involves rework or replacement of cracked parts. The service bulletin also describes procedures for replacement of the outboard pitch load fittings with new fittings of improved design. These procedures include an HFEC inspection for damage of fastener holes, and repair of damaged fastener holes (if necessary). Installation of new, improved fittings eliminates the need for the repetitive inspections described in the service bulletin.

Boeing Service Bulletin 767–57A0070, Revision 1, refers to Boeing Service Bulletin 767–57–0053 as an additional source of service information for accomplishment of the replacement of the outboard pitch load fitting on Model 767–200 series airplanes.

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 find and fix cracking of the outboard pitch load fittings of the wing front spar, which could lead to loss of the upper link load path and result in separation of the strut and engine from the airplane. This AD requires accomplishment of the actions specified in Boeing Service Bulletin 767–57A0070, Revision 1, described previously, except as discussed below.

Differences Between This AD and Service Bulletin

This AD differs from Boeing Service Bulletin 767–57A0070, Revision 1, in the following ways:

- The service bulletin instructs that the manufacturer should be contacted for rework instructions. However, this AD requires such rework to be accomplished per a method approved by the FAA, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager of the Seattle Aircraft Certification Office, to make such findings.
- The service bulletin specifies a compliance time of 180 days after receipt of the service bulletin for accomplishment of the initial inspection per that service bulletin. However, this AD requires accomplishment of the initial inspection within 30 days after the effective date of this AD. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, and, in particular, the recent reports indicating that cracked pitch load fittings were found on four of seven inspected airplanes. In light of all of these factors, the FAA finds a 30-day compliance time for completing the required inspection to be warranted, in that it represents an

appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Interim Action

This is considered to be interim action. The FAA is currently considering requiring the replacement of the outboard pitch load fitting of the wing front spar with a new, improved fitting, which is provided in this AD as optional for uncracked pitch load fittings, and which would terminate 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–87-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:

2001–08–23 Boeing: Amendment 39–12200. Docket 2001–NM–87–AD.

Applicability: Model series airplanes, as listed in Boeing Service Bulletin 767–57A0070, Revision 1, dated November 16, 2000, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To find and fix cracking of the outboard pitch load fittings of the wing front spar, which could lead to loss of the upper link load path and result in separation of the strut and engine from the airplane, accomplish the following:

Initial and Repetitive Inspections

(a) Within 30 days after the effective date of this AD, perform a high frequency eddy current (HFEC) inspection for cracking of the outboard pitch load fitting of the wing front spar, on the left and right sides of the airplane, according to Boeing Service Bulletin 767–57A0070, Revision 1, dated November 16, 2000. If no cracking is found, repeat the inspection at least every 3,000 flight cycles or 18 months, whichever occurs first, until paragraph (c) of this AD is done.

Note 2: Inspections done prior to the effective date of this AD, in accordance with Boeing Service Bulletin 767–57A0070, dated March 2, 2000, as revised by Information Notice 767–57A0070 IN 01, dated March 23, 2000, are considered acceptable for compliance with paragraph (a) of this AD.

Corrective Action

(b) If any cracking is found during any inspection per paragraph (a) of this AD, prior to further flight, do paragraph (b)(1) or (b)(2) of this AD.

(1) Rework the cracked outboard pitch load fitting according to a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or according to data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a rework method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

(2) Replace the cracked outboard pitch load fitting with a new, improved fitting (including removing the existing fittings, performing an HFEC inspection for damage of fastener holes, repairing damaged fastener holes—if necessary, and installing new fittings of improved design), according to Boeing Service Bulletin 767–57A0070, Revision 1, dated November 16, 2000. Such replacement terminates the repetitive inspections required by paragraph (a) of this AD for the replaced fitting.

Note 3: Boeing Service Bulletin 767–57A0070, Revision 1, refers to Boeing Service Bulletin 767–57–0053 as an additional source of service information for accomplishment of the replacement of the outboard pitch load fitting on Model 767–200 series airplanes.

Optional Terminating Action

(c) Replacement of the outboard pitch load fitting of the wing front spar with a new, improved fitting, according to Boeing Service Bulletin 767–57A0070, Revision 1, dated November 16, 2000, terminates the repetitive inspections required by paragraph (a) of this AD for the replaced fitting.

Spares

(d) As of the effective date of this AD, no one may install on any airplane an outboard pitch load fitting that has a part number listed in the ''Existing Part Number'' column of Paragraph 2.E. of Boeing Service Bulletin 767–57A0070, Revision 1, dated November 16, 2000.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(g) Except as provided by paragraph (b)(1) of this AD, the actions shall be done in accordance with Boeing Service Bulletin 767–57A0070, Revision 1, dated November 16, 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

(h) This amendment becomes effective on May 14, 2001.

Issued in Renton, Washington, on April 18, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–10176 Filed 4–26–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–296–AD; Amendment 39–12199; AD 2001–08–22]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200 and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767–200 and –300 series airplanes, that requires replacement of the existing potable water fill line tube with a new hose. This action is necessary to prevent fracture of a clamshell coupling on the potable water fill line, which could cause water to flow into the aft cargo compartment. A large amount of water in the cargo compartment could cause large shifts in the airplane's center of gravity, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective June 1, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 1, 2001.

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

FOR FURTHER INFORMATION CONTACT: Don Eiford, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2788; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 767–200 and –300 series airplanes was published in the **Federal Register** on December 21, 2000 (65 FR 80390). That action proposed to require replacement of the existing potable water fill line tube with a new hose.

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.

Support for the Proposal

One commenter supports the proposed rule, and two other commenters state no objection to the proposed rule because they do not operate airplanes subject to the proposed rule.

Request To Limit Applicability

One commenter requests that the FAA revise the applicability of the proposed AD to state that the actions are only required for airplanes equipped with a potable water system. The commenter states that it operates several airplanes included in the applicability statement of the proposed rule that are not equipped with a potable water system. The unsafe condition addressed by the proposed AD may occur when water is being pumped into the airplane to fill the potable water system. However, if the airplane has no potable water system, there is no cause for water to be pumped into the airplane. Thus, airplanes without a potable water system would not be subject to the unsafe condition. The FAA concurs, and has revised the applicability statement of this AD to include only Boeing Model 767–200 and –300 series airplanes listed in Boeing Alert Service Bulletin 767–38A0057, dated July 13, 2000, that are equipped with a potable water system.

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 change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 159 Model 767–200 and –300 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 18 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $482 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $9,756, or $542 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. 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 adding the following new airworthiness directive:

2001–08–22 Boeing: Amendment 39–12199. Docket 2000–NM–296–AD.

Applicability: Model 767–200 and -300 series airplanes, as listed in Boeing Alert Service Bulletin 767–38A0057, dated July 13, 2000; equipped with a potable water system; 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 fracture of a clamshell coupling on the potable water fill line, which could cause a large amount of water to flow into the aft cargo compartment, and result in large shifts in the airplane's center of gravity and consequent reduced controllability of the airplane, accomplish the following:

Replacement

(a) Within 12 months after the effective date of this AD, replace the existing potable water fill line tube with a new flexible hose, in accordance with Boeing Alert Service Bulletin 767–38A0057, dated July 13, 2000.

Spares

(b) As of the effective date of this AD, no person shall install a potable water fill line tube, part number 417T2021–179, on any airplane.

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, Seattle 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, Seattle ACO.

Note 2: 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

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

Incorporation by Reference

(e) The replacement shall be done in accordance with Boeing Alert Service Bulletin 767–38A0057, dated July 13, 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

(f) This amendment becomes effective on June 1, 2001.

Issued in Renton, Washington, on April 18, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–10175 Filed 4–26–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–41–AD; Amendment 39–12198; AD 2001–08–21]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Lockheed Model L–1011–385 series airplanes, that requires a visual inspection of the fuel level control switch, the fuel level control switch wiring harness, and the wiring harness conduit for damage, wear or chafing, broken or missing O-rings, or indications of electrical arcing. This amendment also requires replacement of a certain conduit in the fuel level control switch wiring harness, installation of electrical sleeving over

the fuel level control switch wiring harness, and installation of the fuel level control switch which has been so modified. The actions specified by this AD are intended to prevent chafing of the fuel level control switch wiring harness, which could cause arcing and result in a fire in the fuel tank.

DATES: Effective June 1, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 1, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Lockheed Martin Aircraft & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Peters, Program Manager, ACE–116A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6063; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Lockheed Model L–1011–385 series airplanes was published in the **Federal Register** on October 19, 2000 (65 FR 62651). That action proposed to require a visual inspection of the fuel level control switch, the fuel level control switch wiring harness, and the wiring harness conduit for damage, wear or chafing, broken or missing O-rings, or indications of electrical arcing. This amendment also requires replacement of a certain conduit in the fuel level control switch wiring harness, installation of electrical sleeving over the fuel level control switch wiring harness, and installation of the fuel level control switch which has been so modified. Those actions are intended to prevent chafing of the fuel level control switch wiring harness, which could cause arcing and result in a fire in the fuel tank.

Comments Received

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

One commenter requests that the compliance time for the actions specified by the proposed AD be revised from ''within 12 months after the effective date of this AD,'' to ''within 18 months after the effective date of this AD.'' The commenter advises that special equipment to drain and vent the tanks and a specially trained crew are necessary to perform the actions specified in the proposed AD. The commenter advises further that the special equipment and trained crew are only available at a maintenance base. The commenter makes the case that by extending the compliance time to coordinate with the scheduled C-check (at 18-month intervals) the number of required fuel tank entries will be minimized, and therefore, the risk of damage to the tanks and the associated internal and external components will also be minimized.

The FAA agrees with the commenter for the reasons stated by the commenter and has revised the final rule accordingly. We consider that such a 6-month extension of the compliance time will not have an adverse effect of the safety of the fleet.

This same commenter also requests that requirements of paragraph (a) of the proposed rule be revised to clarify that not all conduits should be replaced with part number (P/N) 97590–121 conduits. The commenter points out that not all conduits can be replaced with a -121 conduit, as shapes and bends vary from conduit to conduit. The commenter notes that Lockheed Service Bulletin 093–28–094 (referenced in the NPRM as the appropriate service information) describes procedures for replacing only conduit having P/N 97590–103 with -121 conduit.

The FAA agrees with the request for the reasons stated by the commenter. We have revised the final rule by adding a new paragraph (b) to clarify that only conduit having P/N 97590–103 need to be replaced with the -121 conduit.

Conclusion

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

Cost Impact

There are approximately 235 Model L–1011–385 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 117 airplanes of U.S. registry will be affected by this AD, that it will take approximately 19 work hours per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Required parts will cost approximately $200 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $156,780, or $1,340 per airplane. hour.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. 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 adding the following new airworthiness directive:

2001–08–21 Lockheed: Amendment 39–12198. Docket 2000–NM–41–AD.

Applicability: All Model L–1011–385 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 chafing of the fuel level control switch wiring harness, which could cause arcing and result in a fire in the fuel tank, accomplish the following:

Inspection, Replacement, and Installation

(a) Within 18 months after the effective date of this AD: Verify the part number (P/N) of the wiring harness conduit and perform a general visual inspection of the fuel level control switch, the fuel level control switch wiring harness, and the wiring harness conduit to detect any visible damage, any wear or chafing, broken or missing O-rings, or indications of electrical arcing, in accordance with the Accomplishment Instructions in Lockheed Service Bulletin 093–28–094, dated March 3, 2000.

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.''

(b) Prior to further flight after accomplishment of the requirements in paragraph (a) of this AD, accomplish the actions specified in paragraphs (b)(1) and (b)(2), as applicable; in accordance with the Accomplishment Instructions in Lockheed Service Bulletin 093–28–094, dated March 3, 2000.

(1) Install sleeving over each fuel level control switch wiring harness and install the modified fuel level control switch.

(2) If a conduit with P/N 97590–103 is installed, replace the conduit with one having P/N 97590–121, install sleeving over each fuel level control switch wiring harness, and install the modified fuel level control switch.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with Lockheed Service Bulletin 093–28–094, dated March 3, 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 Lockheed Martin Aircraft & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on June 1, 2001.

Issued in Renton, Washington, on April 18, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–10174 Filed 4–26–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–182–AD; Amendment 39–12202; AD 2001–08–25]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–301, –321, –322, and –342 Series Airplanes and Airbus Model A340 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 Airbus Model A330–301, –321, –322, and –342 series airplanes and certain Airbus Model A340 series airplanes. This action requires reinforcement of the wing structure at the inboard pylon rear pickup area. This action is necessary to prevent fatigue cracking of the bottom skin and reinforcing plate of the wing due to bending, which could lead to reduced structural integrity of the airplane wing. This action is intended to address the identified unsafe condition.

DATES: Effective May 14, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 14, 2001.

Comments for inclusion in the Rules Docket must be received on or before May 29, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–182–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–182–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 certain Airbus Model A330–301, –321, –322, and –342 series airplanes and certain Airbus Model A340 series airplanes. The DGAC advises that, during wing fatigue tests, cracks were detected on the bottom skin and reinforcing plates of stringers 10 and 11 between ribs 10 and 10A at the inboard pylon rear pickup. This condition, if not corrected, could result in reduced structural integrity of the airplane wing.

Explanation of Relevant Service Information

Airbus has issued Service Bulletins A330–57–3021, Revision 03, including Appendices 01 and 02, (for Model A330 series airplanes), and A340–57–4025, Revision 02, including Appendices 01 and 02 (for Model A340 series airplanes), both dated November 5, 1999, which describe procedures for reinforcement of the wing structure at the inboard pylon rear pickup area. This involves removing the existing reinforcing plate; performing high-frequency eddy current tests for cracks, and corrective action, if necessary; and installing a larger reinforcing plate and packer plate. 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 French airworthiness directives 2000–178–121(B) and 2000–179–147(B), both dated May 3, 2000, in order to assure the continued airworthiness of these airplanes in France.

Airbus Service Bulletin A330–57–3021, Revision 03, including Appendices 01 and 02, dated November 5, 1999, specifies the prior or concurrent accomplishment of Airbus Service Bulletin A330–54–3005. Revision 01, dated October 19, 1999, of this service bulletin, describes procedures for replacing five existing fillets with five new fillets, one existing firewall with one new firewall, one existing case drainpipe with one new case drainpipe, and modifying the contour milling of the external tip of rib 19A on the left hand (LH) and right hand (RH) pylons.

Airbus Service Bulletin A340–57–4025, Revision 02, including Appendices 01 and 02, dated November 5, 1999, specifies the prior or concurrent accomplishment of Airbus Service Bulletin A340–54–4003. Revision 01, dated April 26, 2000, of this service bulletin, describes procedures for replacing five existing fillets with five new fillets and one existing firewall with one new firewall on the LH and RH inboard pylons.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.19) 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 that may be registered in the United States at some future time, this AD is being issued to prevent fatigue cracking of the bottom skin and reinforcing plate of the airplane wings due to bending, which could lead to reduced structural integrity of the wings. This AD requires accomplishment of the actions specified in the service bulletins described previously, except as discussed below.

Differences Between Rule and Service Bulletins

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 per 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 AD 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 AD 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, for Model A330–301, –321, –322, and –342 series airplanes, to follow Airbus Service Bulletin A330–57–3021, Revision 03, including Appendices 01 and 02, dated November 5, 1999, it would require approximately 380 work hours to accomplish the required replacements, at an average labor rate of $60 per work hour. Required parts would cost approximately $44,800 per airplane. Based on these figures, the expected cost of these replacements per airplane would be $67,600.

Also for Model A330–301, –321, –322, and –342 series airplanes, to follow Airbus Service Bulletin A330–54–3005, Revision 01, dated October 19, 1999, it would require approximately 36 work hours to accomplish the required replacements, at an average labor rate of $60 per work hour. Required parts would cost approximately $15,774 per airplane. Based on these figures, the expected cost of these replacements per airplane would be $17,934.

For Airbus Model A340 series airplanes, to follow Airbus Service Bulletin A340–57–4025, Revision 02, including Appendices 01 and 02, dated November 5, 1999, it would require approximately 380 work hours to accomplish the required replacements, at an average labor rate of $60 per work hour. Required parts would cost approximately $44,800 per airplane. Based on these figures, the expected cost of these replacements per airplane would be $67,600.

Also for Model A340 series airplanes, to follow Airbus Service Bulletin A340–54–4003, Revision 01, dated April 26, 2000, it would require approximately 26 work hours to accomplish the required replacements, at an average labor rate of $60 per work hour. Required parts would cost approximately $ 15,358 per airplane. Based on these figures, the

expected cost of these replacements per airplane would be $16,918.

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 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 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–182–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:

2001–08–25 Airbus Industrie: Amendment 39–12202. Docket 2000–NM–182–AD.

Applicability: Model A330–301, –321, –322, and –342 series airplanes, as listed in Airbus Service Bulletin A330–57–3021, Revision 03, including Appendices 01 and 02, dated November 5, 1999; and Model A340 series airplanes, as listed in Airbus Service Bulletin A340–57–4025, Revision 02, including Appendices 01 and 02, dated November 5, 1999; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the airplane wing bottom skin and reinforcing plate due to wing bending, which could lead to reduced structural integrity of the wing, accomplish the following:

Modification

(a) For Model A330 series airplanes, prior to the accumulation of 12,000 total flight cycles or 37,300 total flight hours, whichever occurs first, accomplish the actions required by paragraphs (a)(1) and (a)(2) of this AD.

(1) Prior to, or concurrently with, the accomplishment of the tasks required by paragraph (a)(2) of this AD, replace five existing fillets with five new fillets, one existing firewall with one new firewall, and one existing case drainpipe with one new case drainpipe, and modify the contour milling of the external tip of rib 19A on each of the left and right wing pylons, in accordance with Airbus Service Bulletin A330–54–3005, Revision 01, dated October 19, 1999.

(2) Concurrently with, or subsequent to, the accomplishment of the tasks required by paragraph (a)(1) of this AD, reinforce the wing structure at the inboard pylon rear pickup area on both wings (including performing high-frequency eddy current rototests, corrective actions if necessary, and installing a larger reinforcing plate and packer plate) in accordance with Airbus Service Bulletin A330–57–3021, Revision 03, including Appendices 01 and 02, dated November 5, 1999.

(b) For Model A340 series airplanes, prior to the accumulation of 15,000 total flight cycles or 59,600 total flight hours, whichever occurs first, accomplish the actions required by paragraphs (b)(1) and (b)(2) of this AD.

(1) Prior to, or concurrently with, the accomplishment of the tasks required by paragraph (b)(2) of this AD, reinforce the wing structure at the inboard pylon rear pickup area of both wings (including performing high-frequency eddy current rototests, corrective actions if necessary, and installing a larger reinforcing plate and packer plate) in accordance with Airbus Service Bulletin A340–57–4025, Revision 02, including Appendices 01 and 02, dated November 5, 1999.

(2) Concurrently with, or subsequent to, the accomplishment of the tasks required by paragraph (b)(1) of this AD, replace five existing fillets with five new fillets and one existing firewall with one new firewall on each of the left and right wing inboard

pylons, in accordance with Airbus Service Bulletin A340–54–4003, Revision 01, dated April 26, 2000.

(c) If any discrepancy is found during any inspection or rototest required by paragraphs (a)(2) or (b)(1) of this AD, prior to further flight, accomplish applicable repairs in accordance with Airbus Service Bulletin A330–57–3021, Revision 03, including Appendices 01 and 02, dated November 5, 1999 (for Model A330 series airplanes), or Airbus Service Bulletin A340–57–4025, Revision 02, including Appendices 01 and 02, dated November 5, 1999 (for Model A340 series airplanes). If the service bulletin specifies to contact the manufacturer for appropriate action: Prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (or its delegated agent).

Note 2: Accomplishment of the modifications required by paragraphs (a)(1) and (a)(2) or paragraphs (b)(1) and (b)(2) prior to the effective date of this AD in accordance with the service bulletins listed in Table 1, as follows, is considered acceptable for compliance with the applicable actions in this AD:

TABLE 1.—PRIOR SERVICE BULLETINS CONSIDERED ACCEPTABLE FOR COMPLIANCE

Model	Service bulletin	Revision level	Date
A330	A330–57–3021	Original	March 25, 1996.
	A330–57–3021	01	September 1, 1998.
	A330–57–3021	02	April 9, 1999.
A330	A330–54–3005	Original	March 25, 1996.
A340	A340–57–4025	Original	March 25, 1996.
	A340–57–4025	01	September 1, 1998.
A340	A340–54–4003	Original	March 25, 1996.

Alternative Methods of Compliance

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

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

Incorporation by Reference

(f) Except as provided by paragraph (c) of this AD, the actions must be done in accordance with Airbus Service Bulletin A330–57–3021, Revision 03, including Appendices 01 and 02, dated November 5, 1999; Airbus Service Bulletin A340–57–4025, Revision 02, including Appendices 01 and 02, dated November 5, 1999; Airbus Service Bulletin A330–54–3005, Revision 01, dated October 19, 1999; and Airbus Service Bulletin A340–54–4003, Revision 01, dated April 26, 2000; as applicable. 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 French airworthiness directives 2000–178–121(B) and 2000–179–147(B), both dated May 3, 2000.

Effective Date

(g) This amendment becomes effective on May 14, 2001.

Issued in Renton, Washington, on April 19, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–10338 Filed 4–26–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–276–AD; Amendment 39–12205; AD 2001–08–28]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, that requires revising the Airworthiness Limitations Section of the maintenance manual (767 Airworthiness Limitations Instructions (ALI)). The revision will incorporate into the ALI certain inspections and compliance times to detect fatigue cracking of principal structural elements (PSE). This amendment is prompted by analysis of data that identified specific initial inspection thresholds and repetitive inspection intervals for certain PSE's to be added to the ALI. The actions specified by this AD are intended to ensure that fatigue cracking of various PSE's is detected and corrected; such fatigue cracking could adversely affect the structural integrity of these airplanes.

DATES: Effective June 1, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 1, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Linda 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: John Craycraft, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington; telephone (425) 227–2782; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes was published in the **Federal Register** on January 28, 1999 (64 FR 4372). That action proposed to require revising the Airworthiness Limitations Section of the maintenance manual (767 Airworthiness Limitations Instructions (ALI)). The revision would incorporate

into the ALI certain inspections and compliance times to detect fatigue cracking of principal structural elements (PSE).

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.

Support for the Notice of Proposed Rule Making (NPRM)

One commenter supports the NPRM.

1. Request To Use the Term Structural Significant Item (SSI) Rather Than ''Principal Structural Elements (PSE)''

One commenter requests that a clarifying note be added to the preamble of the proposal to explain why the term ''PSE'' is used in the NPRM, rather than ''SSI,'' as used in the Boeing 767 Maintenance Planning Document (MPD). The commenter states that such a note may avoid confusion between the use of the terms.

The FAA agrees that some clarification is necessary. We acknowledge that SSI's are a subset of PSE's, however, the Federal Aviation Regulations (FAR) related to damage tolerance refer only to PSE's. Therefore, for the purposes of this AD, we consider the two terms interchangeable. A new **Note 3** has been added to the final rule to clarify this information.

2. Request To Specify Proper MPD Subsection

One commenter, the manufacturer, notes that the reference in the NPRM to ''Chapter B'' of Section 9 of Boeing 767 MPD is incorrect. The commenter states that the correct title is ''Subsection B.''

The FAA agrees and has revised the final rule accordingly.

3. Request To Limit the Applicability of the NPRM

One commenter requests that the applicability of the NPRM be revised to specifically exclude Boeing Model 767–300F (freighter) series airplanes.

The FAA agrees that clarification to specifically exclude Model 767–300F airplanes is necessary. The preamble of the NPRM specified that Model 767–300F freighter airplanes are not considered to be part of the applicability of this AD since the revision of the ALI that was in effect at the time of the first delivery of a Model 767–300F freighter already addressed the need for inspections of PSE's. However, to ensure the clarity of this exclusion, we have added a new **Note 1** to the final rule specifying that Model 767–300F freighter airplanes are not affected by this AD.

4. Requests Regarding Interpretation of Need for an Alternative Method of Compliance

One commenter requests that, prior to the issuance of the final rule, the manufacturer be required to develop certain fatigue thresholds and damage tolerance analysis on all repairs installed per Boeing documents (e.g., service bulletins, structural repair manuals (SRM's), etc.). The commenter explains that it interprets the language of **Note 1** of the NPRM to mean that, for any repairs found on SSI's during the initial or repeat inspections, the operator would be required to evaluate the repair, obtain a recommendation from a damage tolerance-certified Designated Engineering Representative, take corrective action, and obtain AMOC approval before returning an airplane to service. The commenter adds that the time involved for accomplishing those actions would inevitably result in extended down-time for the affected airplane, even though the existing repairs were previously FAA-approved. Another commenter expresses concern that any repairs or modifications to the SSI's would automatically require AMOC approval and suggests that only those repairs or modifications that prevent the operator from performing the inspections would need to apply for an AMOC. That same commenter also expresses concern about the length of time it takes for approval of AMOC's. The commenter requests that, instead of applying for an AMOC, the repair be analyzed for static strength, with a damage tolerance analysis to follow within one year.

The FAA does not agree with the commenter's request to require that the manufacturer be required to develop, prior to the issuance of the final rule, certain fatigue thresholds and damage tolerance analyses on all repairs installed per Boeing documents (e.g., service bulletins, SRM's, etc.). Boeing Model 767 series airplanes are certified to be damage tolerant; therefore, repairs to these airplanes are also required to be damage tolerant. With the addition to the maintenance manual of the ALI's specified in this AD, both the original Model 767 structure and the repairs described in the 767 SRM are fully damage tolerant and comply with the applicable provisions of 14 CFR 25.571. If an operator chooses to seek an extension of the inspection thresholds for certain repairs, it may do so per paragraph (c) of this AD. No change is necessary to the final rule in this regard.

However, the FAA considers that some information contained in **Note 2** of the final rule should be clarified to accommodate certain airplanes that are required to have ALI's included in the maintenance program. Therefore, **Note 2** (which revises **Note 1** of the NPRM) of this final rule addresses airplanes that have been previously modified, altered, or repaired in the areas addressed by certain ALS inspections. Such modifications, alterations, or repairs may prevent the operator from being able to accomplish the specified inspections. We have provided guidance for this determination in Advisory Circular (AC) 25–1529. If the requirements of an AD cannot be performed, then operators must submit a request for an approval of an AMOC from the FAA, in accordance with the provision of paragraph (c) of this final rule. The new **Note 2** of this AD is to clarify when an AMOC would be required.

5. Requests To Revise Paragraph (a) of the NPRM

One commenter, the manufacturer, reiterates that the NPRM would require that Section 9 of the MPD be revised to incorporate Chapter B. The commenter concludes that, since the manufacturer is the author of Section 9 of the MPD and has already incorporated Subsection B (the correct title of that section, rather than ''Chapter B''), it is unnecessary to require that action to be accomplished by the issuance of an AD. Another commenter, an airline operator, states that revising the manufacturer's document is contrary to long-standing industry practices, whereby companies do not revise documents that are created, published, and maintained by other companies. Rather, as the manufacturer points out, Section 9 of the MPD is the manufacturer's responsibility, not the operators'.

The FAA does not agree. The airworthiness limitations, like the operating limitations, are a part of the type certificate for an airplane. Once an airworthiness certificate is issued for an airplane certifying that it conforms to an approved type design, this design is ''locked'' in the sense that the manufacturer cannot unilaterally change it for the subject airplane. Therefore, when the manufacturer makes any subsequent changes to the type certificate, including changes to the operating or airworthiness limitations, those changes are legally required only for products that are submitted for airworthiness certification based on a showing of conformity to the later design.

Thus, for many years, the FAA has imposed operating restrictions that are necessary to address identified unsafe conditions by requiring revisions to the operating limitations section of the Airplane Flight Manual (AFM). (Revision of the AFM by the type certificate holder would be effective only for airplanes produced after that revision.) Similarly, Boeing's revision to the ALI was effective only for airplanes later certificated with those revisions included in their type certificate. For this reason, as stated in the NPRM, we must engage in rulemaking (i.e., issuance of an AD), in order to make the revisions mandatory for previously certificated airplanes.

While the ALI's are contained in a ''Boeing document'' in the sense that Boeing originally produced it, the document, nevertheless, is a part of the instructions for continued airworthiness that operators must use to maintain the airplane properly. As explained in the NPRM, the effect of requiring that the document be revised to incorporate the current version of the ALI is that, in accordance with 14 CFR part 91.403(c), operators are then required to comply with those limitations. This is analogous to the effect of requiring a revision to the operating limitations: in accordance with 14 CFR Part 91.9(a), operators are required to comply with the revised operating limitations.

Of course, those operators that have previously revised the ALI (or incorporated the revision into their maintenance programs) are given credit for having previously accomplished the requirements of this AD, as allowed by the phrase, ''unless accomplished previously.'' The legal effect is the same: the operator is required to comply with the limitations per 14 CFR part 91.403(c).

6. Request To Clarify Intent of the NPRM

One commenter states that paragraph (b) of the NPRM appears to conflict with the original intent of the NPRM. Paragraph (b) of the NPRM specifies that, after revising the MPD in accordance with paragraph (a) of the NPRM, no alternative inspections or inspection intervals shall be approved for the PSE's. The commenter explains that it is not clear why paragraph (b) is needed if the inspections were accomplished in accordance with 14 CFR parts 43 and 91. The commenter states that paragraph (b) of the NPRM essentially defeats the stated purpose of the NPRM, which is to have operators record their AD compliance only once (at the time the operator's maintenance program is changed), in order to reduce the burden of record keeping and tracking. Second, the commenter explains that paragraph (b) of the NPRM further conflicts with the stated purpose of the NPRM since the ALI itself allows operators certain flexibility in inspection methods and repetitive intervals (although not for initial inspection thresholds) through the use of Boeing's Damage Tolerance Rating (DTR) system.

The FAA does not agree. The purpose of this AD is to address the identified unsafe condition of fatigue cracking in certain PSE's. We have determined that, in order to accomplish that purpose, those airplanes must be brought into compliance with the certification basis, i.e., 14 CFR part 25.571, amendment 25–45. We point out that paragraph (b) of the final rule merely repeats and enforces the provision presently existing in the Boeing 767 MPD, which requires any revision of the airworthiness limitations to be approved by the Seattle Aircraft Certification Office, FAA. We consider that paragraph (b) of the final rule, therefore, does not conflict with the intention to have operator's record their AD compliance only once. Additionally, this AD does not specifically address (or restrict) the use of the DTR specified in the ALI. No change is necessary to the final rule in this regard.

7. Request To Provide Further Clarification Regarding Flight Cycles vs. Flight Hour Thresholds

One commenter, the airplane manufacturer, states that, since there is reference to the 25,000 flight cycle threshold and 50,000 flight cycle threshold (in the preamble of the NPRM), it should also be noted that there is a flight cycle versus flight hour threshold for some flight length sensitive items. Also, the commenter notes that there are some other restrictions, such as a calendar threshold of 20 years unless an FAA-approved Corrosion Prevention and Control Program (CPCP) has been implemented, as well as a requirement to revert any escalated structural inspections back to the intervals specified in Section 8 of the MPD.

The FAA acknowledges that there is other information available in the revision to the MPD, which was not discussed in the preamble of the NPRM in the section entitled ''New Revision of ALI.'' The information that we provided in the preamble of the NPRM was intended to be representative of the information that was used to determine that none of the airplanes affected is likely to reach the threshold for certain PSE's (identified as SSI's in the ALI). Since the ''New Revision of ALI'' section does not reappear in the final rule, no change to the final rule is necessary in this regard.

8. Request To Revise Certain SSI Repairs

One commenter requests that the requirements of the NPRM be revised to reflect certain repair actions for SSI's that were installed before the effective date of the AD, and certain other repair actions for SSI's that are installed after the effective date of the AD.

The FAA does not agree that the requirements of the NPRM should be revised. In the case of this final rule, the required action is simply to revise Section 9 of the Model 767 MPD by incorporating Subsection B, dated August 1997. The specific information contained in the MPD is developed (with the concurrence of the FAA) and then printed by the manufacturer. The FAA notes that the requirements of this AD do not address the accomplishment of the specific information contained in Subsection B. As discussed previously, 14 CFR 91.403(c) imposes that requirement, and NOTE 2 has been added to the AD to addresss the possible need to obtain approval of alternative methods of compliance for certain repairs. Therefore, no further change to the final rule is necessary in this regard.

9. Request To Extend the Compliance Time

One commenter, an operator, requests that the compliance time be revised from ''within 3 years after the effective date of the AD'' to ''within 4 years after the effective date of the AD.'' The commenter states that the manufacturer originally recommended a compliance time of 5 years and, consequently, the commenter has been using a 5-year compliance time in its maintenance planning activities. The commenter states that a 3-year grace period would cause excessive airplane downtimes and lost revenue costs.

The FAA does not agree with the commenter's request to extend the compliance time. For the reasons discussed in the preamble of the NPRM, this AD allows operators up to 3 years after the effective date of this AD to accomplish the ALI revision required by this AD. This period provides operators of airplanes that are approaching or have already reached the 25,000-flight-cycle inspection threshold with a reasonable amount of time to plan and perform the inspections. We note that only a few PSE's in the ALI have an initial inspection threshold of 25,000 total flight cycles. The majority of PSE's in the ALI have an initial inspection

threshold that corresponds to the design service objective of the affected airplane (i.e., 50,000 total flight cycles for passenger airplanes). In addition, the Model 767 Structures Working Group, whose membership is composed of many of the major operators worldwide and almost all U.S. operators, has been aware of the specific contents and requirements of this ALI revision since August 1996. These facts have led us to determine that 3 years is an appropriate and reasonable period of time for operators to comply with the requirements of this AD. However, an alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be requested in accordance with paragraph (c) of this AD.

10. Requests To Require Incorporation of ALI Into Operations Specifications

One commenter, the manufacturer, suggests that the NPRM be revised to require the operators to incorporate the ALI's into the appropriate Maintenance Program Specification (Operations Specification).

The FAA does not agree that incorporation of the ALI's into the Operations Specifications (Ops Specs) is appropriate. Operation of certain transport airplanes may be exclusively under the provisions and requirements of Part 91, and therefore, operators would not even be required to maintain Operations Specifications. Further, Ops Specs simply authorize the use of a Continuous Airworthiness Maintenance Program (CAMP) for the operator's individual airplane models and specify, in particular, that procedures, standards, checks, service, repair, and/or preventive maintenance, checks or tests, shall be described in the certificate holder's manual.

The commenter further requests that the requirements of the NPRM be written such that the operator's Operations Specification is continuously updated with the current revision of Section 9 of the MPD. If that process is not possible, the commenter suggests that the requirements be accomplished in accordance with the latest FAA-approved revision of Section 9 of the MPD.

The FAA does not agree with the commenter's requests. We note that the commenter provided no justification or benefit of implementing the suggested changes. In response to the suggestion that the Ops Specs be continuously updated with current revisions of Section 9 of the MPD, the FAA notes that incorporation of new revisions of the ALI into the Ops Specs would have the effect of imposing new requirements without providing notice to the public and opportunity for comment.

For a similar reason, to change paragraph (a) of this AD to incorporate any revision of Boeing Document D622T001–9 other than the ''June 1997'' (as specified in the NPRM), also would have the effect of imposing new requirements without providing notice to the public and opportunity for comment. We consider that delaying this action to provide for such notice to the public would be inappropriate since we have determined that an unsafe condition exists, and that inspections must be conducted to ensure continued safety. However, paragraph (c) of the final rule does provide affected operators the opportunity to request approval of an alternative method of compliance.

Editorial Changes Appearing in the Final Rule

To accommodate the addition of the new notes in the final rule, the FAA has revised the numbering of the notes that appeared in the NPRM.

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 660 Boeing Model 767 series airplanes (excluding Model 767–300F freighters) of the affected design in the worldwide fleet. The FAA estimates that 250 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $15,000, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Although this AD requires only a revision to the current ALI, the FAA recognizes that the inspections contained in the ALI will then be required by 14 CFR parts 43 and 91. We estimate that it will take approximately 1,000 work hours to accomplish all of the ALI inspections. At an average labor rate of $60 per work hour, the cost to perform the ALI inspections (14 CFR parts 43 and 91, rather than by 14 CFR part 39) will be approximately $60,000 per airplane. We note that the majority of work hours needed to perform the inspections will be expended when an affected airplane reaches the 50,000 flight-cycle-threshold. Based upon current airplane utilization, we estimate that no airplane will reach this threshold for at least 10 years.

Regulatory Impact

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, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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:

2001–08–28 Boeing: Amendment 39–12205. Docket 97–NM–276–AD.

Applicability: Model 767–200 and -300 series airplanes having line numbers 1 through 669 inclusive, certificated in any category.

Note 1: Boeing Model 767–300F freighter airplanes are not affected by this AD.

Note 2: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR part 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR part 91.403(c), the operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include a description of changes to the required inspections that will ensure the continued damage tolerance of the affected structure. The FAA has provided guidance for this determination in Advisory Circular (AC) 25–1529.

Compliance: Required as indicated, unless accomplished previously.

To ensure continued structural integrity of these airplanes, accomplish the following:

Revise Section 9 of the Boeing 767 Maintenance Planning Data (MPD)

(a) Within 3 years after the effective date of this AD, revise Section 9 of the Boeing 767 Maintenance Planning Data (MPD) Document entitled ''Airworthiness Limitations and Certification Maintenance Requirements (CMR's)'' to incorporate Subsection B of Boeing Document D622T001–9, Revision ''June 1997.''

Note 3: The referenced Subsection B contains a requirement that cracks found during the specified inspections be reported to the Seattle Aircraft Certification Office (ACO), FAA. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget 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.

Note 4: For the purposes of this AD, the terms Principal Structural Elements (PSE's) as used in this AD, and Structural Significant Items (SSI's) as used in Section 9 of Model 767 MPD Document, are considered to be interchangeable.

Alternative Inspections and Inspection Intervals

(b) Except as provided in paragraph (c) of this AD: After the actions required by paragraph (a) of this AD have been accomplished, no alternative inspections or inspection intervals shall be approved for the SSI's contained in Boeing 767 MPD Document D622T001–9, Revision ''June 1997.''

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

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

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with Subsection B of Boeing 767 Maintenance Planning Data Document D622T001–9, Revision ''June 1997'', which contains the following list of effective pages:

Page No.	Revision date shown on page
List of Effective Pages, Page 9.0–5.	June 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 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

(f) This amendment becomes effective on June 1, 2001.

Issued in Renton, Washington, on April 19, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–10337 Filed 4–26–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–82–AD; Amendment 39–12204; AD 2001–08–27]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–1011 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 Lockheed Model L–1011 series airplanes. This action requires inspection of the windshield heat wire bundle for chafing or damage, and inspection of the harness clamps of the wire bundle for damage; and corrective actions, if necessary. For certain airplanes, this action also requires rerouting of the windshield heat wire bundle. This action is necessary to prevent chafing or damage of the windshield heat wire bundle, which could cause arcing and result in smoke and fire in the cockpit. This action is intended to address the identified unsafe condition.

DATES: Effective May 14, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 14, 2001.

Comments for inclusion in the Rules Docket must be received on or before June 26, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–82–AD, 1601 Linda 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–82-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 Lockheed Martin & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Peters, Program Manager, Program

Management Support Branch, ACE–116A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6063; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: The FAA has received a report indicating that an in-flight electrical arcing occurred to the windshield heat wire bundle located above the First Officer's side window in a Lockheed Model L–1011–385 series airplane. The wires were smoldering and flames were observed by the flightcrew. After the flightcrew donned smoke goggles and masks, two windshield heat circuit breakers opened, and the flightcrew opened the remaining circuit breakers, which removed power from the arcing wire bundle. Investigation of the cockpit revealed that the windshield and window heat wire harness C–38 was arcing in the proximity of a wire harness clamp installed just above the First Officer's chart light mounting bracket. Approximately 20 wires sustained various degrees of damage. The investigation also revealed that the clamp, which had been directly over the section of burned wire, was broken into two pieces and the rubber insulation appeared carbonized. The metal of the clamp also appeared to have been exposed to an electrical discharge. This condition, if not corrected, could result in chafing and damage to the C–38 wire bundle, which could cause arcing and result in smoke and fire in the cockpit.

Explanation of Relevant Service Information

The FAA has reviewed and approved Lockheed Service Bulletin 093–30–060, dated March 6, 2001, which describes procedures for a detailed visual inspection of the C–38 wire harness for any chafing or damage (e.g., shavings, moisture, deterioration, etc.). The service bulletin also describes procedures for repair and replacement of any damaged wiring. The FAA also reviewed and approved Lockheed Service Bulletin 093–30–057, dated April 27, 1984. That service bulletin describes procedures for rerouting the C–38 windshield heat wire harness for certain airplanes that have a First Officer's chart light installation that was accomplished during production or after delivery. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

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 prevent damage to the C–38 wire bundle, which can cause arcing and result in smoke and fire in the cockpit. This AD requires accomplishment of the applicable actions specified in the service bulletins 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–82–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:

2001–08–27 Lockheed: Amendment 39–12204. Docket 2001–NM–82–AD.

Applicability: Model L–1011 series airplanes, as listed in Lockheed Service Bulletin 093–30–060, dated March 6, 2001, and Lockheed Service Bulletin 093–30–057,

dated April 27, 1984; 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 damage to the windshield heat wire bundle, which could cause arcing and result in smoke and fire in the cockpit; accomplish the following:

Inspection of Wiring and Clamps, and Corrective Actions

(a) For airplanes listed in Lockheed Service Bulletin 093–30–060, dated March 6, 2001: Within 60 days after the effective date of this AD, perform the detailed visual inspections and repair or replacements specified in paragraph (a)(1) and (a)(2) of this AD, per Lockheed Service Bulletin 093–30–060, dated March 6, 2001.

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.''

(1) Remove the C–38 wire harness clamps and perform a detailed visual inspection of the clamps and the conforming cushions for any sign of deterioration, damage, or slippage on the metal band of the clamp. Before further flight, replace any clamp that does not meet the specified criteria in the service bulletin with a new or serviceable clamp, per the service bulletin.

(2) Perform a detailed visual inspection of the C–38 wire harness for any damage from chafing or contamination (e.g., shavings, moisture, deterioration, etc.). Before further flight, repair, or replace any chafed or damaged wiring per the service bulletin.

Rerouting the C–38 Harness

(b) For airplanes listed in Lockheed Service Bulletin 093–30–057, dated April 27, 1984: Within 60 days after the effective date of this AD, reroute the C–38 harness and add one additional clamp to secure the harness away from the mounting brackets of the Flight Officer's chart light assembly, per the service bulletin.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with Lockheed Service Bulletin 093–30–060, dated March 6, 2001; and Lockheed Service Bulletin 093–30–057, dated April 27, 1984, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Lockheed Martin & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on May 14, 2001.

Issued in Renton, Washington, on April 19, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–10339 Filed 4–26–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–09–AD; Amendment 39–12212; AD 2001–09–07]

RIN 2120–AA64

Airworthiness Directives; Pratt and Whitney PW4000 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment supersedes an emergency airworthiness directive (AD) 2001–08–52 that was sent previously to all known U.S. owners and operators of Pratt and Whitney (PW) model PW4050, PW4052, PW4056, PW4060, PW4060A, PW4060C, PW4062, PW4152, PW4156, PW4156A, PW4158, PW4160, PW4460, PW4462, and PW4650 turbofan engines by individual letters. That emergency AD requires limiting the number of PW4000 engines, listed by serial number (SN) in that AD, with potentially reduced stability to no more than one engine on each airplane; removal of certain PW4000 engines, listed by SN in this AD, before exceeding cyclic limits that are determined by airplane model; removal of certain PW4000 engines, listed by SN in this AD, that have a high pressure compressor with 1,500 or more cycles-since-overhaul (CSO) greater than the high pressure turbine (HPT) CSO; and requires a minimum rebuild standard for engines that are returned to service. This amendment supersedes emergency AD 2001–08–52 to provide clarifications and additions to the compliance and applicability of certain paragraphs of AD 2001–08–52. This AD is prompted by a report of a dual-engine surge event during take-off on an Airbus Industrie A300 airplane. The actions specified by this AD are intended to prevent multiple-engine power losses due to high pressure compressor (HPC) surge at a critical phase of flight such as takeoff or climb.

DATES: Effective May 14, 2001.

Comments for inclusion in the Rules Docket must be received on or before June 26, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–09–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov.'' Comments sent via the Internet must contain the docket number in the subject line.

FOR FURTHER INFORMATION CONTACT: Peter White, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7128; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: On April 13, 2001, the Federal Aviation Administration (FAA) issued emergency

AD 2001–08–52, applicable to PW model PW4050, PW4052, PW4056, PW4060, PW4060A, PW4060C, PW4062, PW4152, PW4156, PW4156A, PW4158, PW4160, PW4460, PW4462, and PW4650 turbofan engines, which requires:

• Limiting the number of PW4000 engines, listed by serial number (SN) in that AD, to no more than one engine with potentially reduced stability on each airplane within 10 cycles after receipt of that AD. AND

• Removal of certain PW4000 engines, listed by SN in that AD, before exceeding cyclic limits that are determined by airplane model, or within 100 cycles-in-service (CIS) after the receipt of that AD whichever occurs later. AND

• Removal of certain PW4000 engines, listed by SN in that AD, within 100 cycles after the receipt of that AD, that have an HPC with 1,500 or more CSO greater than the HPT CSO. AND

• A minimum rebuild standard for engines that are returned to service. Since AD 2001–08–52 was issued, the FAA has reevaluated those requirements, and found that the requirements of that AD need to be clarified and changed to meet the original safety intent of the emergency AD. This amendment supersedes emergency AD 2001–08–52 to provide clarifications and additions to the compliance and applicability of certain paragraphs of AD 2001–08–52. Significant changes to AD 2001–08–52 include:

• Minor modifications made to engine serial number listings in Table 1 and Table 2 of this AD.

• Adding engines with the HPC Cutback Stator (CBS) configuration to the installation restrictions of paragraph (c), to be consistent with the installation restrictions of paragraph (b) of this AD.

• Editing paragraph (f) to clarify applicability to all PW4000 series engines defined in the applicability section.

• Modifying paragraph (g) to clarify applicability, and to specifically require an HPC overhaul.

• Modifying paragraph (h) to alter applicability to Table 2 engines only, and to clarify applicability.

• Adding paragraph (i) to clarify requirements for all PW4000 engines included in the applicability section of this AD.

• Clarifying the elimination of installation restrictions in paragraphs (g) and (h).

FAA's Determination of an Unsafe Condition and Proposed Actions

Since the unsafe condition described is likely to exist or develop on other PW4000 series turbofan engines of the same type design, this AD is being issued to prevent multiple-engine power losses due to high pressure compressor (HPC) surge at a critical phase of flight such as takeoff or climb. This AD requires:

• Limiting the number of PW4000 engines listed by serial number (SN) in this AD, to no more than one engine with potentially reduced stability on each airplane within 10 cycles after effective date of this AD. AND

• Removal of certain PW4000 engines, listed by SN in this AD, before exceeding cyclic limits that are determined by airplane model, or within 100 cycles-in-service (CIS) after the effective date of this AD whichever occurs later. AND

• Removal of certain PW4000 engines, listed by SN in this AD, within 100 cycles after the effective date of this AD, that have an HPC with 1,500 or more CSO greater than the HPT CSO. AND

• A minimum rebuild standard for engines that are returned to service.

Immediate Adoption of This AD

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NE–09–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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:

2001–09–07 Pratt and Whitney: Amendment 39–12212. Docket 2001–NE–09–AD.

Applicability: This airworthiness directive (AD) is applicable to Pratt and Whitney (PW) model PW4050, PW4052, PW4056, PW4060, PW4060A, PW4060C, PW4062, PW4152, PW4156, PW4156A, PW4158, PW4160, PW4460, PW4462, and PW4650 turbofan engines. These engines are installed on, but not limited to, certain models of Boeing 747, Boeing 767, Airbus Industrie A300, Airbus Industrie A310, and McDonnell Douglas MD–11 series airplanes.

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

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

To prevent multiple-engine power losses due to high pressure compressor (HPC) surge at a critical phase of flight such as takeoff or climb, do the following:

(a) Within 10 cycles-in-service (CIS) after the effective date of this AD, limit the number of engines listed by SN in the following Table 1 of this AD, to no more than one per airplane:

TABLE 1. SUSPECTED HIGH SURGE RATE ENGINES

723845, 723934, 723936, 723962, 723966, 723967, 723969, 724012, 724013, 724016, 724030, 724040, 724041, 724045, 724057, 724073, 724115, 724137, 724153, 724175, 724195, 724196, 724198, 724200, 724351, 724383, 724501, 724612, 724615, 724616, 724625, 724629, 724689, 724808, 724827, 724829, 724830, 724833, 724837, 724838, 724848, 724855, 724857, 724858, 727316, 727317

(b) Engines that are removed in accordance with paragraph (a) of this AD may be installed on an airplane if ALL of the following conditions are met:

(1) That airplane does not have any engines with a SN that is listed in Table 1 or Table 2 of this AD. AND

(2) The installed engines meet the requirements of paragraphs (d) and (e) of this AD. AND

(3) The airplane does not have any engines that incorporate the HPC Cutback Stator (CBS) configuration, which has been incorporated as specified by the following PW service bulletins (SB's) or earlier revisions: PW4ENG 72–706, Revision 3, dated July 17, 2000; PW4ENG 72–711, dated June 13, 2000; or PW4ENG 72–704, dated July 17, 2000.

(c) After the effective date of this AD, do not install an engine with a SN that is listed in the following Table 2 of this AD, or an engine incorporating the HPC CBS configuration as defined in (b)(3) of this AD, on an airplane that has an engine with a SN that is listed in Table 1 of this AD:

TABLE 2. ENGINES RESTRICTED FROM INSTALLATION WITH SUSPECTED HIGH SURGE RATE ENGINES

717508, 717710CN, 723859, 723863, 723938, 723963, 724022, 724024, 724050, 724054, 724080, 724099, 724173, 724179, 724184, 724191, 724205, 724385, 724386, 724479, 724509, 724566, 724690, 724847, 724861, 724864, 724870, 724882, 724883, 724893, 727365, 727395, 727421, 727426, 727462, 727478, 727496, 727500, 727502, 727506, 727521, 727535, 727536, 727537, 727540, 727543, 727617, 727619, 727747, 733701, (d) Remove engines listed by SN in

Table 1 of this AD within 100 CIS after the effective date of this AD, or before exceeding the cyclic limits listed in the following Table 3 of this AD, whichever occurs later:

TABLE 3. HIGH PRESSURE COMPRESSOR CYCLE LIMITS BY AIRPLANE

Airplane	High pressure compressor (HPC) cycles
(1) Boeing 767 and 747	2,500 cycles-since-overhaul (CSO).
(2) McDonnell Douglas MD–11	2,500 CSO.
(3) Airbus A300 and A310	2,000 CSO.

(e) Within 100 CIS after the effective date of this AD, remove engines listed by SN in Table 1 of this AD that have an HPC with 1,500 or more CSO greater than the CSO of the HPT.

(f) For any engine listed in the applicability of this AD, that is inducted into the shop that results in separation of the HPC and HPT modules after the effective date of this AD, do not install any HPC or HPT modules where the CSO of the HPC will be 1,500 or more cycles greater than the CSO of the HPT.

(g) When engines listed by SN in Table 1 of this AD are removed from service in accordance with paragraphs (a), (d), or (e) of this AD, they may be returned to service after the accomplishment of an HPC overhaul and meeting the requirements of paragraph (h)(1) or (h)(2) of this AD without the installation limitations of paragraphs (a), (b), (c) and (d) of this AD.

(h) After the effective date of this AD, an engine listed by SN in Table 2 of this AD, that has HPC cycles since overhaul greater than those shown in Table 3 of this AD, or that has an HPC with 1,500 or more CSO greater than the CSO of the HPT may be returned to service without the limitations of paragraph (c) of this AD after an HPC overhaul is performed and EITHER of the following have been done:

(1) The HPC and HPT have been modified by the following PW SB's, or earlier revisions: PW4ENG 72–484, Revision 3, dated July 1, 1997; PW4ENG 72–486, Revision 2, dated April 28, 1998; PW4ENG 72–575, Revision 2, dated July 29, 1998; and PW4ENG 72–514, Revision 3, dated August 10, 1999; OR

(2) The engine has been converted to the Phase III configuration by the following PW SB's or earlier revisions: PW4ENG 72–490, Revision 1, dated August 2, 1994; or PW4ENG 72–504, Revision 1, dated May 9, 1995; or PW4ENG 72–572, dated June 16, 1995.

(i) Any engine listed in the applicability of this AD inducted into the shop for HPC overhaul after the effective date of this AD must meet the requirements of paragraphs (h)(1) or (h)(2) of this AD before return to service.

Definitions

(j) For the purposes of this AD, the following definitions apply:

(1) An HPC overhaul is defined as restoration of the HPC stages 5 through 15 blade tip clearances to the limits specified in

the applicable fits and clearances section of the engine manual.

(2) An HPT overhaul is defined as restoration of the HPT module stage 1 and 2 blade tip clearances to the limits specified in the applicable fits and clearances section of the engine manual.

Alternative Methods of Compliance

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

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

Special Flight Permits

(l) 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.

Effective Date

(m) This amendment becomes effective May 14, 2001.

Issued in Burlington, Massachusetts on April 20, 2001.

Francis A. Favara,

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

[FR Doc. 01–10463 Filed 4–26–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 24

[T.D. 01–34]

RIN 1515–AC82

Amended Procedure for Refunds of Harbor Maintenance Fees Paid on Exports of Merchandise

AGENCY: Customs Service, Department of the Treasury.

ACTION: Interim regulations; correcting amendment.

SUMMARY: This document contains corrections to the interim regulations (T.D. 01–25), which were published in the **Federal Register** on March 28, 2001. The interim regulations provide a new procedure for requesting refunds of harbor maintenance fees that were paid on exports. The correction involves the address to which refund requests for all quarterly paid harbor maintenance fees must be sent.

DATES: Effective on March 28, 2001.

FOR FURTHER INFORMATION CONTACT: Deborah Thompson, Accounts Receivable Branch, Accounting Services Division, (317) 298–1200 (ext. 4003).

SUPPLEMENTARY INFORMATION:

Background

Interim regulations providing a new procedure for requesting refunds of harbor maintenance fees that were paid on exports were published as T.D. 01–25 in the **Federal Register** (66 FR 16854) on Wednesday, March 28, 2001. The interim regulation amended § 24.24(e)(4), Customs Regulations (19 CFR 24.24(e)(4)). An error was contained in paragraphs (e)(4)(i) and (e)(4)(ii)(A) of § 24.24 regarding the zip code in the address to send requests for refunds for harbor maintenance fees paid on both export and non-export movements. This document corrects that error. The correct address to send requests for quarterly paid harbor maintenance fee refunds is: U.S. Customs Service, HMT Refunds, 6026 Lakeside Blvd., Indianapolis, IN 46278.

List of Subjects in 19 CFR Part 24

Accounting, Claims, Customs duties and inspection, Fees, Financial and accounting procedures, Imports, Taxes, User Fees.

Amendment to the Regulations

For the reasons stated in the preamble, part 24 of the Customs Regulations (19 CFR part 24) is corrected as follows:

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The authority citation for part 24 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58a—58c, 66,1202 (General Note 22, Harmonized Tariff Schedule of the United States), 1505, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 9701.

* * * * *

2. Section 24.24 is amended by revising the third sentence of paragraph (e)(4)(i) and the first sentence of paragraph (e)(4)(ii)(A) to read as follows:

§ 24.24 Harbor maintenance fee.

(e) * * *

(4) * * *

(i) A refund request should be mailed to: U.S. Customs Service, HMT Refunds, 6026 Lakeside Blvd., Indianapolis, Indiana 46278. * * *

(ii) * * *

(A) For export fee payments made prior to July 1, 1990, the exporter (the name that appears on the SED or equivalent documentation authorized under 15 CFR 30.39(b)) or its agent must submit a letter of request for a refund to the U.S. Customs Service, HMT Refunds, 6026 Lakeside Blvd., Indianapolis, IN 46278, specifying the grounds for the refund and identifying the specific payments made. * * *

* * * * *

Dated: April 23, 2001.

Stuart P. Seidel,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 01–10484 Filed 4–26–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 183

RIN: 1076–AE10

Use and Distribution of the San Carlos Apache Tribe Development Trust Fund and San Carlos Apache Tribe Lease Fund

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is amending its regulations by adding a new part in response to the San Carlos Apache Tribe Water Rights Settlement Act. The Act sets up two funds for the benefit of the San Carlos Apache Tribe, namely, the San Carlos Apache Tribe Development Trust Fund and the San Carlos Apache Tribe Lease Fund. This regulation sets out the criteria and processes involved in the distribution of principal and income for the Trust Fund and the distribution of income accrued for the Lease Fund, as administered by the BIA. The Act required the Secretary to promulgate rules no later than 30 days after December 31, 1999. The Secretary consulted extensively with the Tribe on the content of the rule from January through July 2000. Since the rule is more than one year late in being promulgated, the Secretary is issuing this rule as a Final Rule that will become effective upon publication.

DATES: This rule is effective on April 27, 2001. Comments must be received on or before June 26, 2001.

ADDRESSES: Send comments to: Terry Virden, Director, Office of Trust Responsibilities, Bureau of Indian Affairs, Attn: Branch of Irrigation and Power, MS 3061–MIB, Code 210, 1849 C Street, NW., Washington, DC 20240; Telephone (202) 208–5480.

FOR FURTHER INFORMATION CONTACT: Wayne Nordwall, Regional Director,

Bureau of Indian Affairs, Western Regional Office, Attn: Branch of Water and Land Resources, P.O. Box 10, Phoenix, Arizona 85001; Telephone (602) 379–6789.

SUPPLEMENTARY INFORMATION: The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301; the Act of August 14, 1914 (38 Stat. 583; 25 U.S.C. 385). The Secretary has delegated this authority to the Assistant Secretary—Indian Affairs under part 209 Departmental Manual, Chapter 8.1A and Memorandum dated January 25, 1994, from Chief of Staff, Department of the Interior, to Assistant Secretaries, and Heads of Bureaus and Offices.

Background

The San Carlos Apache Tribe Water Rights Settlement Act (the Act), Public Law 102–575, 106 Stat. 4740 *et seq.*, set up two funds for the benefit of the San Carlos Apache Tribe (Tribe), namely, the San Carlos Apache Tribe Development Trust Fund (Trust Fund) and the San Carlos Apache Tribe Lease Fund (Lease Fund). The Act required the Secretary of the Interior (Secretary) to promulgate regulations to properly administer and provide for the distribution of principal and income accrued to the Trust Fund. For the sake of consistency, we are issuing regulations that will provide, also, for the distribution of income accrued to the Lease Fund—though the Act did not require this action. These regulations were developed in consultation between the Bureau of Indian Affairs (BIA) and the Tribe over the time from January through July, 2000. These consultations were in keeping with the Administration's policy on government-to-government consultations, as first iterated by the President's memorandum of April 29, 1994. While this has resulted in a longer regulation development period—a period beyond the statutory requirements of the Act—the result of a cohesive, consensus agreement as presented in the proposed regulations significantly mitigates against any delay in their promulgation.

A new part 183 is, therefore, being added to title 25 of the Code of Federal Regulations to allow for the administration of the Trust Fund and the Lease Fund for the benefit of the Tribe.

Public Comments

Comments should be submitted to the address indicated in the **ADDRESSES** section of this document, where they will be available for public inspection. All written comments received by the BIA, by the date indicated in the **DATES** section of this document, and all other relevant information in the record will be carefully assessed and fully considered.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, that we will honor to the extent allowed by law. There also may be circumstances in that we would withhold a respondent's identity from the rulemaking record, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Regulatory Planning and Review (Executive Order 12866)

In accordance with the criteria in Executive Order 12866, this rule is not a significant regulatory action. This rule will not have an annual economic effect of $100 million or adversely effect an economic sector, productivity, jobs, the environment or other units of government. The rule applies only to one small Tribal community in Arizona and is required to be promulgated by the Secretary as a pre-requisite to the Tribe being able to use trust funds provided to the Tribe in its water rights settlement act. A cost-benefit and economic analysis was not prepared because such analysis is irrelevant to the right of the Tribe to have access to this trust fund under its water rights settlement act. This rule will not create inconsistencies with other agencies' actions because no other agency has any program responsibility over the distribution of the Tribe's trust fund. This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients because the rule only applies to the distribution of money belonging to one Tribe and is required to permit the Tribe to use its money. This rule will not raise novel legal or policy issues because the Secretary's legal and policy authority to administer and distribute Indian trust funds is well-established.

Regulatory Flexibility Act

The Department of the Interior, BIA, certifies that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). An initial Regulatory Flexibility Analysis is not required because Indian tribes are not considered to be small entities for purposes of this act.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule does not have an annual effect on the economy of $100 million or more because it applies only to one small Tribe in Arizona. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions because it applies only to one small Tribe in Arizona. This rule does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises because it applies only to one small Tribe in Arizona.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501, *et seq.*), this rule will not produce a Federal mandate of $100 million or greater in any year, i.e., it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act because the rule applies only to one small Tribe in Arizona. This rule will not ''significantly or uniquely'' affect small governments and a Small Government Agency Plan is not required because the rule applies only to one small Tribe in Arizona, concerns trust funds owned by this one small Tribe, and is required by the Tribe's water rights settlement act in order for the Tribe to use the trust funds provided under the settlement act. Further, the Secretary consulted extensively with the Tribe on the proposed rule from January through July 2000.

Takings Implication Assessment (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required. Nothing is taken by the Federal Government; the rule merely provides a process for administering this program.

Federalism (Executive Order 13132)

This rule does not have significant Federalism effects to warrant the

preparation of a Federalism Assessment under Executive Order 13132. This rule will not have substantial direct effects on the states, in their relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of government.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This rule contains information collection requirements. However, this collection comes from only one respondent in one Tribe. The Tribal Council of the San Carlos Apache Tribe has sole access to the money through submission of a spending plan and request for funds. Therefore, it does not meet the requirements of ''ten or more persons annually'' as defined in the Paperwork Reduction Act (5 CFR 1320.3(c)(4)) and need not be cleared by the Office of Management and Budget.

National Environmental Policy Act

We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act and 318 DM 2.2(g) and 6.3(D). This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement/assessment is not required. The promulgation of this rule is mandated by Section 3703(d) of Public Law 102–575 and the Secretary has no discretion that could be informed by an environmental impact statement or environmental statement.

Clarity of This regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§ '' and a numbered heading; for example, § 183.2 What terms do I need to know?).

(5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW, Washington, DC 20240. You may also e-mail the comments to this address: Exsec@ios.doi.gov

Administrative Procedure Act

We are publishing this rule as a final rule without first publishing a proposed rule, as allowed under the good cause exception in 5 U.S.C. section 553(b)(3)(B). Seeking public comment is impractical, unnecessary and contrary to the public interest for the following reasons:

- The San Carlos Apache Tribe Water Rights Settlement Act required us to promulgate rules no later than 30 days after December 31, 1999; and
- Further delaying publication of this rule could cause financial harm to the San Carlos Tribe.

We are also making the rule effective as of the date of publication as allowed under the good cause exception in 5 U.S.C. section 553(d)(3). Delaying the effective date of this rule is unnecessary and contrary to the public interest because this could cause financial harm to the San Carlos Apache Tribe.

We invite comments on any aspect of this rule and we will revise the rule if comments warrant. Send comments on this rule to the address in the **ADDRESSES** section.

List of Subjects in 25 CFR Part 183

Accounting, Indians—business and finance.

For the reasons stated in the preamble, the Department of the Interior, Bureau of Indian Affairs, is adding a new Part 183 in subchapter H, chapter I of Title 25 of the Code of Federal Regulations as follows:

PART 183—USE AND DISTRIBUTION OF THE SAN CARLOS APACHE TRIBE DEVELOPMENT TRUST FUND AND SAN CARLOS APACHE TRIBE LEASE FUND

Subpart A—Introduction

Sec.
183.1 What is the purpose of this part?
183.2 What terms do I need to know?
183.3 Does the American Indian Trust Fund Management Reform Act of 1994 apply to this part?

Subpart B—Trust Fund Disposition

Use of Principal and Income

183.4 How can the Tribe use the principal and income from the Trust Fund?

Clearance Requirements

183.5 What documents must the Tribe submit to request money from the Trust Fund?
183.6 How long will it take to get a decision?
183.7 What would cause the Secretary to disapprove a request?

Limitations

183.8 How can the Tribe spend funds?

Subpart C—Lease Fund Disposition

Use of Principal and Income

183.9 Can the Tribe request the principal of the Lease Fund?
183.10 How can the Tribe use income from the Lease Fund?

Clearance Requirements

183.11 What documents must the Tribe submit to request money from the Lease Fund?
183.12 How long will it take to receive a decision?
183.13 What would cause the Secretary to disapprove a request?

Limitations

183.14 What limits are there on how the Tribe can spend funds?

Subpart D—Reports

183.15 Must the Tribe submit any reports?
183.16 What information must be included in the Tribe's annual report?

Subpart E—Liability

183.17 If expenditures under this part lead to a claim or cause of action, who is liable?
183.18 Information collection requirements

Authority: Pub. L. 102–575, 106 Stat. 4740 *et seq.*

Subpart A—Introduction

§ 183.1 What is the purpose of this part?

This part implements section 3707(e) of the San Carlos Apache Tribe Water Settlement Act (the Act), Public Law 102–575, 106 Stat. 4748, that requires regulations to administer the Trust Fund, and the Lease Fund established by the Act.

§ 183.2 What terms do I need to know?

In this part:

Administrative costs means any cost, including indirect costs, incurred by the Tribe reasonably related to an allowed use of funds under the Settlement Act, including indirect costs.

Beneficial use means any use to which the Tribe's water entitlement is

put that is authorized by the Settlement Act, the Settlement Agreement, or by the Tribal Council under the Settlement Act, the Settlement Agreement or otherwise permitted by law.

CAP means the Central Arizona Project, a reclamation project authorized under title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 *et seq.*).

Community development project or purpose means any business, recreational, social, health, education, environment, or general welfare project approved by the Tribal Council for the benefit of any community within the reservation.

Economic development project or purpose means any commercial, industrial, agricultural, or business project approved by the Tribal Council for the purpose of profit to the Tribe.

Income means interest or income earned or accrued on the principal of the Trust Fund or the Lease Fund and is available for distribution to the Tribe in accordance with the Settlement Act and this part. Beginning with calendar year 2001, any income that has been earned or has accrued on the principal of the Trust Fund or the Lease Fund and that has not been requested for distribution by the Tribe by December 31, shall become part of the principal of the Trust Fund or the Lease Fund on January 1 of the next calendar year.

Lease Fund means the San Carlos Apache Tribe Lease Fund established in the Treasury of the United States under section 3711(d)(3)(E)(iv) of the Settlement Act.

Principal means:

(1) The amount of funds in the Trust Fund or the Lease Fund as of January 1, 2002; and

(2) Any income thereon that is not distributed, and has been added to the principal, in accordance with the Settlement Act and this part.

Pro forma budget means a budget, and operating statement, showing the estimated results for operating the economic development project for two years after injection of the principal or income into the operation.

Secretary means the Secretary of the Interior or an authorized representative acting under delegated authority. The term ''Secretary':

(1) Includes the Regional Director for the Western Regional Office of the Bureau of Indian Affairs; and

(2) Does not include the Superintendent of the San Carlos Agency of the Bureau of Indian Affairs.

Settlement Act means the San Carlos Apache Tribe Water Settlement Act of 1992, Title XXXVII of Public Law 102–575, 106 Stat. 4740, and any amendments thereto.

Settlement Agreement means the agreement and any amendments executed and approved in accordance with the Settlement Act.

Tribe means the San Carlos Apache Tribe, a Tribe of Apache Indians, under the Apache Treaty, July 1, 1852, 10 Stat. 970, organized under section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476), and duly recognized by the Secretary of the Interior.

Trust Fund means the San Carlos Apache Tribe Development Trust Fund established in the Treasury of the United States under section 3707(b) of the Settlement Act.

We and *us* mean the Secretary of the Interior as defined in this section.

§ 183.3 Does the American Indian Trust Fund Management Reform Act of 1994 apply to this part?

Yes. We will manage and make distributions from the Trust Fund in accordance with the American Indian Trust Funds Management Act of 1994 (Management Act), except where the Management Act conflicts with the Settlement Act or this part. If there is a conflict, we will follow the provisions of the Settlement Act or this part.

Subpart B—Trust Fund Disposition

Use of Principal and Income

§ 183.4 How can the Tribe use the principal and income from the Trust Fund?

The Tribe may use the principal and income from the Trust Fund in the following ways:

(a) To put to beneficial use the water entitlement provided to the Tribe in the Settlement Act;

(b) To defray the cost to the Tribe of CAP operation, maintenance, and replacement charges;

(c) For economic development purposes; provided, however, that principal may only be used for long-term economic development projects and income may be used for other economic and community development purposes; and

(d) For Administrative Costs reasonably related to the above uses.

Clearance Requirements

§ 183.5 What documents must the Tribe submit to request money from the Trust Fund?

To request a distribution of principal or income from the Trust Fund, the Tribe must submit to us all of the following documents.

(a) A certified copy of a duly enacted resolution of the Tribal Council requesting a distribution from the Trust Fund;

(b) A written budget and supporting documentation, approved by the Tribal Council, showing precisely how the tribe will spend the money, including what amounts should come from principal and what amounts should come from income;

(c) A pro forma budget for each identified economic development project, and a program budget for each identified community development project; and

(d) A certification stating that the Tribe will use the funds in accordance with budgets submitted under this section.

§ 183.6 How long will it take to get a decision?

Within 30 days of receiving the information required by § 183.5 we will approve your request if it complies with the Settlement Act and this part. If we disapprove your request we will do so in writing and will provide you with the reasons for disapproval.

§ 183.7 What would cause the Secretary to disapprove a request?

We will only disapprove a request for the distribution of principal or income from the Trust Fund if the request does any of the following:

(a) Fails to provide the documents identified in § 183.5;

(b) Fails to provide reports required under §§ 183.15 and 183.16; or

(c) Includes a use requested or written budget that does not comply with a specific provision of the Settlement Act, or this part.

Limitations

§ 183.8 How can the Tribe spend funds?

(a) The Tribe must spend principal or income distributed from the Trust Fund only in accordance with a written budget submitted under § 183.5.

(b) The Tribe must not spend the principal or income from the Trust Fund to make per capita payments to members of the Tribe.

Subpart C—Lease Fund Disposition

Use of Principal and Income

§ 183.9 Can the Tribe request the principal of the Lease Fund?

No. We cannot distribute the principal from the Lease Fund to the Tribe.

§ 183.10 How can the Tribe use income from the Lease Fund?

The Tribe may use income from the Lease Fund for the following purposes:

(a) For economic development purposes;

(b) For community development purposes; and

(c) For administrative costs reasonably related to the above.

Clearance Requirements

§ 183.11 What documents must the Tribe submit to request money from the Lease Fund?

To request a distribution of income from the Lease Fund, the Tribe must submit to us all of the following documents:

(a) A certified copy of a duly enacted resolution of the Tribal Council requesting a distribution from the Lease Fund;

(b) A pro forma budget for each identified economic development project and a program budget for each identified community development project, approved by the Tribal Council, showing precisely how the Tribe will spend the money;

(c) Supporting documentation for the budgets required by paragraph (b) of this section, and

(d) A certification stating that the Tribe will use the funds in accordance with budgets submitted under this section.

§ 183.12 How long will it take to receive a decision?

Within 30 days of receiving the information required by § 183.11 we will approve your request if it complies with the Settlement Act and this part. If we disapprove your request we will do so in writing and will provide you with the reasons for disapproval.

§ 183.13 What would cause the Secretary to disapprove a request?

We will only disapprove a request for distribution of income from the Lease Fund if the request does any of the following:

(a) Fails to provide the documents identified in § 183.5;

(b) Fails to provide reports required under §§ 183.15 and 183.16; or

(c) Includes a use requested or written budget that does not comply with a specific provision of the Settlement Act or this part.

Limitations

§ 183.14 What limits are there on how the Tribe can spend funds?

(a) The Tribe must spend income distributed from the Lease Fund only in accordance with a written budget submitted under § 183.5.

(b) The Tribe must not spend the income from the Lease Fund to make per capita payments to members of the Tribe.

Subpart D—Reports

§ 183.15 Must the Tribe submit any reports?

Yes. The Tribe must submit the following reports after receiving funds under this part:

(a) An Annual Report, that must be submitted no later than December 31 of each year; and

(b) A Financial Audit, that must be submitted no later than March 1 of each year.

§ 183.16 What information must be included in the Tribe's annual report?

The Tribe's annual report must contain the following information:

(a) An accounting of the expenditures of funds distributed to the Tribe from the Trust Fund or the Lease Fund for the preceding 12 months;

(b) A description, in detail, of how the Tribe has used the funds distributed from the Trust Fund or the Lease Fund consistently with the requirements in the Settlement Act, this part, and the budget approved by the Tribal Council and the Secretary; and

(c) Sufficient documentation for us to determine that the Tribe has satisfied the requirements of paragraph (b) of this section.

Subpart E—Liability

§ 183.17 If expenditures under this part lead to a claim or cause of action, who is liable?

The Tribe may be liable. The United States must not be liable for any claim or cause of action arising from the Tribe's use or expenditure of monies distributed from the Trust Fund or the Lease Fund.

§ 183.18 Information Collection Requirements

The information collection requirements contained in this part do not meet the requirements of ''ten or more persons'' annually; therefore, the Office of Management and Budget does not need to clear the collection. You may direct comments concerning this information collection to the Bureau of Indian Affairs, Information Collection Control Officer, 1849 C Street, NW, Washington, DC 20240.

Dated: April 19, 2001.

James H. McDivitt,

Deputy Assistant Secretary—Indian Affairs (Management).

[FR Doc. 01–10250 Filed 4–26–01; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Part 1

[Docket No. 010208033–1033–01]

RIN 0651–AB33

Changes to the Time Period for Making Any Necessary Deposit of Biological Material

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: In a rulemaking to implement the Patent Business Goals, the United States Patent and Trademark Office (Office) proposed a change to the time period within which a deposit of biological material (if needed) must be made. The Office held this proposed change in abeyance pending consideration of a study by the Comptroller General of the potential risks to the United States biotechnology industry relating to biological deposits as required by the American Inventors Protection Act of 1999. The Office is now, after consideration of this study, adopting a change to the time period within which a deposit of biological material (if needed) must be made and the depository information added to the specification.

EFFECTIVE DATE: May 29, 2001. This change is effective for any application in which a Notice of Allowability is mailed on or after May 29, 2001.

FOR FURTHER INFORMATION CONTACT: Robert W. Bahr, Karin L. Tyson, or Robert A. Clarke by telephone at (703) 308–6906, or by mail addressed to: Box Comments—Patents, Commissioner for Patents, Washington, DC 20231, or by facsimile to (703) 872–9411, marked to the attention of Robert W. Bahr.

SUPPLEMENTARY INFORMATION: In October of 1999, the Office proposed a number of changes to the rules of practice in title 37 of the Code of Federal Regulations to implement the Patent Business Goals. *See Changes to Implement the Patent Business Goals*, 64 FR 53771 (Oct. 4, 1999), 1228 *Off. Gaz. Pat. Office* 15 (Nov. 2, 1999) (Proposed Rule). Among the proposed changes was a proposal to amend § 1.809 to revise the time period within which a deposit of biological material (if needed) must be made and the depository information added to the specification. *See Changes to Implement the Patent Business Goals,* 64 FR 53814, 53842, 1228 *Off. Gaz. Pat. Office* 52, 78–79.

The American Inventors Protection Act of 1999 (Title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948) as introduced in the 106th Congress on November 17, 1999) was incorporated and enacted into law on November 29, 1999, by § 1000(a)(9), Division B, of Pub. L. 106–113, 113 Stat. 1501 (1999). Section 4805 of the American Inventors Protection Act of 1999 provides that the Comptroller General (in consultation with the Office) shall conduct a study and submit a report to Congress on the potential risks to the United States biotechnology industry relating to deposits of biological material in support of biotechnology patents, and that the Office shall consider the recommendations of such study in drafting regulations affecting deposits of biological material (including any modification of § 1.801 *et seq.*). Therefore, the Office held its proposed change to § 1.809 in abeyance pending the completion of the study. *See Changes to Implement the Patent Business Goals*, 65 FR 54603, 54651 (Sept. 8, 2000), 1238 *Off. Gaz. Pat. Office* 77, 118–19 (Sept. 19, 2000) (Final Rule).

The study required by section 4805 of the American Inventors Protection Act of 1999 was completed in October of 2000. *See Deposits of Biological Materials in Support of Certain Patent Applications,* GAO–01–49 (Oct. 2000). This report may be obtained: (1) By mail addressed to U.S. General Accounting Office, P.O. Box 37050, Washington, DC 20013; (2) in person by visiting Room 1100, 700 4th Street, NW. (Corner of 4th Street and G Street, NW.), U.S. General Accounting Office, Washington, DC, (3) by telephone at (202) 512–6000, facsimile at (202) 512–6061, or TDD (202) 512–2537; or (4) via the General Accounting Office's Internet Web site at http://www.gao.gov. The study did not contain any recommendations related to the Office's proposal to amend § 1.809 to revise the time period within which a deposit of biological material (if needed) must be made. Therefore, the Office is now revising § 1.809 based upon its October 1999 proposal.

Discussion of Specific Rules

Title 37 of the Code of Federal Regulations, Part 1, is amended as follows:

Section 1.136: Section 1.136(c) is amended to add the period for making a deposit set under § 1.809(c) to the time periods that are not extendable under § 1.136 if an applicant is notified in a ''Notice of Allowability'' that an application is otherwise in condition for allowance, or in an Office action having a mail date on or after the mail date of the ''Notice of Allowability.''

Section 1.809: Section 1.809(b) is amended to change ''respond'' to ''reply'' (*see* § 1.111), and to eliminate the language relating to payment of the issue fee.

Section 1.809(c) is amended to: (1) Provide that if an application for patent is otherwise in condition for allowance except for a needed deposit and the Office has received a written assurance that an acceptable deposit will be made, applicant will be notified and given a period of time within which the deposit must be made in order to avoid abandonment; (2) provide that this time period is not extendable under § 1.136(a) or (b) if set forth in a ''Notice of Allowability'' or in an Office action having a mail date on or after the mail date of a ''Notice of Allowability'' (*see* § 1.136(c)); and (3) eliminate the language stating that failure to make a needed deposit will result in abandonment for failure to prosecute, because abandonment for failure to prosecute occurs by operation of law when an applicant fails to timely comply with such a requirement (*see* 35 U.S.C. 133). If an application for patent is otherwise in condition for allowance except for a needed deposit, the Office will notify applicant in the ''Notice of Allowability'' that a deposit is required, and the ''Notice of Allowability'' will set a three-month (non-extendable) period within which the deposit must be made in order to avoid abandonment of the application.

Section 1.809(e) is added to remind applicants that the amendment required by § 1.809(d) must be filed before or with the payment of the issue fee. The rules of practice no longer permit amendments to be filed after payment of the issue fee. *See* § 1.312. Therefore, applicants need to make any necessary deposit of biological material well prior to payment of the issue fee such that the accession number is received with sufficient time remaining to amend the specification as required by § 1.809(d) on or before the date the issue fee is paid. If the amendment required by § 1.809(d) is not filed before or with the payment of the issue fee, applicant will need to submit the amendment with a petition under § 1.183 to waive the requirement of § 1.312 that any amendment after the mailing of a notice of allowance be filed before or with the payment of the issue fee so as to permit entry of the amendment required by § 1.809(d).

Finally, applicants are encouraged to make the deposit when filing the patent application in order to avoid possible loss of the U.S. filing date in other countries. *See Manual of Patent Examining Procedure* § 2406.03 (July 1998).

Classification

Administrative Procedure Act: This final rule only changes the time period within which a deposit under § 1.801 *et seq.* must be filed (if needed). Therefore, this change concerns only rules of Office procedure, and prior notice and an opportunity for public comment for this change is not required pursuant to 5 U.S.C. 553(b)(A), or any other law. However, a notice of proposed rulemaking was published in the **Federal Register** and the Official Gazette, and no comments on the proposed change were received. *See Changes to Implement the Patent Business Goals*, 64 FR 53771 (Oct. 4, 1999), 1228 *Off. Gaz. Pat. Office* 15 (Nov. 2, 1999) (Proposed Rule).

Regulatory Flexibility Act: The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. No comments were received regarding the economic impact of this rule. As a result, no regulatory flexibility analysis was prepared.

Executive Order 13132: This final rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (August 4, 1999).

Executive Order 12866: This final rule has been determined to be not significant for purposes of Executive Order 12866 (September 30, 1993).

Paperwork Reduction Act: This final rule involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information involved in this final rule has been reviewed and previously approved by OMB under the following control number 0651–0022. The United States Patent and Trademark Office is not resubmitting an information collection package to OMB for its review and approval because the changes in this final rule do not affect the information collection requirements associated with the information collection under OMB control number 0651–0022.

The title, description and respondent description of this information collection is shown below with an estimate of the annual reporting

burdens. Included in the estimate is the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. The principal impact of the changes in this final rule is a change in the time period for filing a deposit under § 1.801 *et seq.* (if needed).

OMB Number: 0651–0022.

Title: Deposit of Biological Materials for Patent Purposes.

Form Numbers: None.

Type of Review: Routine submission.

Affected Public: Individuals or Households, State or Local Governments, Farms, Business or Other For-Profit, Federal Agencies or Employees, Not-for-Profit Institutions, Small Businesses or Organizations.

Estimated Number of Respondents: 3,300.

Estimated Time Per Response: 1.0 hour.

Estimated Total Annual Burden Hours: 3,300 hours.

Needs and Uses: Information on depositing of biological materials in depositories is required for (1) Office determination of compliance with the patent statute where the invention sought to be patented relies on biological material subject to deposit requirement, which includes notifying interested members of the public where to obtain samples of deposits, and (2) depositories desiring to be recognized as suitable by the Office.

Comments are invited on: (1) Whether the collection of information is necessary for proper performance of the functions of the agency; (2) the accuracy of the agency's estimate of the burden; (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 to respondents.

Interested persons are requested to send comments regarding these information collections, including suggestions for reducing this burden, to Robert J. Spar, Director, Office of Patent Legal Administration, United States Patent and Trademark Office, Washington, DC 20231, or to the Office of Information and Regulatory Affairs, OMB, 725 17th Street, NW, Washington, DC 20503, (Attn: PTO Desk Officer).

Notwithstanding any other provision of law, no person is required to respond to 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.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of Information, Inventions and patents, Reporting and record keeping requirements, Small Businesses.

For the reasons set forth in the preamble, 37 CFR Part 1 is amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

I. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2).

Section 1.136 is amended by revising paragraph (c) to read as follows:

§ 1.136 Extensions of time.

* * * * *

(c) If an applicant is notified in a ''Notice of Allowability'' that an application is otherwise in condition for allowance, the following time periods are not extendable if set in the ''Notice of Allowability'' or in an Office action having a mail date on or after the mail date of the ''Notice of Allowability'':

(1) The period for submitting an oath or declaration in compliance with § 1.63;

(2) The period for submitting formal drawings set under § 1.85(c); and

(3) The period for making a deposit set under § 1.809(c).

Section 1.809 is amended by revising paragraphs (b) and (c) and adding paragraph (e) to read as follows:

§ 1.809 Examination procedures.

* * * * *

(b) The applicant for patent or patent owner shall reply to a rejection under paragraph (a) of this section by—

(1) In the case of an applicant for patent, either making an acceptable original, replacement, or supplemental deposit, or assuring the Office in writing that an acceptable deposit will be made; or, in the case of a patent owner, requesting a certificate of correction of the patent which meets the terms of paragraphs (b) and (c) of § 1.805, or

(2) Arguing why a deposit is not needed under the circumstances of the application or patent considered and/or why a deposit actually made should be accepted. Other replies to the examiner's action shall be considered nonresponsive. The rejection will be repeated until either paragraph (b)(1) of this section is satisfied or the examiner is convinced that a deposit is not needed.

(c) If an application for patent is otherwise in condition for allowance except for a needed deposit and the Office has received a written assurance that an acceptable deposit will be made, applicant will be notified and given a period of time within which the deposit must be made in order to avoid abandonment. This time period is not extendable under § 1.136(a) or (b) if set forth in a ''Notice of Allowability'' or in an Office action having a mail date on or after the mail date of a ''Notice of Allowability'' (see § 1.136(c)).

* * * * *

(e) Any amendment required by paragraphs (d)(1), (d)(2) or (d)(4) of this section must be filed before or with the payment of the issue fee (see § 1.312).

Dated: April 18, 2001.

Nicholas P. Godici,

Acting Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 01–10188 Filed 4–26–01; 8:45 am]

BILLING CODE 3510–16–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Docket # RI040–7167a; FRL–6971–1]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Rhode Island; Plan for Controlling Emissions From Existing Hospital/Medical/Infectious Waste Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) approves the Sections 111(d)/129 State Plan submitted by the Rhode Island Department of Environmental Management (RIDEM) on August 23, 2000. This State Plan is for implementing and enforcing provisions at least as protective as the Emissions Guidelines (EGs) applicable to existing Hospital/Medical/Infectious Waste Incinerators (HMIWIs) for which construction commenced on or before June 20, 1996.

DATES: This direct final rule is effective on June 26, 2001 without further notice unless EPA receives significant adverse comment by May 29, 2001. If adverse comment is received EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: You should address your written comments to: Mr. Steven Rapp, Manager, Air Permits Unit, Office of Ecosystem Protection, U.S. EPA-New England, Region 1, One Congress Street,

Suite 1100 (CAP), Boston, Massachusetts 02114–2023.

Documents which EPA has incorporated by reference for previous rulemaking are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. You may examine copies of materials the RIDEM submitted to EPA relative to this action during normal business hours at the following locations: Environmental Protection Agency-New England, Region 1, Air Permits Unit, Office of Ecosystem Protection, Suite 1100, One Congress Street, Boston, Massachusetts 02114–2023, and Rhode Island Department of Environmental Management, Office of Air Resources, 235 Promenade Street, Providence, Rhode Island 02908–5767, (401) 222–2808.

The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the day of the visit.

FOR FURTHER INFORMATION CONTACT: John Courcier at (617) 918–1659.

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I. What Action Is EPA Taking Today?

EPA is approving Rhode Island's State Plan submitted on September 20, 2000 for the control of air emissions from HMIWIs throughout the State. When EPA developed the New Source Performance Standards (NSPS) for HMIWIs, the Agency simultaneously developed the Emission Guidelines (EGs) to control air emissions from existing HMIWIs (see 62 FR 48348–48391, September 15, 1997). Rhode Island developed a State Plan, as required by sections 111(d) and 129 of the Clean Air Act (the Act), to adopt the EGs into its body of regulations, and EPA is acting today to approve Rhode Island's State Plan for regulating existing HMIWI units.

EPA is publishing this approval action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the State Plan should relevant adverse comments be filed. If EPA receives no significant, material, and adverse comments by May 29, 2001, this action will be effective June 26, 2001.

If EPA receives significant, material, and adverse comments by the above date, the Agency will withdraw this action before the effective date by publishing a subsequent document in the **Federal Register** that will withdraw this final action. EPA will address all public comments received in a subsequent final rule based on the parallel proposed rule published in today's **Federal Register**. 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.

II. Why Does EPA Want To Regulate Air Emissions From HMIWIs?

When burned, hospital waste and medical/infectious waste emit various air pollutants, including hydrochloric acid, dioxin/furan, toxic metals (lead, cadmium, and mercury) and particulate matter. Mercury is highly hazardous and is of particular concern because it persists in the environment and bioaccumulates through the food web. Serious developmental and adult effects in humans, primarily damage to the nervous system, have been associated with exposures to mercury. Harmful effects in wildlife have also been reported; these include nervous system damage and behavioral and reproductive deficits. Human and wildlife exposure to mercury occur mainly through eating of fish. When inhaled, mercury vapor attacks also the lung tissue and is a cumulative poison. Short-term exposure to mercury in certain forms can cause hallucinations and impair consciousness. Long-term exposure to mercury in certain forms can affect the central nervous system and cause kidney damage.

Exposure to particulate matter can aggravate existing respiratory and cardiovascular disease and increase risk of premature death. Hydrochloric acid is a clear colorless gas. Chronic exposure to hydrochloric acid has been reported to cause gastritis, chronic bronchitis, dermatitis, and photosensitization. Acute exposure to high levels of chlorine in humans may result in chest pain, vomiting, toxic pneumonitis, pulmonary edema, and death. At lower levels, chlorine is a potent irritant to the eyes, the upper respiratory tract, and lungs.

Exposure to dioxin and furan can cause skin disorders, cancer, and reproductive effects such as endometriosis. These pollutants can also affect the immune system.

III. When Did EPA First Publish These Requirements?

The EPA proposed the EGs in the **Federal Register** on June 20, 1996. On September 15, 1997, according to sections 111 and 129 of the Clean Air Act (Act), the EPA published the final form of the EGs applicable to existing HMIWIs. The EGs are at 40 CFR part 60, subpart Ce. *See* 62 FR 48348.

IV. Who Must Comply With the Requirements?

All HMIWIs that commenced construction on or before June 20, 1996 (''existing HMIWIs'') must comply with these requirements.

V. Are Any Sources Exempt From the Requirements?

The following incinerator source categories are exempt from the federal requirements for existing HMIWIs:

(1) Incinerators that burn only pathological, low-level radiation, and/or chemotherapeutic waste (all defined in section 60.51c). However, the owner or operator must notify the EPA Administrator of an exemption claim and the owner or operator must keep records of the periods of time when only pathological, low-level radioactive, and/or chemotherapeutic waste is burned.

(2) Any unit required to have a permit under section 3005 of the Solid Waste Disposal Act.

(3) Incinerators that are subject to the NSPS and/or EGs for Municipal Waste Combustors.

(4) Existing incinerators, processing operations, or boilers that co-fire medical/infectious waste or hospital waste with other fuels or wastes and that combust less than ten percent or less medical/infectious waste and hospital waste by weight (on a calendar quarter basis). However, the owner or operator must notify the EPA Administrator of an exemption claim and the owner or operator must keep

records of the amount of each fuel and waste fired.

VI. By What Date Must HMIWIs in Rhode Island Achieve Compliance?

All existing HMIWIs in the state of Rhode Island must comply with these requirements by October 20, 2000, unless RIDEM grants an extension. However, final compliance must be achieved no later than September 16, 2002.

VII. What Happens if an HMIWI Does Not/Cannot Meet the Requirements by the Final Compliance Date?

Any existing HMIWI that fails to meet the requirements by September 16, 2002 must shut down. The unit will not be allowed to start up until the owner/operator installs the controls necessary to meet the requirements.

VIII. What Options Are Available to Operators if They Cannot Achieve Compliance by October 20, 2000?

If an existing HMIWI cannot achieve compliance by October 20, 2000, the operator must agree to meet certain increments of progress until they achieve compliance. The State Plan details the increments of progress for the affected HMIWIs.

IX. What Is a State Plan?

Section 111(d) of the Act requires that pollutants controlled under NSPS must also be controlled at existing sources in the same source category. Once an NSPS is issued, EPA then publishes an EG applicable to the control of the same pollutant from existing (designated) facilities. States with designated facilities must then develop State Plans to adopt the EGs into their body of regulations. States must also include in their State Plans other elements, such as inventories, legal authority, and public participation documentation, to demonstrate their ability to enforce the State Plans.

X. What Did the State Submit as Part of Its State Plan?

The State of Rhode Island submitted its Sections 111(d)/129 State Plan to EPA for approval on August 23, 2000 and supplemented it on September 28, 2000. The State adopted the EG requirements into the Rhode Island Air Pollution Control Regulation No. 39, ''Hospital/Medical/Infectious Waste Incinerators'' on August 1, 2000. The State Plan contains:

(1) A demonstration of the State's legal authority to implement the State Plan.

(2) Rhode Island Air Pollution Control Regulation No. 39 as the enforceable mechanism.

(3) An inventory of the sources on page 7 of the State Plan.

(4) An emissions inventory on pages 7 through 9 of the State Plan.

(5) Emission limits, at least as protective as the EGs, that are contained in APC Reg No. 39.5.

(6) Provisions for compliance schedules that are contained in APC Reg. No. 39.3.

(7) Testing, monitoring, and inspection requirements that are contained in APC Reg. Nos. 39.6, 39.7, 39.8 and 39.11.

(8) Reporting and Recordkeeping requirements that are contained in APC Reg. No. 39.9.

(9) Operator training and qualification requirements that are contained in APC Reg. No. 39.10.

(10) Requirements for the development of a Waste Management Plan that are contained in APC Reg. No. 39.3.2.

(11) A record of the public notice and hearing requirements.

(12) Provisions for state progress reports to EPA that are contained on page 2 of the State Plan.

(13) Title V permit application due date requirements that are contained in APC Reg. No. 39.3.1.

(14) A final compliance date of September 15, 2002.

XI. Why Is EPA Approving Rhode Island's State Plan?

EPA has evaluated the HMIWI State Plan submitted by Rhode Island for consistency with the Act, EPA guidelines and policy. EPA has determined that Rhode Island's State Plan meets all requirements and, therefore, EPA is approving Rhode Island's Plan to implement and enforce the EGs, as it applies to existing HMIWIs. EPA is not approving those portions of Air Pollution Control Regulation No. 39 that apply to HMIWIs constructed after June 20, 1996.

EPA's approval of Rhode Island's State Plan is based on our findings that:

(1) RIDEM provided adequate public notice of public hearings for the proposed rule-making that allows Rhode Island to carry out and enforce provisions that are at least as protective as the EGs for HMIWIs, and

(2) RIDEM demonstrated legal authority to adopt emission standards and compliance schedules applicable to the designated facilities; enforce applicable laws, regulations, standards and compliance schedules; seek injunctive relief; obtain information necessary to determine compliance; require record keeping; conduct inspections and tests; require the use of monitors; require emission reports of owners and operators; and make emission data publicly available.

A detailed discussion of EPA's evaluation of the State Plan is included in the technical support document (TSD) located in the official file for this action and available from the EPA contact listed above. The State Plan meets all of the applicable approval criteria.

XII. Why Does EPA Need To Approve State Plans?

Under section 129 of the Act, EGs are not federally enforceable. Section 129(b)(2) of the Act requires states to submit State Plans to EPA for approval. Each state must show that its State Plan will carry out and enforce the EGs. State Plans must be at least as protective as the EGs, and they become federally enforceable upon EPA's approval. The procedures for adopting and submitting State Plans are in 40 CFR Part 60, Subpart B.

EPA originally issued the Subpart B provisions on November 17, 1975. EPA amended Subpart B on December 19, 1995, to allow the subparts developed under Section 129 to include specifications that supersede the general provisions in Subpart B regarding the schedule for submittal of State Plans, the stringency of the emission limitations, and the compliance schedules. *See* 60 FR 65414.

XIII. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under

Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves an existing state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks that EPA has reason to believe may have a disproportionate effect on children.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's action does not create any new requirements on any entity affected by this State Plan. Thus, the action will not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

State Plan approvals under section 111(d) and section 129(b)(2) of the Clean Air Act do not create any new requirements on any entity affected by this rule, including small entities. They simply approve requirements that the state is already imposing. Furthermore, in developing the HMIWI emission guidelines and standards, EPA prepared a written statement pursuant to the Regulatory Flexibility Act which it published in the 1997 promulgation notice (*see* 62 FR 48348). In accordance with EPA's determination in issuing the 1997 HMIWI emission guidelines, this State Plan does not include any new requirements that will have a significant economic impact on a substantial number of small entities. Therefore, because the Federal 111(d) Plan approval does not impose any new requirements and pursuant to section 605(b) of the Regulatory Flexibility Act, the Regional Administrator certifies that this rule will not have a significant impact on a substantial number of small entities.

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted on by the rule.

In developing the HMIWI emission guidelines and standards, EPA prepared a written statement pursuant to section 202 of the Unfunded Mandates Act which it published in the 1997 promulgation notice (*see* 60 FR 48374 to 48378). The EPA has determined that this State Plan does not include any new Federal mandates above those previously considered during promulgation of the 1997 HMIWI guidelines. The State Plan does include an emission limitation for mercury that will be more stringent than the limit required by the EGs. However, that limit is not the result of a Federal mandate. In approving the State Plan, EPA is approving pre-existing requirements under State law and imposing no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from EPA's approval of State Plan provisions that may be more stringent than the EG requirements, nor will EPA's approval of the State Plan significantly or uniquely affect small governments. Thus, this action is not subject to the requirements of sections 202, 203, 204, and 205 of the Unfunded Mandates Act.

G. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting

Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

In approving or disapproving State Plans under section 129 of the Clean Air Act, EPA does not have the authority to revise or rewrite the State's rule, so the Agency does not have authority to require the use of particular voluntary consensus standards. Accordingly, EPA has not sought to identify or require the State to use voluntary consensus standards. Furthermore, Rhode Island's Plan incorporates by reference test methods and sampling procedures for existing HMIWI units already established by the emissions guidelines for HMIWIs at 40 CFR Part 60, Subpart Ce, and does not establish new technical standards for HMIWIs. Therefore, the requirements of the NTTAA are not applicable to this final rule.

I. Petitions for Judicial Review

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 June 26, 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), 42 U.S.C. 7607(b)(2). EPA encourages interested parties to 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.

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: April 12, 2001.

Ira W. Leighton,

Acting Regional Administrator, EPA New England.

40 CFR Part 62 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart OO—Rhode Island

2. Subpart OO is amended by adding a new § 62.9825 to read as follows:

§ 62.9825 Identification of Plan.

(a) *Identification of Plan.* Rhode Island Plan for the Control of Designated Pollutants from Existing Plants (Section 111(d) Plan).

(b) The plan was officially submitted as follows:

(1) Control of air emissions from existing hospital/medical/infectious waste incinerators, submitted on August 2, 2000.

(2) [Reserved]

(c) *Designated facilities.* The plan applies to existing facilities in the following categories of sources:

(1) Hospital/medical/infectious waste incinerators.

(2) [Reserved]

3. Subpart OO is amended by adding a new § 62.9990 and a new undesignated center heading to read as follows:

Air Emissions From Existing Hospital/ Medical/Infectious Waste Incinerators

§ 62.9990 Identification of sources.

(a) The plan applies to the following existing hospital/medical/infectious waste incinerators that were still operating as of the date of publication, and to any other unit for which construction commenced on or before June 20, 1996:

(1) Eleanor Slater Hospital/Zambarano Unit, Pascoag.

(2) Our Lady of Fatima Hospital, North Providence.

(3) Rhode Island Hospital, Providence.

(4) Roger Williams Hospital, Providence.

(b) [Reserved].

[FR Doc. 01–10425 Filed 4–26–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL197–1a; FRL–6970–6]

Approval and Promulgation of State Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is approving a negative declaration submitted by the State of Illinois which indicates there is no need for regulations covering the industrial wastewater category in the Chicago ozone nonattainment area. The Chicago ozone nonattainment area includes Cook County, DuPage County, Aux Sable and Goose Lake Townships in Grundy County, Kane County, Oswego Township in Kendall County, Lake County, McHenry County and Will County. The State's negative declaration regarding industrial wastewater category sources was submitted to USEPA in a letter dated December 23, 1999.

DATES: This rule is effective on June 26, 2001, unless USEPA receives adverse written comments by May 29, 2001. If adverse comment is received, USEPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of the negative declaration is available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Randolph O. Cano at (312) 886–6036 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Environmental Protection Specialist, Regulation Development Section, Air Programs Branch (AR–18J), USEPA, Region 5, Chicago, Illinois 60604,(312) 886–6036.

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

Table of Contents

I. What Is the background for this action?

II. Negative declarations and their justification.
III. USEPA review of Illinois' negative declaration.
IV. Administrative requirements.

I. What Is the Background for This Action?

Under the Clean Air Act (Act), as amended in 1977, ozone nonattainment areas are required to adopt emission controls reflective of reasonably available control technology (RACT) for sources of volatile organic compound (VOC) emissions. USEPA issued three sets of control technique guidelines (CTGs) documents, establishing a ''presumptive norm'' for RACT for various categories of VOC sources. The three sets of CTGs were (1) Group I—issued before January 1978 (15 CTGs); (2) Group II—issued in 1978 (9 CTGs); and (3) Group III—issued in the early 1980's (5 CTGs). Those sources not covered by a CTG are called non-CTG sources. USEPA determined that an area's State Implementation Plan (SIP) approved attainment date established which RACT rules the area needed to adopt and implement. In those areas where the State sought an extension of the attainment date under section 172(a)(2) to as late as December 31, 1987, RACT was required for all CTG sources and for all major (100 tons per year or more of VOC emissions under the pre-amended Act) non-CTG sources. Illinois sought and received such an extension for the Chicago area.

Section 182(b)(2) of the Act as amended in 1990 requires States to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. There are three parts to the section 182(b)(2) RACT requirement: (1) RACT for sources covered by an existing CTG—i.e., a CTG issued prior to the enactment of the amended Act of 1990; (2) RACT for sources covered by a post-enactment CTG; and, (3) all major sources not covered by a CTG. These section 182(b)(2) RACT requirements are referred to as the RACT ''catch-up'' requirements.

Section 183 of the amended Act requires USEPA to issue CTGs for 13 source categories by November 15, 1993. A CTG was published by this date for the following source categories—Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactors and Distillation, aerospace manufacturing coating operation, shipbuilding and ship repair coating operations, and wood furniture coating operations; however, the CTGs for the remaining source categories have not been completed. The amended Act requires States to submit rules for sources covered by a post-enactment CTG in accordance with a schedule specified in a CTG document.

The USEPA created a CTG document as Appendix E to the *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990.* (57 FR 18070, 18077, April 28, 1992). In Appendix E, USEPA interpreted the Act to allow a State to submit a non-CTG rule by November 15, 1992, or to defer submittal of a RACT rule for sources that the State anticipated would be covered by a post-enactment CTG, based on the list of CTGs USEPA expected to issue to meet the requirement in section 183. Appendix E states that if USEPA fails to issue a CTG by November 15, 1993 (USEPA failed to issue a CTG by November 15, 1998 for 9 source categories), the responsibility shifts to the State to submit a non-CTG RACT rule for those sources by November 15, 1994. In accordance with section 182(b)(2), implementation of that RACT rule should occur by May 31, 1995.

II. Negative Declarations and Their Justification

The USEPA does not require States to develop plans or regulations to control emissions from sources which are not present in the nonattainment area. If it is thought that this might be the case, the State carefully examines its emissions inventory and operating permits before initiating the planning and regulation development process. If a careful examination of the emissions inventory finds no sources for a particular source category, then the State prepares and submits to USEPA a negative declaration stating there are no sources in the nonattainment area for that source category in lieu of submitting a control strategy.

On December 23, 1999, the State of Illinois submitted to USEPA a negative declaration regarding the need for a regulation covering the industrial wastewater category in the Chicago ozone non-attainment area. The State indicated that in making this determination, the Illinois Environmental Protection Agency (Illinois EPA) conducted a search of its 1996 Chicago inventory for any major source potentially subject to USEPA's draft Control Techniques Guideline (CTG) document for the ''Control of Volatile Organic Material Emissions from Industrial Wastewater'' [EPA–453/D–93–056, September 1992]. The search included the following industries: petroleum refineries, the synthetic organic chemical manufacturing industry (SOCMI), organic chemicals, plastics and synthetic fibers, pesticides, pharmaceuticals, and hazardous waste treatment, storage, and disposal facilities. The Illinois EPA found only three sources with industrial wastewater operations that are major sources, i.e., with potential to emit more than 25 tons per year of industrial wastewater emissions. These three facilities are Permcor, Mobile Joliet Refining Corporation (Mobile) and Amoco Chemical Corporation (Amoco). Permcor is located in Cook County, and Mobile and Amoco are located in Will County.

Permcor and Mobil's wastewater operation emissions are subject to the Federal rule covering benzene waste operations applicable to petroleum refineries, the Benzene National Emissions Standards for Hazardous Air Pollutants (Benzene NESHAP) which was promulgated on January 7, 1993 (58 FR 3072) and codified at 40 CFR part 61, subpart FF. Permcor and Mobile are also subject to the wastewater operation control requirements under petroleum refinery NESHAP which was promulgated on August 18, 1995 (60 FR 43244) and codified at 40 CFR part 61, subpart CC. If benzene applicability cutoffs are exceeded, the emission control requirements of these regulations are at least as stringent as the requirements suggested by the draft CTG as RACT.

Amoco Chemical is a facility whose wastewater operations are covered by Subpart G of the Hazardous Organic NESHAP (HON) for SOCMI sources. The Federal regulation was promulgated on April 22, 1994 (59 FR 19402), and contains wastewater provisions that apply to the facility's process and maintenance wastewater from the point of generation to the treatment operations. Similar to those standards applicable to petroleum refineries, the SOCMI HON's emission control requirements are at least as stringent as the requirements suggested by the draft CTG.

In addition to the above indicated Federal standards, Illinois has generic RACT regulations that cover major sources with maximum theoretical emissions of 25 tons per year or greater and not already covered by a specific RACT regulation. Specifically, 35 Illinois Administrative Code (35 Ill. Adm. Code) Part 218, Subpart TT does not apply to any such sources of wastewater collection and treatment. Other existing regulations applicable to wastewater collection operations are 35 Ill. Adm. Code Part 218, Subpart G, which covers any emission unit that emits photochemically reactive material to the atmosphere and 35 Ill. Adm. Code Part 218.443, which specifically

regulates oil and water separators from petroleum refineries.

Illinois issued operating permits for the sources listed above which contain permit conditions that reflect the applicability cutoffs and emissions standards for wastewater collection and treatment operations in the above mentioned NESHAP. As a result of these NESHAP requirements, Amoco and Mobile are adequately controlled. Permcor has been shut down since early in 2001.

III. USEPA Review of Illinois' Negative Declaration.

USEPA has examined the State's negative declaration regarding the lack of need for a regulation controlling emissions from industrial wastewater located in the Chicago ozone nonattainment area. USEPA agrees there are no unregulated industrial wastewater sources in the Chicago ozone nonattainment area which would require the adoption of rules to control this source category. If a new source chooses to locate in this area, they would be required to comply with new source review requirements.

USEPA is publishing this action without prior proposal because USEPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, USEPA is proposing to approve the State Plan should adverse written comments be filed. This action will be effective without further notice unless USEPA receives relevant adverse written comment by May 29, 2001. Should USEPA receive such comments, it will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on June 26, 2001.

IV. 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 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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, USEPA'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), USEPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for USEPA, 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, USEPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. USEPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. USEPA 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. section 804(2). This rule will be effective June 26, 2001 unless USEPA receives adverse written comments by May 29, 2001.

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 June 26, 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 in 40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 17, 2001.

David A. Ullrich

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, part 52, 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 O—Illinois

§ 2. Section 52.726 is amended by adding paragraph (aa) to read as follows:

§ 52.726 Control strategy: Ozone.

* * * * *

(aa) Negative declaration—Industrial wastewater category. On December 23, 1999, the State of Illinois certified to the satisfaction of the United States Environmental Protection Agency that no major sources categorized as part of the Industrial Wastewater Category are located in the Chicago ozone nonattainment area. The Chicago ozone nonattainment area includes Cook County, DuPage County, Aux Sable and Goose Lake Townships in Grundy County, Kane County, Oswego Township in Kendall County, Lake County, McHenry County and Will County.

[FR Doc. 01–10427 Filed 4–26–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (e-mail) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of the final determinations of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director for Mitigation has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arizona:					

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Cochise (FEMA Docket No. B–7409).	City of Sierra Vista.	Nov. 10, 2000, Nov. 17, 2000, *Sierra Vista Herald*.	The Honorable Tom Hessler, Mayor, City of Sierra Vista, 1011 North Coranado Drive, Sierra Vista, Arizona 85635.	Feb. 15, 2001	040017
Cochise (FEMA Docket No. B–7409).	Unincorporated Areas.	Nov. 8, 2000, Nov. 15, 2000, *Arizona Range News*.	The Honorable Mike Palmer, Chairman, Cochise County Board of Supervisors, 1415 West Melody Lane, Bisbee, Arizona 85603.	Feb. 15, 2001	040012
Maricopa (FEMA Docket No. B–7409).	Town of Buckeye.	Aug. 10, 2000, Aug. 17, 2000, *Arizona Republic*.	The Honorable Dusty Hull, Mayor, Town of Buckeye, 100 North Apache Road, Suite A, Buckeye, Arizona 85326.	July 19, 2000	040039
Maricopa (FEMA Docket No. B–7409).	Unincorporated Areas.	Aug. 10, 2000, Aug. 17, 2000, *Arizona Republic*.	The Honorable Andrew Kunasek, Chairperson, Maricopa County Board of Supervisors, 301 West Jefferson, 10th Floor, Phoenix, Arizona 85003.	July 19, 2000	040037
Mohave (FEMA Docket No. B–7409).	Unincorporated Areas.	Nov. 10, 2000, Nov. 17, 2000, *Kingman Daily Miner*.	The Honorable Buster Johnson, Chairman, Mohave County Board of Supervisors, 809 East Beale Street, Kingman, Arizona 86401–5924.	Oct. 23, 2000	040058
Pima (FEMA Docket No. B–7409).	City of Tucson ..	Oct. 12, 2000, Oct. 19, 2000, *Tucson Citizen*.	The Honorable Robert Walkup, Mayor, City of Tucson, P.O. Box 27210, Tucson, Arizona 85726.	Sept. 25, 2000	040076
Pima (FEMA Docket No. B–7409).	City of Tucson ..	Dec. 1, 2000, Dec. 8, 2000, *Arizona Daily Star*.	The Honorable Robert Walkup, Mayor, City of Tucson, P.O. Box 27210, Tucson, Arizona 85726.	Nov. 8, 2000	040076
Pima (FEMA Docket No. B–7409).	City of Tucson ..	Dec. 22, 2000, Dec. 29, 2001, *Arizona Daily Star*.	The Honorable Robert E. Walkup, Mayor, City of Tucson, P.O. Box 27210, Tucson, Arizona 85726.	Mar. 29, 2001	040076
Pima (FEMA Docket No. B–7409).	Unincorporated Areas.	Oct. 12, 2000, Oct. 19, 2000, *Arizona Daily Star*.	The Honorable Sharon Bronson, Chairperson, Pima County Board of Supervisors, 130 West Congress, 11th Floor, Tucson, Arizona 85701.	Sept. 25, 2000	040073
California:					
Lake (FEMA Docket No. B–7409).	Unincorporated Areas.	Apr. 18, 2000, Apr. 25, 2000, *Lake County Record—Bee*.	The Honorable D.W. Merriman, Chairman, Lake County Board of Supervisors, 255 North Forbes Street, Lakeport, California 95453.	Mar. 13, 2000	060090
Los Angeles (FEMA Docket No. B–7409).	Unincorporated Areas.	Mar. 16, 2000, Mar. 23, 2000, *Metropolitan News Enterprise*.	The Honorable Don Knabe, Chairman, Los Angeles County Board of Supervisors, 500 West Temple Street, Suite 821, Los Angeles, California 90012.	Feb. 25, 2000	065043
Mendocino (FEMA Docket No. B–7409).	City of Ukiah	Dec. 1, 2000, Dec. 8, 2000, *Ukiah Daily Journal*.	The Honorable Jim Mastin, Mayor, City of Ukiah, 300 Seminary Avenue, Ukiah, California 95482.	Nov. 14, 2000	060186
Santa Clara (FEMA Docket No. B–7409).	City of Milpitas ..	Dec. 14, 2000, Dec. 21, 2000, *Milpitas Post*.	The Honorable Henry Manayan, Mayor, City of Milpitas, 455 East Calaveras Boulevard, Milpitas, California 95035.	Nov. 27, 2000	060344
Sonoma (FEMA Docket No. B–7409).	City of Petaluma	Sept. 27, 2000, Oct. 4, 2000, *Petaluma Argus—Courier*.	The Honorable Clark Thompson, Mayor, City of Petaluma, P.O. Box 61, Petaluma, California 94953–0061.	Sept. 7, 2000	060379
Sonoma (FEMA Docket No. B–7409).	Unincorporated Areas.	Sept. 27, 2000, Oct. 4, 2000, *Press Democrat*.	The Honorable Mike Reiley, Chairman, Sonoma County Board of Supervisors, 75 Administration Drive, Room 100A, Santa Rosa, California 95403.	Sept. 7, 2000	060375

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Tehama (FEMA Docket No. B–7409).	City of Red Bluff	Nov. 22, 2000, Nov. 29, 2000, *Red Bluff Daily News*.	The Honorable Larry Stevens, Mayor, City of Red Bluff, 555 Washington Street, Red Bluff, California 96080.	Feb. 27, 2001	065053
Tehama (FEMA Docket No. B–7409).	Unincorporated Areas.	Nov. 22, 2000, Nov. 29, 2000, *Red Bluff Daily News*.	The Honorable Rick Robinson, Chief Administrator, Tehama County Board of Supervisors, P.O. Box 927, Red Bluff, California 96080.	Feb. 27, 2001	065064
Colorado:					
Arapahoe (FEMA Docket No. B–7409).	Unincorporated Areas.	Nov. 29, 2000, Dec. 6, 2000, *Denver Post*.	The Honorable John Brackney, Chairman, Arapahoe County Board of Commissioners, 5334 South Prince Street, Littleton, Colorado 80166.	Nov. 3, 2000	080011
Mesa (FEMA Docket No. B–7409).	City of Grand Junction.	Nov. 3, 2000, Nov. 10, 2000, *The Daily Sentinel*.	The Honorable Gene Kinsey, Mayor, City of Grand Junction, 250 North Fifth Street, Grand Junction, Colorado 81501.	Feb. 8, 2001	080117
Weld (FEMA Docket No. B–7409).	Unincorporated Areas.	Oct. 19, 2000, Oct. 26, 2000, *Windsor Beacon*.	The Honorable Barbara J. Kirkmeyer, Chairperson, Weld County Board of Commissioners, P.O. Box 758, Greeley, Colorado 80632–0758.	Jan. 24, 2001	080266
Weld (FEMA Docket No. B–7409).	Town of Windsor.	Oct. 19, 2000, Oct. 26, 2000, *Windsor Beacon*.	The Honorable Wayne Miller, Mayor, Town of Windsor, 301 Walnut Street, Windsor, Colorado 80550.	Jan. 24, 2001	080264
Idaho:.					
Ada (FEMA Docket No. B–7409).	Unincorporated Areas.	Nov. 3, 2000, Nov. 10, 2000, *Idaho Statesman*.	The Honorable Roger Simmons, Chairperson, Ada County Board of Commissioners, 650 West Main Street, Boise, Idaho 83702.	Feb. 8, 2001	160001
Louisiana:.					
St. Landry Parish (FEMA Docket No. B–7409).	Unincorporated Areas.	Apr. 21, 2000, Apr. 28, 2000, *The Daily World*.	The Honorable Howard Austin, St. Landry Parish President, P.O. Box 551, Opelousas, Louisiana 70571.	Mar. 9, 2000	220165
Missouri:.					
St. Charles (FEMA Docket No. B–7409).	City of St. Peters.	Aug. 11, 2000, Aug. 18, 2000, *St. Peters Journal*.	The Honorable Thomas Brown, Mayor, City of St. Peters, One St. Peters Centre Boulevard, St. Peters, Missouri 63376.	July 20, 2000	290319
Oklahoma:					
Rogers (FEMA Docket No. B–7409).	City of Owasso	Sept. 28, 2000, Oct. 5, 2000, *Owasso Reporter*.	The Honorable Mark Wilken, Mayor, City of Owasso, P.O. Box 180, Owasso, Oklahoma 74055–0180.	Sept. 8, 2000	400210
Tulsa (FEMA Docket No. B–7409).	City of Bixby	May 29, 2000, June 5, 2000, *Tulsa World*.	The Honorable Joe Williams, Mayor, City of Bixby, 116 West Needles Avenue, Bixby, Oklahoma 74008.	Sept. 4, 2000	400207
Tulsa (FEMA Docket No. B–7409).	City of Broken Arrow.	Oct. 24, 2000, Oct. 31, 2000, *Broken Arrow Daily Ledger*.	The Honorable James Reynolds, Mayor, City of Broken Arrow, P.O. Box 610, Broken Arrow, Oklahoma 74013.	Oct. 5, 2000	400236
Tulsa (FEMA Docket No. B–7409).	City of Jenks	May 29, 2000, June 5, 2000, *Tulsa World*.	The Honorable Mike Tinker, Mayor, City of Jenks, P.O. Box 2007, Jenks, Oklahoma 74037–2007.	Sept. 4, 2000	400209
Tulsa (FEMA Docket No. B–7409).	Unincorporated Areas.	May 29, 2000, June 5, 2000, *Tulsa World*.	The Honorable John Selph, Chairman, Tulsa County Board of Commissioners, 500 South Denver Avenue, Tulsa, Oklahoma 74103.	Sept. 4, 2000	400462
Oregon:					
Clackamas (FEMA Docket No. B–7409).	Unincorporated Areas.	Nov. 24, 2000, Dec. 1, 2000, *The Oregonian*.	The Honorable Bill Kennemer, Chairman, Clackamas County, Board of Commissioners, 906 Main Street, Oregon City, Oregon 97045.	Mar. 1, 2001	415588

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Lincoln (FEMA Docket No. B–7409).	City of Newport	Aug. 25, 2000, Sept. 1, 2000, *Newport News-Times*.	The Honorable Mark Jones, Mayor, City of Newport, 1801 North Coast Highway, Newport, Oregon 97365.	Aug. 11, 2000	410131
Texas:					
Bexar (FEMA Docket No. B–7409).	City of San Antonio.	Dec. 7, 2000, Dec. 14, 2000, *San Antonio Express-News*.	The Honorable Howard W. Peak, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283–3966.	Nov. 15, 2000	480045
Collin (FEMA Docket No. B–7409).	City of Plano	Nov. 17, 2000, Nov. 24, 2000, *Plano Star Courier*.	The Honorable Jeran Akers, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	Nov. 2, 2000	480140
Dallas (FEMA Docket No. B–7409).	City of Carrollton	Sept. 29, 2000, Oct. 6, 2000, *Metrocrest News*.	The Honorable Mark Stokes, Mayor, City of Carrollton, P.O. Box 110535, Carrollton, Texas 75011–0535.	Jan. 4, 2001	480167
Fort Bend (FEMA Docket No. B–7409).	City of Katy	Mar. 15, 2000, Mar. 22, 2000, *Katy Times*.	The Honorable Hank Schmidt, Jr., Mayor, City of Katy, 910 Avenue C, Katy, Texas 77493.	Jan. 31, 2000	480301
Tarrant (FEMA Docket No. B–7409).	City of Forest Hill.	Oct. 23, 2000, Oct. 27, 2000, *Commercial Recorder*.	The Honorable Malinda Miller, Mayor, City of Forest Hill, 6800 Forest Hill Drive, Forest Hill, Texas 76140.	Oct. 3, 2000	480595
Tarrant (FEMA Docket No. B–7409).	City of North Richland Hills.	May 25, 2000, June 1, 2000, *Star Telegram*.	The Honorable Charles Scoma, Mayor, City of North Richland Hills, P.O. Box 820609, North Richland Hills, Texas 76182–0609.	May 3, 2000	480607
Tarrant (FEMA Docket No. B–7409).	City of North Richland Hills.	June 20, 2000, June 27, 2000, *Star Telegram*.	The Honorable Charles Scoma, Mayor, City of North Richland Hills, P.O. Box 820609, North Richland Hills, Texas 76182–0609.	May 24, 2000	480607

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: April 18, 2001.

Margaret E. Lawless,

Acting Executive Associate Director for Mitigation.

[FR Doc. 01–10487 Filed 4–26–01; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–B–7412]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Map(s) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director for Mitigation reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (e-mail) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that

the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arizona:					
Maricopa	City of Glendale ..	Mar. 16, 2001, Mar. 23, 2001, *Arizona Republic*.	The Honorable Elaine Scruggs, Mayor, City of Glendale, 5850 West Glendale, Glendale, Arizona 85301.	June 21, 2001	040045
Maricopa	City of Peoria	Mar. 15, 2001, Mar. 22, 2001, *Arizona Republic*.	The Honorable John Keegan, Mayor, City of Peoria, 8401 West Monroe Street, Peoria, Arizona 85345.	June 21, 2001	040050
Maricopa	City of Peoria	Mar. 16, 2001, Mar. 23, 2001, *Arizona Republic*.	The Honorable John Keegan, Mayor, City of Peoria, 8401 West Monroe Street, Peoria, Arizona 85345.	June 21, 2001	040050
Maricopa	Unincorporated Areas.	Mar. 15, 2001, Mar. 22, 2001, *Arizona Republic*.	The Honorable Janice K. Brewer, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson, 10th Floor, Phoenix, Arizona 85003.	June 21, 2001	040037
California:					
Contra Costa	Unincorporated Areas.	Feb. 7, 2001, Feb. 14, 2001, *Contra Costa Times*.	The Honorable Gayle B. Uilkema, Chairperson, Contra Costa County Board of Supervisors, c/o Clerk of the Board, 651 Pine Street, Martinez, California 94553.	May 15, 2001	060025
Contra Costa	City of Walnut Creek.	Feb. 7, 2001, Feb. 14, 2001, *Contra Costa Times*.	The Honorable Kathy Hicks, Mayor, City of Walnut Creek, c/o City Manager, P.O. Box 8039, Walnut Creek, California 94596–8039.	May 15, 2001	065070
Sacramento ..	Unincorporated Areas.	Feb. 23, 2001, Mar. 2, 2001, *Sacramento Bee*.	The Honorable Roger Neillo, Chairman, Sacramento County, Board of Supervisors, 700 H Street, Room 2450, Sacramento, California 95814.	Jan. 30, 2001	060262
Ventura	City of Simi Valley.	Mar. 9, 2001, Mar. 16, 2001, *Ventura County Star*.	The Honorable Bill Davis, Mayor, City of Simi Valley, 2929 Tapo Canyon Road, Simi Valley, California 93063.	Feb. 20, 2001	060421
Colorado:					
Boulder	City of Longmont	Jan. 18, 2001, Jan. 25, 2001, *Longmont Daily Times Call*.	The Honorable Leona Stoecker, Mayor, City of Longmont, 350 Kimbark Street, Longmont, Colorado 80501.	Apr. 25, 2001	080027

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
El Paso	Unincorporated Areas.	Feb. 16, 2001, Feb. 23, 2001, *The Gazette*.	The Honorable Charles C. Brown, Chairman, El Paso County Board of Commissioners, 27 East Vermijo Avenue, Third Floor, Colorado Springs, Colorado 80903–2208.	May 24, 2001	080059
Jefferson	City of Golden	Jan. 31, 2001, Feb. 7, 2001, *Golden Transcript*.	The Honorable Jan C. Schenck, Mayor, City of Golden, 911 10th Street, Golden, Colorado 80401.	May 3, 2001	080090
Jefferson	Unincorporated Areas.	Feb. 1, 2001, Feb. 8, 2001, *High Timber Times*.	The Honorable Michelle Lawrence, Chairperson, Jefferson County Board of Commissioners, 100 Jefferson County Parkway, Suite 5550, Golden, Colorado 80419.	May 3, 2001	080087
Jefferson	Unincorporated Areas.	Feb. 22, 2001, Mar. 1, 2001, *High Timber Times*.	The Honorable Michelle Lawrence, Chairperson, Jefferson County Board of Commissioners, 100 Jefferson County Parkway, Suite 5550, Golden, Colorado 80419.	Jan. 30, 2001	080087
Jefferson	Unincorporated Areas.	Mar. 1, 2001, Mar. 8, 2001, *High Timber Times*.	The Honorable Michelle Lawrence, Chairperson, Jefferson County Board of Commissioners, 100 Jefferson County Parkway, Suite 5550, Golden, Colorado 80419.	June 6, 2001	080087
La Plata	Unincorporated Areas.	Feb. 10, 2001, Feb. 16, 2001, *Durango Herald*.	The Honorable Bob Lieb, La Plata County Commissioner, District 2, 1060 East Second Avenue, Durango, Colorado 81301.	May 19, 2001	080097
Idaho: Twin Falls	City of Twin Falls	Mar. 8, 2001, Mar. 15, 2001, *Twin Falls Times News*.	The Honorable Elaine Steel, Mayor, City of Twin Falls, P.O. Box 1907, Twin Falls, Idaho 83303–1907.	June 13, 2001	160120
Oregon: Jackson	City of Central Point.	Feb. 22, 2001, Mar. 1, 2001, *Medford Mail Tribune*.	The Honorable Bill Walton, Mayor, City of Central Point, 155 South Second Street, Central Point, Oregon 97502.	July 24, 2001	410092
Oklahoma: Oklahoma.	City of Oklahoma City.	Feb. 16, 2001, Feb. 23, 2001, *Daily Oklahoman*.	The Honorable Kirk Humphreys, Mayor, City of Oklahoma City, 200 North Walker, Suite 302, Oklahoma City, Oklahoma 73102.	May 24, 2001	405378
Texas:					
Collin	City of Allen	Feb. 21, 2001, Feb. 28, 2001, *Allen American*.	The Honorable Steve Terrell, Mayor, City of Allen, One Butler Circle, Allen, Texas 75013.	Jan. 25, 2001	480131
Collin	City of Celina	Feb. 7, 2001, Feb. 14, 2001, *Celina Record*.	The Honorable Mark Peterman, Mayor, City of Celina, 302 West Walnut, Celina, Texas 75009.	May 16, 2001	480133
Collin	City of Plano	Feb. 14, 2001, Feb. 21, 2001, *Plano Star Courier*.	The Honorable Jeran Akers, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	Jan. 25, 2001	480140
Collin	Unincorporated Areas.	Feb. 8, 2001, Feb. 15, 2001, *McKinney Daily Courier-Gazette*.	The Honorable Ron Harris, Collin County Judge, 210 South McDonald Street, McKinney, Texas 75069.	May 16, 2001	480130
Dallas	City of Coppell	Feb. 16, 2001, Feb. 23, 2001, *Coppell Gazette*.	The Honorable Candy Sheehan, Mayor, City of Coppell, 255 Parkway Boulevard, Coppell, Texas 75019.	May 23, 2001	480170
Travis	City of Austin	Mar. 2, 2001, Mar. 9, 2001, *Austin American Statesman*.	The Honorable Kirk P. Watson, Mayor, City of Austin, 124 West Eighth Street, Austin, Texas 78701.	Feb. 12, 2001	480624
Williamson	City of Leander	Feb. 21, 2001, Feb. 28, 2001, *Hill Country News*.	The Honorable Larry Barnett, Mayor, City of Leander, P.O. Box 319, Leander, Texas 78646.	Jan. 24, 2001	481536

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: April 18, 2001.

Margaret E. Lawless,

Acting Executive Associate Director for Mitigation.

[FR Doc. 01–10486 Filed 4–26–01; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 96–128; FCC 01–109]

The Pay Telephone Reclassification and Compensation Provisions of The Telecommunications Act of 1996, RBOC/GTE/SNET Payphone Coalition Petition for Clarification

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) modified the Commission's rules regarding per-call compensation for payphone calls to better ensure that payphone service providers (PSPs) are fairly compensated for all completed, coinless calls made from payphones. The Commission revised its rules to address the difficulty that PSPs face in obtaining compensation for coinless calls placed from payphones that involve a switch-based telecommunications reseller in the call path. Given the difficulty of determining which entity is responsible for compensating the PSP for such calls (i.e., the switch-based reseller or the interexchange carrier that routes calls to the switch-based reseller), the Commission modified its rules to require the first underlying facilities-based interexchange carrier (IXC) to whom the local exchange carrier (LEC) directly delivers such calls to compensate the PSP for the completed coinless calls.

DATES: Effective April 27, 2001.

ADDRESSES: Federal Communications Commission, Secretary, 445 12th Street, SW., Room TW–B204F, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Marty Schwimmer (202) 418–2320, fax (202) 418–2345, TTY (202) 418–0484, or *mschwimm@fcc.gov.* The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, The Portals, 445 12th Street, SW., Suite 6–A320, Washington, DC 20554.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Order on Reconsideration in CC Docket No. 96–128, FCC 01–109, in the matter of The Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, RBOC/GTE/SNET Payphone Coalition Petition for Clarification, adopted March 28, 2001, and released April 5, 2001. The full text of the item is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the Commission's Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554, or copies may be purchased from the Commission's duplicating contractor, ITS, Inc., 445 12th Street, SW., Suite CY–B400, Washington, DC 20554, phone (202) 857–3800. This Order contains no new or modified information collections subject to the Paperwork Reduction Act of 1995, Public Law 104–13.

Synopsis of the Second Order on Reconsideration

In implementing Section 276 of the Act—which requires the Commission to prescribe regulations ensuring that all PSPs are fairly compensated for every completed intrastate and interstate call, including coinless ''access code'' or ''subscriber 800'' calls dialed from their payphones—the Commission adopted several payphone compensation rules in its *First Payphone Order,* 61 FR 52309, October 7, 1996. In the *Payphone Order On Reconsideration,* 61 FR 65341, December 12, 1996, the Commission revised the payphone compensation responsibilities for calls involving switch-based resellers. In 1998, the Common Carrier Bureau released the *Coding Digit Waiver Order,* 63 FR 26497, May 13, 1998, further clarifying the *Payphone Order on Reconsideration.* In that Order, the Common Carrier Bureau clarified switch-based reseller responsibilities for paying per-call compensation in order to clarify IXC obligations to disclose information about their switch-based resellers. The purpose of that order was to help ensure that PSPs knew from whom to expect compensation for coinless calls, to avoid the problem of entities disclaiming responsibility for such calls. Finally, in a recent order, the Commission concluded that the *Payphone Order on Reconsideration* and the Common Carrier Bureau's *Coding Digit Waiver Order* placed the tracking and compensation obligations squarely on facilities-based carriers, including facilities-based resellers. We found that, despite of our efforts to ensure that PSPs are compensated for coinless calls in instances in which switch-based resellers are involved in routing coinless calls from payphones to end-users, there remained uncertainty in the market, and PSPs have been frustrated in their efforts to receive compensation for certain coinless calls.

In this Second Order on Reconsideration, we require the first facilities-based interexchange carrier to which a LEC routes a compensable coinless payphone call to: (1) Compensate the PSP for completed calls at a mutually agreeable rate; (2) track or arrange for tracking of the call to determine whether it is completed and therefore compensable; and (3) provide to the PSP a statement of the number of coinless calls it receives from each of that PSP's payphones. We also require each reseller or debit card customer whose number is dialed on a coinless basis to reimburse the first facilities-based carrier for the amount paid by that carrier to the PSP and for that carrier's cost of tracking the call and providing such information to the PSP. We also encourage PSPs and switch-based resellers to enter into private contractual arrangements with each other for direct payment of compensation to PSPs.

We decline to initiate a further rulemaking proceeding, at this time, which would propose that the carrier responsible for compensation is the entity identified by the Carrier Identification Code (CIC) used to route the call. Most commenters generally opposed the proposal. For the purpose of determining payphone compensation responsibilities, the proposal would not likely be an improvement over the existing rules as clarified in this Second Order on Reconsideration. Even if all carriers had CICs, they would still need to look to subsequent carriers in the routing sequence for payphone call completion information to fulfill their compensation responsibilities. By ensuring that PSPs are consistently able to obtain per call compensation from a readily identifiable, responsible carrier, the first facilities-based interexchange carrier, we resolve the issues before us without a further rulemaking on CICs at this time.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), there will not be a significant economic impact on a substantial number of small business entities resulting from this Second Order on Reconsideration. Although the revised rules provide that the first underlying facilities-based interexchange carrier is initially responsible for payment and tracking of all compensable payphone calls, the

rules also provide that the first underlying facilities-based interexchange carrier may then obtain reimbursement from any reseller ultimately responsible for the compensation. Thus, although this Second Order on Reconsideration modifies the mechanism governing how PSPs obtain compensation, the rules do not significantly affect which carrier is ultimately responsible for per-call compensation to PSPs.

Ordering Clauses

Pursuant to the authority contained in Sections 1, 4(i), 4(j), and 276 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), and 276, that the RBOC/GTE/SNET Payphone Coalition Petition for Clarification is GRANTED IN PART AND DENIED IN PART, as described in this Second Order on Reconsideration.

Part 64 of the Commission's rules, 47 CFR Part 64, is amended by revising §§ 64.1300(a), 64.1310(a), and 64.1310(b) as set forth in the rule changes.

List of Subjects in 47 CFR Part 64

Communications common carriers, Individuals with disabilities, Reporting and recordkeeping requirements, Telegraph, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 47 U.S.C. 225, 47 U.S.C. 251(e)(1).151, 154, 201, 202, 205, 218–220, 254, 302, 303, and 337 unless otherwise noted. Interpret or apply sections 201, 218, 225, 226, 227, 229, 332, 48 Stat. 1070, as amended. 47 U.S.C. 201–204, 208, 225, 226, 227, 229, 332, 501 and 503 unless otherwise noted.

2. Section 64.1300 is amended by revising paragraph (a) to read as follows:

§ 64.1300 Payphone compensation obligation.

(a) Except as provided herein, the first facilities-based interexchange carrier to which a completed coinless access code or subscriber toll-free payphone call is delivered by the local exchange carrier shall compensate the payphone service provider for the call at a rate agreed upon by the parties by contract.

* * * * *

3. Section 64.1310 is amended by revising paragraphs (a) and (b) to read as follows:

§ 64.1310 Payphone compensation payment procedures.

(a) It is the responsibility of the first facilities-based interexchange carrier to which a compensable coinless access code or subscriber toll-free payphone call is delivered by the local exchange carrier to track, or arrange for the tracking of, each such call so that it may accurately compute the compensation required by § 64.1300(a). The first facilities-based interexchange carrier to which a compensable coinless payphone call is delivered by the local exchange carrier must also send back to each payphone service provider at the time dial around compensation is due to be paid a statement in computer readable format indicating the toll-free and access code numbers that the LEC has delivered to the carrier, and the volume of calls for each toll-free and access number each carrier has received from each of that payphone service provider's payphones, unless the payphone service provider agrees to other arrangements.

(b) The first facilities-based interexchange carrier to which a compensable coinless payphone call is delivered by the local exchange carrier may obtain reimbursement from its reseller and debit card customers for the compensation amounts paid to payphone service providers for calls carried on their account and for the cost of tracking compensable calls. Facilities-based carriers and resellers may establish or continue any other arrangements that they have with payphone service providers for the billing and collection of compensation for calls subject to § 64.1300(a), if the involved payphone service providers so agree.

* * * * *

[FR Doc. 01–10493 Filed 4–26–01; 8:45 am]

BILLING CODE 6712–01–U

Proposed Rules

Federal Register
Vol. 66, No. 82
Friday, April 27, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 956

[Docket No. FV01–956–1]

Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Continuance Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Referendum order.

SUMMARY: This document directs that a referendum be conducted among eligible growers of sweet onions in the Walla Walla Valley of southeast Washington and northeast Oregon, to determine whether they favor continuance of the marketing order regulating the handling of sweet onions grown in the production area.

DATES: The referendum will be conducted from April 30, 2001 through May 19, 2001. To vote in this referendum, growers must have been producing Walla Walla sweet onions within the designated production area in Washington and Oregon, during the period June 1, 2000, through March 30, 2001.

ADDRESSES: Copies of the marketing order may be obtained from the office of the referendum agents at 1220 SW Third Avenue, suite 385, Portland, Oregon 97204, or the Office of the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Dennis L. West, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385; telephone (503) 326–2724; fax (503) 326–7440; or Melissa Schmaedick, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2522–S, P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 720–2491; fax (202) 720–5698.

SUPPLEMENTARY INFORMATION: Pursuant to Marketing Agreement and Order No. 956 (7 CFR part 956), hereinafter referred to as the ''order,'' and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act,'' it is hereby directed that a referendum be conducted to ascertain whether continuance of the order is favored by the growers. The referendum shall be conducted from April 30, 2001, through May 19, 2001, among Walla Walla sweet onion growers in the production area. Only growers that were engaged in the production of Walla Walla sweet onions in Washington and Oregon, during the period of June 1, 2000, through March 30, 2001, may participate in the continuance referendum.

The Secretary of Agriculture has determined that continuance referenda are an effective means for determining whether growers favor continuation of marketing order programs. The Secretary would consider termination of the order if less than two-thirds of the growers voting in the referendum, and growers of less than two-thirds of the volume of Walla Walla sweet onions represented in the referendum favor continuance. In evaluating the merits of continuance versus termination, the Secretary will consider the results of the referendum and other relevant information regarding operation of the order. The Secretary will evaluate the order's relative benefits and disadvantages to growers, handlers, and consumers to determine whether continuing the order would tend to effectuate the declared policy of the Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the ballot materials to be used in the referendum herein ordered have been submitted to and approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0089. It has been estimated that it will take an average of 20 minutes for each of the approximately 60 growers of Walla Walla sweet onions in Washington and Oregon to cast a ballot. Participation is voluntary. Ballots postmarked after May 19, 2001, will not be included in the vote tabulation.

Gary D. Olson and Dennis L. West of the Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, are hereby designated as the referendum agents of the Secretary of Agriculture to conduct such referendum. The procedure applicable to the referendum shall be the ''Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended'' (7 CFR Part 900.400 *et. seq*).

Ballots will be mailed to all growers of record and may also be obtained from the referendum agents, or from their appointees.

List of Subjects in 7 CFR Part 956

Marketing agreements, Onions, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 601–674.

Dated: April 24, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–10596 Filed 4–25–01; 10:40 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–120–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all EMBRAER Model EMB–120 series airplanes. This proposal would require replacing certain existing potentiometers with recently manufactured potentiometers, modifying the flexible couplers that attach the shafts of the potentiometers to the shafts of the primary flight controls, performing repetitive calibration tests of the potentiometers and obtaining

repetitive readouts of the flight data recorder (FDR), and reporting the results to the FAA. This action is necessary to prevent the potentiometers that provide information on the positions of the primary flight controls to the FDR from transmitting noisy signals or becoming improperly calibrated, resulting in the transmission of incomplete or inaccurate data to the FDR. This lack of reliable data could hamper discovery of the unsafe condition which caused an accident or an incident and prevent the FAA from developing and mandating actions to prevent additional incidents or accidents caused by that same unsafe condition.

DATES: Comments must be received by May 29, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–120–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–120–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 Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Rob Capezzuto, Aerospace Engineer, ACE–116A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6071; fax (770) 703–6097.

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–120–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–120–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified the FAA that an unsafe condition may exist on certain EMBRAER Model EMB–120 series airplanes. The DAC advises that screws on flexible couplers that attach the shafts of the primary flight controls to the shafts of potentiometers may become loose. In this case, erroneous data may be transmitted from the primary flight controls—the ailerons, the elevators, and the rudder—to the flight data recorder (FDR). Therefore, the DAC has issued Brazilian airworthiness directive 97–08–01, dated August 29, 1997, requiring application of adhesive to the screws to lock them in place.

In addition, an investigation of the FDR system indicated that these potentiometers were producing noisy signals. EMBRAER, the manufacturer of the airplanes, and Penny & Giles, the manufacturer of the potentiometers, have attributed the noisy signals to an oxide film which forms on the windings of the potentiometers, if the potentiometers are kept in storage for an extended time.

Finally, investigation of various accidents and incidents has revealed that improperly operating potentiometers have prevented the recording of complete and accurate data which, in some cases, has prevented determination of the cause of an incident or accident.

FAA's Determination of Unsafe Condition

This action is necessary to prevent the potentiometers that provide information on the positions of the primary flight controls to the FDR from functioning improperly, resulting in the transmission of incomplete or inaccurate data to the FDR. Improper functioning of the potentiometers does not directly affect the safety of the airplane on which they are located. However, should an airplane with improperly functioning potentiometers also have an unrelated unsafe condition which results in an incident or accident, the data retrieved from the FDR will be incomplete or inaccurate. This lack of reliable data could hamper discovery of the unsafe condition which caused the accident or incident and prevent the FAA from developing and mandating actions to prevent additional incidents or accidents caused by that same unsafe condition. Therefore, the FAA has determined that the proposed action is necessary.

It should be noted that the purpose of this action is not to enhance the safety of the EMB–120, but rather to restore the level of safety provided by the originally approved FDR. Therefore, this AD is the appropriate regulatory vehicle to achieve this purpose.

Explanation of Relevant Service Information

EMBRAER has issued Service Bulletin 120–31–0038, Change 02, dated June 25, 1998, which describes procedures for applying adhesive to the screws of the flexible couplers which attach the shafts of the potentiometers to the shafts of the primary flight controls to prevent them from becoming loose. The DAC classified this service bulletin as mandatory and issued Brazilian

Airworthiness Directive 97–08–01, dated August 29, 1997.

FAA's Conclusions

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

Since improperly functioning potentiometers may prevent discovery of an unsafe condition that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require removing existing potentiometers and replacing them with recently-manufactured potentiometers, and performing repetitive testing of the calibration of the new potentiometers and obtaining repetitive readouts of the FDR. These actions would be required to be accomplished in accordance with the EMBRAER EMB–120 Maintenance Manual or the EMBRAER EMB–120 service bulletin described previously. In addition, the proposed AD would require submission of the results of the calibration tests and the FDR readouts to the FAA.

Differences Between Proposed AD and Brazilian Airworthiness Directive

The Brazilian airworthiness directive requires only the application of adhesive over the threads of the screws of the flexible couplers which attach the shafts of the potentiometers to the shafts of the primary flight controls. The application is to be accomplished by the next ''A'' check or within the next 400 flight hours after the effective date of the AD, whichever occurs first.

The proposed AD would also require replacing existing potentiometers for the primary flight controls with potentiometers that were recently manufactured, performing repetitive calibration tests of the potentiometers and obtaining repetitive readouts of the FDR, and submitting the results to the FAA. The compliance time proposed for these more extensive requirements is 6 months.

Interim Action

This proposed AD is considered to be interim action. It would require operators to perform calibration tests of potentiometers and to obtain readouts of FDR's at intervals not to exceed 6 months and to submit reports of the results to the FAA for 2 years. The reports will be used to determine whether the proposed corrective actions adequately address the noisy signals, loose couplers, and incorrect calibrations which have been found. If they do not, the FAA may consider further rulemaking.

Cost Impact

The FAA estimates that 250 airplanes of U.S. registry would be affected by this proposed AD and 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 as estimated in Table 1.

TABLE 1.—ESTIMATED COST IMPACT OF AD

Action	Work hours	Cost of parts (in US $)	Cost/airplane (in US $)
Replacement of 3 potentiometers	1.0	3,000	3,060
Application of adhesive	1.0	Negligible	60
Calibration of potentiometers	1.0	Negligible	60
Readout of FDR	33.0	Negligible	1,980
Totals	36.0	3,000	5,160

The cost impact figures discussed above are 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 proposed 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:

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket 2000–NM–120–AD.

Applicability: All Model EMB–120 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the potentiometers that provide information on the positions of the primary flight controls to the flight data recorder (FDR) from transmitting noisy signals or becoming improperly calibrated, resulting in the transmission of incomplete or inaccurate data to the FDR, accomplish the following:

Replacement of Potentiometers

(a) Within 6 months after the effective date of this AD: Replace potentiometers to the ailerons, elevators, and rudder with potentiometers that have a date of manufacture within 12 months preceding the date of installation, in accordance with Section 31–30–05 of the EMBRAER EMB–120 Maintenance Manual, dated July 17, 1998.

Note 2: All potentiometers manufactured by Penny & Giles after January 1999 are date stamped.

Modification of Flexible Coupler

(b) After accomplishment of paragraph (a) of this AD but prior to further flight: Apply locktite adhesive over the threads of the screws of the flexible couplers that attach the shafts of the potentiometers to the shafts of the primary flight controls, in accordance with EMBRAER Service Bulletin 120–31–0038, Change 02, dated June 25, 1998.

Calibration Tests and Readouts

(c) After accomplishment of paragraphs (a) and (b) of this AD but prior to further flight: Perform calibration tests of the potentiometers to the ailerons, elevators, and rudder and obtain a readout of the FDR, in accordance with Section 31–30–00 of the EMBRAER EMB–120 Maintenance Manual, dated July 17, 1998. Repeat the calibration tests and obtain readouts at intervals not to exceed 6 months until 2 years after the effective date of this AD.

Reporting Requirement

(d) At the applicable time specified in paragraph (d)(1) or (d)(2) of this AD: Submit a report of the calibration tests of the potentiometers and the readouts of the FDR to the Manager, Atlanta Aircraft Certification Office (ACO), FAA, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; fax (770) 703–6097. 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.

(1) For calibration tests and readouts accomplished after the effective date of this AD: Submit the report within 30 days after performing the tests required by paragraph (c) of this AD.

(2) For calibration tests and readouts accomplished prior to the effective date of this AD: Submit the report within 10 days after the effective date of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Note 4: The subject of this AD is addressed in Brazilian airworthiness directive 97–08–01, dated August 29, 1997.

Issued in Renton, Washington, on April 20, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–10467 Filed 4–26–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–106702–00]

RIN 1545–AX94

Determination of Basis of Partner's Interest; Special Rules; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to special rules on determination of basis of partner's interest under section 705 of the Internal Revenue Code.

DATES: The public hearing originally scheduled for Thursday, May 3, 2001 at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Sonya M. Cruse of the Regulations Unit, (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and/or notice or public hearing that appeared in the **Federal Register** on January 3, 2001, 66 FR 315, announced that a public hearing was scheduled for May 3, 2001 at 10:00 a.m., in Room 6718, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under section(s) 705 of the Internal Revenue Code. The public comment period of these proposed regulations expired on April 12, 2001.

The notice of proposed rulemaking and/or notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of April 19, 2001, no one has requested to speak. Therefore, the public hearing scheduled for May 3, 2001, is cancelled.

LaNita Van Dyke,

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

[FR Doc. 01–10546 Filed 4–26–01; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Docket # RI040–7167b; FRL–6970–9]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Rhode Island; Plan for Controlling Emissions From Existing Hospital/Medical/Infectious Waste Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve the Sections 111(d)/129 State Plan submitted by the Rhode Island Department of Environmental Management (DEM) on August 23, 2000. This State Plan is for carrying out and enforcing provisions that are at least as protective as the Emissions Guidelines (EG) applicable to certain existing Hospital/Medical/Infectious Waste Incinerator (HMIWI) units in accordance with sections 111 and 129 of the Clean Air Act.

The Rhode Island DEM submitted the Plan to satisfy certain Federal Clean Air Act requirements. In the Final Rules Section of the **Federal Register**, EPA is

approving the Rhode Island State Plan submittal as a direct final rule without a prior proposal. EPA is doing this because the Agency views this action as a noncontroversial submittal and anticipates that it will not receive any significant, material, and adverse comments. A detailed rationale for the approval is set forth in the direct final rule elsewhere in today's **Federal Register**. If EPA does not receive any significant, material, and adverse comments to this rule, then the approval will become final without further proceedings. If EPA receives adverse comments, the direct final rule will be withdrawn and EPA will address all public comments received in a subsequent final rule based on this proposed rule, EPA will not begin a second comment period.

DATES: EPA must receive comments in writing by May 29, 2001.

ADDRESSES: You should address your written comments to: Mr. Steven Rapp, Manager, Air Permits Program, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, Massachusetts 02114–2023.

Copies of documents relating to this proposed rule are available for public inspection during normal business hours at the following locations: Environmental Protection Agency, Air Permits Unit, Office of Ecosystem Protection, Suite 1100 (CAP), One Congress Street, Boston, Massachusetts 02114–2023, or Rhode Island Department of Environmental Management, Office of Air Resources, 235 Promenade Street, Providence, Rhode Island 02908–5767, (401) 222–2808.

The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the day of the visit.

FOR FURTHER INFORMATION CONTACT: John Courcier, Office of Ecosystem Protection (CAP), EPA—New England, Region 1, Boston, Massachusetts 02203, (617) 918–1659, or by e-mail at *courcier.john@epa.gov*. While the public may forward questions to EPA via e-mail, it must submit comments on this proposed rule according to the procedures outlined above.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is found in the Rules Section of this **Federal Register**.

Dated: April 12, 2001.

Ira W. Leighton,

Acting Regional Administrator, EPA New England.

[FR Doc. 01–10426 Filed 4–26–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL197–1b; FRL–6970–5]

Approval and Promulgation of State Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is proposing to approve a negative declaration submitted by the State of Illinois which indicates there is no need for a regulation covering the industrial wastewater category in the Chicago ozone nonattainment area. The Chicago ozone nonattainment area includes Cook County, DuPage County, Aux Sable and Goose Lake Townships in Grundy County, Kane County, Oswego Township in Kendall County, Lake County, McHenry County and Will County. The State's negative declaration regarding industrial wastewater category sources was submitted to USEPA in a letter dated December 23, 1999.

DATES: Written comments must be received on or before May 29, 2001.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal are available for inspection at: Regulation Development Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Environmental Protection Specialist, Regulation Development Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6036.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'' or ''our'' are used we mean USEPA.

Table of Contents

I. What action is USEPA taking today?
II. Where can I find more information about this proposal and the corresponding Direct Final Rule?

I. What Action Is USEPA Taking Today?

USEPA is proposing to approve a negative declaration submitted by the State of Illinois on December 23, 1999. This negative declaration concerns a source category located in the Chicago ozone nonattainment area, which is classified as a severe nonattainment area for the pollutant ozone. The negative declaration indicates that the State has searched its emissions inventory and operating permits for the Chicago ozone nonattainment area and determined there are no unregulated sources with a potential to emit 25 tons per year or more of volatile organic compounds (VOC) in the industrial wastewater category.

II. Where Can I Find More Information About This Proposal and the Direct Final Rule?

For additional information see the direct final rule published in the final rules section of this **Federal Register**.

Dated: April 17, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01–10428 Filed 4–26–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 413, 433, 438, 463, 464, 467, and 471

[FRL–6971–6]

RIN 2040–AB79

Extension of Comment Period on the Proposed Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Metal Products and Machinery Point Source Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period on proposed rule.

SUMMARY: On January 3, 2001 (66 FR 424), EPA proposed effluent limitations guidelines and pretreatment standards for wastewater discharges associated with the operation of new and existing metal products and machinery facilities. The original comment period was 120 days, ending on May 3, 2001. The

comment period will now end 60 days later on July 2, 2001.

DATES: Comments on the proposed rule will be accepted through July 2, 2001.

ADDRESSES: Submit written comments to Mr. Michael Ebner, Office of Water, Engineering and Analysis Division (4303), U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460 if by mail and to Mr. Michael Ebner, U.S. EPA, 401 M St., SW., Room 611 West Tower, Washington, DC 20460 if by hand delivery. Comments may also be sent via e-mail to *mpm.comments@epa.gov.* Please submit any references cited in your comments. EPA requests an original and three copies of your comments and enclosures (including references). Commenters who want EPA to acknowledge receipt of their comments should enclose a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Ebner at (202) 260–5397 or Ms. Shari Barash at (202) 260–7130.

SUPPLEMENTARY INFORMATION: In the public record for the final MP&M regulation, EPA will respond to comments from the 1995 Phase I proposal as well as the current proposal. Therefore, comments submitted on the Phase I rule do not need to be resubmitted in response to today's action.

Dated: April 17, 2001.

Diane C. Regas,

Acting Assistant Administrator for Water.

[FR Doc. 01–10511 Filed 4–26–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–B–7413]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (e-mail) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq. Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376, § *67.4*

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
California	Lassen County (Unincorporated Areas).	Robbers Creek	At confluence with Robbers Creek Left Channel below Mill Pond.	None	*5,047
			Approximately 250 feet upstream of State Highway 36.	None	*5,115
		Robbers Creek Left Channel Below Mill Pond.	At confluence with Robbers Creek	None	*5,047
			At the Mill Pond Embankment (approximately 1,600 feet upstream of Delwood Street).	None	*5,064
		Robbers Creek Split Flow	At confluence with Robbers Creek	None	*5,062
			At divergence from Robbers Creek	None	*5,073
Maps are available for inspection at the Department of Community Development, 707 Nevada Street, Suite 5, Susanville, California.					
Send comments to The Honorable Lloyd Keefer, Chairman, Lassen County Board of Supervisors, 221 N. Roop Street, Susanville, California 96130.					
California	Placer County (Unincorporated Areas).	Miner's Ravine	Just upstream of Sierra College Blvd.	*246	*251
			Just upstream of Miner's Ravine Road	*357	*358
			Approximately 650 feet upstream of Newcastle Road.	None	*784
Maps are available for inspection at the Placer County Public Works Department, 11444 B Avenue, Auburn, California.					
Send comments to The Honorable Donald G. Lundsford, Placer County Executive Officer, 175 Fulweiler Avenue, Auburn, California 95603.					
California	Portola (City) (Plumas County).	Portola Splitflow	At confluence with Portola Tributary	None	*4,873
			At divergence from Portola Tributary	None	*4,895
		Portola Tributary	At confluence with Middle Fork Feather River.	None	*4,839
			Approximately 560 feet upstream of Ellen Avenue.	None	*4,918
Maps are available for inspection at the Portola City Hall, 35 Third Avenue, Portola, California.					
Send comments to The Honorable Bill Adamson, P.O. Box 1255, Portola, California 96122.					
California	Plumas County (Unincorporated Areas).	Middle Fork Feather River	Just upstream of the Western Pacific Railroad Crossing.	None	*4,819
			Approximately 4,500 feet upstream of confluence of Portola Tributary.	None	*4,849
		Portola Tributary	Approximately 500 feet upstream of Ellen Avenue.	None	*4,918
			Approximately 2,600 feet upstream of confluence of West Branch Portola Tributary.	None	*5,076
		West Branch Portola Tributary.	At confluence with Portola Tributary	None	*4,951
			Approximately 100 feet upstream of Deerweed Street.	None	*5,036
Maps are available for inspection at the Plumas County Courthouse, 520 Main Street, Room 120, Quincy, California.					
Send comments to The Honorable Donald Clark, Chairman, Plumas County Board of Supervisors, 520 Main Street, Room 309, Quincy, California 95971.					
Montana	Cascade County (Unincorporated Areas).	Gibson Flats	At confluence with Sand Coulee Creek (North side of Railroad).	*3,351	*3,352
			At divergence from Sand Coulee Creek	*3,358	*3,361
		Sand Coulee Creek	Approximately 4,000 feet downstream of Goon Hill Road.	*3,345	*3,345
			Just upstream of Gibson Flats Road	*3,358	*3,357
			Approximately 1,600 feet downstream of Blaine Street.	*3,423	*3,422
			Approximately 2,000 feet upstream of Brown Road.	*3,448	*3,448
		Sand Coulee Creek (North side of Railroad).	At confluence with Sand Coulee Creek (downstream).	*3,346	*3,345
			At divergence from Sand Coulee Creek (upstream).	*3,355	*3,354
		Sun River	At confluence with Missouri River	*3,319	*3,319

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
			Approximately 1.5 miles upstream of Central Avenue West.	*3,328	*3,332
			Approximately 3,200 feet upstream of Manchester Bridge.	*3,339	*3,339
Maps are available for inspection at the Cascade County Planning Department, 415 Third Street, Northwest, Great Falls, Montana.					
Send comments to The Honorable Peggy Beltrone, Chairperson, Cascade County Board of Supervisors, Room 111, Courthouse Annex, 325 Second Avenue North, Great Falls, Montana 59401.					
Montana	Great Falls (City) (Cascade County).	Sun River	At confluence with Missouri River	*3,319	*3,319
			Approximately 6,500 feet upstream of Interstate Highway 15.	*3,327	*3,329
Maps are available for inspection at the Department of Zoning Administration, Two Park Drive South, Great Falls, Montana.					
Send comments to The Honorable Randall H. Gray, Mayor, City of Great Falls, P.O. Box 5021, Great Falls, Montana 59403.					
Oregon	Portland (City) (Multnomah County).	Fanno Creek	Approximately 2,350 feet downstream of Southwest 59th Avenue.	None	*243
			Approximately 50 feet upstream of Southwest 45th Avenue.	None	*281
Maps are available for inspection at City Hall, 1221 Southwest Fourth Avenue, Portland, Oregon.					
Send comments to The Honorable Vera Katz, Mayor, 1221 Southwest Fourth Avenue, Room 340, Portland, Oregon 97204.					
Texas	Beaumont (City) (Jefferson County).	Keith Ditch	Approximately 450 feet downstream of Dowlen Road.	*22	*22
			Approximately 1,400 feet upstream of Major Drive.	None	*31
		Walker Branch	At dead-end of Debbie Drive	*21	*22
			Just downstream of Tram Road	*24	*24
		Walker Branch Tributary	Approximately 100 feet upstream of Tram Road.	*22	*22
			Approximately 1,000 feet upstream of Spurlock Road.	None	*31
		Willow Marsh Bayou	Just upstream of Tyrell Park Road	*13	*15
			Approximately 500 feet upstream of Interstate 10.	*16	*17
Maps are available for inspection at City Hall, 801 Main Street, Beaumont, Texas.					
Send comments to The Honorable David W. Moore, Mayor, City of Beaumont, P.O. Box 3827, Beaumont, Texas 77704.					
Texas	Fort Bend County (Unincorporated Areas).	San Bernard River	Approximately 2 miles downstream of FM 442.	None	*64
			Approximately 2.25 miles upstream of the confluence with Snake Creek.	None	*79
Maps are available for inspection at Fort Bend County Engineer's Office, 1124 Blume Road, Rosenberg, Texas.					
Send comments to The Honorable James Adolphus, Fort Bend County Judge, 301 Jackson Street, Suite 719, Richmond, Texas 77469.					
Texas	Jefferson County (Unincorporated Areas).	Bayou Din	Approximately 2,750 feet upstream of LaBelle Road.	None	*9
			Approximately 6,100 feet upstream of Lawhorn Road.	None	*31
		Bayou Din Tributary	Approximately 950 feet upstream of confluence with Bayou Din.	*18	*17
			Approximately 1,900 feet downstream of Highway 124.	None	*22
		Ditch 505	Approximately 3,100 feet downstream of Route 124.	None	*13
			Approximately 4,700 feet upstream of West Clubb Road.	None	*19
		Mayhaw Bayou	Approximately 6,700 feet downstream of Timber Road.	None	*11
			Approximately 850 feet upstream of Interstate 10.	None	*22
		Mayhaw Bayou Tributary	At confluence with Mayhaw Bayou	None	*16

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
			Approximately 2,400 feet upstream of Brush Island Road.	None	*19
		Quinn Ditch	Approximately 5,500 feet downstream of Tram Road.	None	*22
			Approximately 100 feet upstream of Tram Road.	None	*23
		Taylor Bayou	Approximately 11,000 feet downstream of LaBelle Road.	None	*10
			Approximately 250 feet upstream of Jap Road.	None	*11
		Tributary of Ditch 505	At confluence with Ditch 505	None	*17
			Approximately 2,000 feet upstream of West Clubb Road.	None	*19
Maps are available for inspection at the Jefferson County Courthouse, 1149 Pearl Street, 5th Floor, Beaumont, Texas.					
Send comments to The Honorable Carl R. Griffith, Jefferson County Judge, P.O. Box 4025, Beaumont, Texas 77704.					
Texas	Wharton County (Unincorporated Areas).	East Fork Jones Creek	Approximately 800 feet upstream of FM 960	None	*115
			Approximately 7,000 feet upstream of River Valley Road.	None	*122
		East Mustang Creek	Approximately 1,800 feet downstream of confluence of Stage Stand Creek.	None	*72
			Approximately 1,750 feet downstream of Stockton Road.	None	*88
		San Bernard River	Approximately 10,000 feet downstream of FM 442.	None	*64
			At confluence of Peach Creek	None	*79
Maps are available for inspection at the Wharton County Engineer's Office, 1017 North Alabama, Wharton, Texas.					
Send comments to The Honorable Lawrence C. Naiser, Wharton County Judge, Wharton County Courthouse, 103 South Fulton, Wharton, Texas 77188.					

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: April 18, 2001.

Margaret E. Lawless,

Acting Executive Associate Director for Mitigation.

[FR Doc. 01–10485 Filed 4–26–01; 8:45 am]

BILLING CODE 6718–04–P

Notices

Federal Register
Vol. 66, No. 82
Friday, April 27, 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.

AFRICAN DEVELOPMENT FOUNDATION

Sunshine Act Meeting; Board of Directors Meeting

TIME: 10 a.m. to 2 p.m.

PLACE: ADF Headquarters.

DATE: Wednesday, May 2, 2001.

STATUS: Closed.

Agenda

10 a.m.—Executive Session (CLOSED).
2 p.m.—Adjournment.

If you have any questions or comments, please direct them to Doris Mason Martin, General Counsel, and Director, Office of Policy, Planning and Outreach, who can be reached at (202) 673–3916.

Nathaniel Fields,
President.

[FR Doc. 01–10721 Filed 4–25–01; 3:35 pm]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[FV–01–329]

United States Standards for Grades of Frozen Onions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) of the Department of Agriculture (USDA) is soliciting comments on its proposal to create new United States Standards for Grades of Frozen Onions. USDA has received a petition from a trade association to create grade standards for frozen onions that will include a description of the product, style, sample unit size, grades, ascertaining the grade by sample, and ascertaining the grade by lot. This proposal will provide a common language for trade, a means of measuring value in the marketing of frozen onions, and provide guidance in the effective utilization of frozen onions.

DATES: Comments must be submitted on or before June 26, 2001.

ADDRESSES: Written comments may be submitted to: Chere L. Shorter, Processed Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, STOP 0247,1400 Independence Avenue SW, Washington, D.C. 20250–0247; fax (202) 690–1087; or e-mail chere.shorter@*usda.gov.*

Comments should reference the date and page of this issue of the **Federal Register**. All comments received will be made available for public inspection at the address listed above during regular business hours and on the Internet.

The draft of the United States Standards for Grades of Frozen Onions available either through the address cited above or by accessing AMS's Home Page on the Internet at: www.ams.usda.gov/standards/frozveg.htm. Any comments received, regarding this proposed standard will also be posted on that site.

FOR FURTHER INFORMATION CONTACT: Chere L. Shorter at (202) 720–5021 or e-mail at chere.shorter@usda.gov.

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), as amended, directs and authorizes the Secretary of Agriculture ''to develop and improve standards of quality, condition, quantity, grade and packaging and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices * * *''. AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and makes copies of official standards available upon request. The United States Standards for Grades of Fruits and Vegetables no longer appear in the Code of Federal Regulations but are maintained by USDA/AMS/Fruit and Vegetable Programs.

AMS is proposing to establish the U.S. Standards for Grades of Frozen Onions using the procedures that appear in Part 36 Title 7 of the Code of Federal Regulations (7 CFR Part 36).

The American Frozen Food Institute (AFFI), a trade association for frozen fruits and vegetables, requested that USDA develop a standard for frozen onions to be used by the industry. The petition provided information on style, sample size and description to AMS to develop the standard. AMS received samples of various styles to collect information on grades of frozen onions and how to ascertain the grade of a sample and of a lot.

AMS prepared a discussion draft of the frozen onions standard, and distributed copies for input to AFFI. Input from the trade association's members was used to develop the proposed standard.

Based on the results of the information gathered, AMS is proposing to establish a standard for frozen onions following the standard format for U.S. Grade Standards using ''individual attributes.'' Specifically, USDA is proposing to provide for the ''individual attributes'' procedure for product grading with sample sizes, acceptable quality levels (AQL's), tolerances and acceptance numbers (number of allowable defects); with single letter grade designations. AMS is proposing to define ''frozen onions'' and establish ''strips'', ''diced'', whole'' and ''minced'' as the style designations. The proposal also defines the quality factors, acceptable quality levels (AQL), and tolerances (TOL) for defects that affect frozen onions and determine sample unit sizes for this commodity.

This proposal would establish the grade levels ''A'', ''B'' and ''Substandard''. The proposed AQLs, tolerances, and acceptance numbers for each quality factor as defined for each grade level would also be established.

The grade of a sample unit of frozen onions will be ascertained by considering the factors of varietal characteristics, flavor, odor, color, defects, and character. This proposal will provide a common language for trade, a means of measuring value in the marketing of frozen onions, and provide guidance in the effective utilization of frozen onions. The official grade of a lot of frozen onions covered by these standards will be determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Products Thereof, and Certain Other Processed Foods Products (§ 52.1 to 52.83).

This notice provides for a 60 day comment period for interested parties to comment on changes to the standards.

Authority: 7 U.S.C. 1621–1627

Dated: April 20, 2001.

Robert C. Keeney,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–10525 Filed 4–26–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Economic Research Service

Notice of Intent to Seek Approval to Collect Information; Correction

AGENCY: Economic Research Service, USDA.

ACTION: Notice and request for comments; correction.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the Economic Research Service's (ERS) intention to request approval for a new information collection from Child and Adult Care Food Program (CACFP) State agencies. The study will collect existing data from the State agencies related to administrative cost reimbursement of sponsoring organizations that administer the family day care homes (FDCH) portion of the Program.

FOR FURTHER INFORMATION CONTACT: Linda Ghelfi, 202–694–5437.

Correction

In the **Federal Register** issue of March 26, 2001, in FR Doc. 01–7396, on page 16441, in the second column, correct the ''Dates'' caption to read:

DATES: Comments on this notice must be received by May 30, 2001 to be assured of consideration.

Dated: April 16, 2001.

Susan Offutt.

Administrator, Economic Research Service.

[FR Doc. 01–10526 Filed 4–26–01; 8:45 am]

BILLING CODE 3410–18–M

DEPARTMENT OF AGRICULTURE

Farm Service Agency

President's Commission on Improving Economic Opportunity in Communities Dependent on Tobacco Production While Protecting Public Health

AGENCY: Farm Service Agency, USDA

ACTION: Notice of publication of final report and public briefings.

SUMMARY: Executive Order 13168 published September 22, 2000, established the President's Commission on Improving Economic Opportunity in Communities Dependent on Tobacco Production While Protecting Public Health (Commission). This notice announces that the Commission's Final Report will be published on May 14, 2001 and that two public briefings will be conducted by the Commission on May 14, 2001. The purpose of the public briefings will be to inform the public of the findings and recommendations, as set out in the Commission's Final Report. All meetings are open to the public.

DATES: The Commission will conduct the first briefing on May 14, 2001, from 8 a.m. to 10 a.m. at the McKimmon Center, North Carolina State University, 1101 Gorman St., Raleigh, NC and the second at the Executive Inn Hotel, 978 Phillips Lane, Louisville, KY, on May 14, 2001, from 2 p.m. to 4 p.m. All times are Eastern Standard Time. Copies of the Final Report will be available on the Commission's website at http:www.fsa.usda.gov/tobcom/ or by contacting Solomon Whitfield or Eloise Taylor at the Tobacco and Peanuts Division at the contact information listed below.

FOR FURTHER INFORMATION CONTACT: Doug Richardson, Executive Director, Tobacco Commission, United States Department of Agriculture, (USDA), 1400 Independence Avenue, SW., STOP 0574, Washington, DC, 20250–0574 or telephone (202) 418–4266 or toll free (866) 804–6698; FAX (202) 418–4270; Internet: doug_richardson@wdc.fsa.usda.gov or Solomon Whitfield, Acting Director, Tobacco and Peanuts Division, telephone (202) 720–5988 or Eloise Taylor, Agricultural Program Specialist, telephone (202) 720–9106; FAX (202) 690–2298; Internet: *eloise_taylor@wdc.fsa.usda.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the Commission is to advise the President on changes occurring in the tobacco farming economy and recommend such measures as may be necessary to improve economic opportunity and development in communities that are dependent on tobacco production, while protecting consumers, particularly children, from hazards associated with smoking. The Commission collected and reviewed information about changes in the tobacco farming economy and Federal, State, and local initiatives intended to help tobacco growers, tobacco quota holders, and communities dependent on tobacco production pursue new economic opportunities. The Commission received public input through two public forums, its website, written comments and experts in tobacco farming, tobacco health issues, and economic development. After reviewing all input, the Commission is issuing its findings and recommendations in the Final Report, regarding the economic situation facing tobacco producers and tobacco dependent communities.

If special accommodations are required, please contact Doug Richardson, at the address specified above, by COB May 7, 2001.

Signed at Washington, D.C. on April 24, 2001.

James R. Little,

Acting Administrator, Farm Service Agency.

[FR Doc. 01–10566 Filed 4–26–01; 8:45 am]

BILLING CODE 3410–05–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: May 28, 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 additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons

who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Airfield Alert Support Services
Robert Gray Army Airfield, III Corps and Fort Hood Army Airfield, Fort Hood, Texas
NPA: Training, Rehabilitation & Development Institute, Inc., San Antonio, Texas
Dispatcher, Defense Supply Center—Richmond, Richmond, Virginia
NPA: Richmond Area Association for Retarded Citizens Richmond, Virginia
Family Housing Maintenance, Rotterdam Housing Area, Watervliet, New York
NPA: Uncle Sam's House, Inc., Schenectady, New York
Janitorial/Custodial, Buckley Air Force Base, Colorado
NPA: North Metro Community Services for Developmentally Disabled, Westminister, Colorado
Janitorial/Custodial, Portsmouth Naval Hospital, Administrative Buildings, Portsmouth, Virginia
NPA: Portco, Inc., Portsmouth, Virginia
Janitorial/Grounds Maintenance, Glenn M. Anderson Federal Building, Long Beach, California
NPA: California Elwyn, Inc., Fountain Valley, California
Switchboard Operation
At the Following:
Air Mobility Command Locations, Travis Air Force Base, California
NPA: Solano Diversified Services, Vallejo, California
Dover Air Force Base, Delaware
NPA: Delaware Division for the Visually Impaired, New Castle, Delaware
Andrews Air Force Base, Maryland
NPA: Columbia Lighthouse for the Blind, Washington, DC
Scott Air Force Base, Illinois
NPA: Lighthouse for the Blind, St. Louis, Missouri
McConnell Air Force Base, Kansas
NPA: The Oklahoma League for the Blind, Oklahoma City, Oklahoma
McGuire Air Force Base, New Jersey
NPA: Bestwork Industries for the Blind, Inc., Runnemede, New Jersey
Pope Air Force Base, North Carolina
NPA: ServiceSource, Inc., Alexandria, Virginia
Grand Forks Air Force Base, North Dakota
NPA: Minot Vocational Adjustment Workshop, Inc., Minot, North Dakota
Charleston Air Force Base, South Carolina
NPA: Winston-Salem Industries for the Blind, Winston-Salem, North Carolina
McChord Air Force Base, Washington
NPA: The Lighthouse for the Blind, Inc., Seattle, Washington
Fairchild Air Force Base, Washington
NPA: The ARC of Spokane, Spokane, Washington

Rita L. Wells,

Deputy Executive Director.

[FR Doc. 01–10535 Filed 4–26–01; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Addition; Correction

In the document appearing on page 19136, FR Doc 01–9234, in the issue of April 13, 2001, in the second column the Committee published a proposed addition to the Procurement List for Data Entry, Department of Justice, Immigration & Naturalization Service, Washington, DC. The proposed addition notice is amended to read Data Entry for the Non-Immigrant Information System (NIIS) and Student/School (STSC) System, Department of Justice, Immigration & Naturalization Service, Washington, DC

Rita L. Wells,

Deputy Executive Director.

[FR Doc. 01–10533 Filed 4–26–01; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities and services previously furnished by such agencies.

EFFECTIVE DATE: May 28, 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 26, March 2 and March 9, 2001, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (66 F.R. 7875, 13041 and 14123) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List. Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Hose, Fire

4210–00–892–5494
4210–01–165–6597
4210–01–166–8122
4210–01–167–1061
Table, Field Operating
6530–01–321–5592
Marker, Dry Erase
7520–00–NIB–1429
7520–00–NIB–1430
7520–00–NIB–1431
7520–00–NIB–1432
7520–00–NIB–1433
7520–00–NIB–1434
7520–00–NIB–1435
7520–00–NIB–1436

Services

Food Service Attendant, Fort Custer Training Center, 2725 27th Street, Augusta, Michigan
Janitorial/Custodial, U.S. Army Reserve Center, Aberdeen Proving Ground, Aberdeen, Maryland
Office Supply Store
Department of Energy
At the following Locations:
1000 Independence Avenue, SW., Washington, DC
19901 Germantown Road, Germantown, Maryland
80300 Century Blvd, Germantown, Maryland
Office Supply Store
Defense Supply Service—Washington
Presidential Towers, Arlington, Virginia

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action will not have a severe economic impact on future contractors for the commodities and services.
3. The action will result in authorizing small entities to furnish the commodities and services to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities and services are hereby deleted from the Procurement List:

Commodities

Stepladder, Fiberglass
5440–01–061–8898
5440–00–061–8900
5440–01–110–7763
5440–01–460–5352
5440–01–460–5363
5440–01–460–5364
Printing and Binding ''En Garde'' Newsletter
7690–00–NSH–0079
Securities & Exchange Commission Confidential Microfiche
7690–00–NSH–0083

Services

Food Service, Pascagoula Naval Station, Pascagoula, Mississippi
Management of Bachelors Quarters, Pascagoula Naval Station, Pascagoula, Mississippi

Rita L. Wells,

Deputy Executive Director.

[FR Doc. 01–10534 Filed 4–26–01; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

EXPORT TRADE CERTIFICATE OF REVIEW

ACTION: Notice of Issuance of an Export Trade Certificate of Review, Application No. 01–00001.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to Ginseng Board of Wisconsin (''GBW''), Wausau, Wisconsin, effective April 13, 2001. This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Vanessa M. Bachman, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, 202–482–5131 (this is not a toll-free number) or by E-mail at oetca@ita.doc.gov.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001 *et seq.*) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (2000). The Office of Export Trading Company Affairs (''OETCA'') is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305 (a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

I. Export Trade

1. Products

Cultivated ginseng and cultivated ginseng products; cultivated golden seal and cultivated golden seal products; cultivated echinacea and cultivated echinacea products.

2. Services

All services related to the export of Products.

3. Technology Rights

All intellectual property rights associated with Products or Services, including, but not limited to, patents, trademarks, service marks, trade names, copyrights, neighboring (related) rights, trade secrets, know-how, and sui generis forms of protection for databases and computer programs.

4. Export Trade Facilitation Services (as they Relate to the Export of Products, Services and Technology Rights)

Export Trade Facilitation Services, including, but not limited to: foreign market development, consulting, international market research, foreign market product research and design, development of trade strategy, legal assistance, marketing, promotion, sales, distribution, trade documentation, trade shows, freight forwarding, consolidation of export shipments, transportation, communication and processing of export orders, warehousing, foreign exchange, financing, taking title to goods, customs, duties, taxes, insurance, billing collection, inspection and quality control.

II. Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

III. Export Trade Activities and Methods of Operation

In connection with the promotion and sale of Products, Services, and/or Technology Rights into the Export Markets, GBW and/or the Members may:

1. Design and execute foreign marketing strategies for Export Markets;
2. Establish base prices at which the Products will be sold for export, and set all or other terms of export sales;

3. Agree on quantities of Products to be sold. GHC and GBW shall not require any Product Supplier to export a minimum quantity. Supplier names will be in a lottery draw and the order in which names are drawn will be the order in which Suppliers will be contacted to see if they want to sell. If a Supplier decides not to sell, his name is put at the end of the list of Suppliers;

4. GBW and/or Mechthild Handke and GHC may refuse to quote prices for Products, or to market or sell Products to/or for any customers in the Export Markets, or any countries or geographical areas in the Export Markets;

5. GBW and GHC may conduct promotional activities such as: design, develop and use promotional material using trademarked seals and/or other material. GBW and GHC may design, develop and market generic or other corporate labels for use in Export Markets. GBW and GHC may arrange trade shows, marketing trips, advertising services, and may conduct international market and Product research;

6. GBW and GHC may conduct marketing and distribution of the Products in the Export Markets;

7. GBW and GHC may enter into exclusive agreements appointing one or more export trade intermediaries for the sale of products with price, quantity, territory, country and/or customer restrictions. (''Exclusive'' means that GBW and GHC may agree not to sell Products into designated Export Markets through any other foreign distributor and that the foreign distributor may agree to represent only GBW and GHC in the Export Markets and none of GBW's and GHC's competitors.);

8. Conduct product and packaging research and development exclusively for export in order to meet foreign regulatory requirements, foreign buyer specifications, and foreign consumer preferences;

9. Negotiate and enter into agreements with foreign governments and other foreign persons regarding non-tariff barriers in Export Markets;

10. Advise and cooperate with the United States Government in establishing procedures regulating the export of the Products;

11. Participate in negotiations and enter into agreements with foreign buyers (including governments and private persons) regarding fumigating, packing and other quality control and/or phytosanitary procedures, and/or funding requirements to be followed in the export of the Products. Such procedures may include activities related to insect and disease detection, certification, inspection, storage and treatment protocols required to qualify Products for export and to meet the import requirements of the foreign government. GBW and/or the Members may establish and operate fumigation facilities for use in the export of the Products;

12. Negotiate or enter into purchase agreements with buyers in Export Markets regarding terms and conditions of sales;

13. Broker or take title to Products and research data intended for Export Markets;

14. Jointly undertake the administrative tasks of processing export orders;

15. Engage in joint promotional activities (such as advertising or trade shows) for developing existing or new markets;

16. Procure, negotiate, contract, and administer transportation services for Products in the course of export, including overseas freight transportation, inland freight transportation from portal to embarkment, leasing of transportation equipment and facilities, storing/warehousing, stevedoring, wharfage, handling, insurance, and freight forwarder services;

17. Arrange for trade documentation, services, customs clearance, financial instruments, and foreign exchange;

18. Compile and discuss information regarding expenses specific to exporting the Products to and within the Export Markets, including without limitation, all modes of transportation, port storage, export sales, commissions, documentation, duties and taxes;

19. Operate and establish jointly owned subsidiaries or other joint venture entities, owned exclusively by GBW and/or the Members, to export Products to Export Markets; operate warranty, service, and training centers in Export Markets; and to provide Export Trade Facilitation Services to Members and nonmember Suppliers of Products. Member and nonmember Wisconsin Suppliers may ship Products through GHC;

20. Require the licensing of and license in the Export Markets any intellectual property rights resulting from the research conducted by the GRIA. The use of this intellectual property in conjunction with the sale of Products shall be determined by negotiations between the export customer, GBW and GRIA;

21. Arrange financing through private and public financial entities;

22. Bill and collect monies from foreign buyers; perform or arrange for all legal and financial services in relation to Export Trade Activities and Methods of Operation;

23. Require the use of the Wisconsin Ginseng Seal for Products (only ginseng and ginseng products) sold in the Export Markets;

24. Provide marketing and/or health benefit research data to customers, distributors and other export trade intermediaries in the Export Markets for use in promotion of Products, and enter into licensing arrangements of such data with export trade intermediaries and buyers in the Export Markets;

25. GBW and/or the Members can require that the Wisconsin Ginseng Seal emblem only be used to identify and signify Product (only ginseng and ginseng products) grown in Wisconsin, USA and containing 100% pure Wisconsin Ginseng;

26. Negotiate and enter into agreements with foreign governments and foreign persons to develop counter-trade arrangements, provided that this Certificate does not protect any conduct related to the sale of goods in the U.S. that are imported as part of any counter-trade transactions;

27. Apply for and utilize applicable export assistance and incentive programs available within governmental sectors;

28. Open, operate and staff overseas sales and distribution offices to facilitate the sales and distribution of Products to and within Export Markets; and

29. Exchange information as necessary to carry out Export Trade Activities and Methods of Operation between GBW, GRIA, GHC and other entities. Bring together from time to time GBW, the Members, and export trade intermediaries in the Export Markets to discuss and plan how to fulfill the Product, Service, and/or Technology Rights requirements of specific export customers or Export Markets.

IV. Definitions

''Members'' (within the meaning of Section 325.2(l) of the Regulations) are: the Ginseng Research Institute of America, Inc. (''GRIA''), Wausau, WI; Ginseng & Herb Co-op (''GHC''), Wausau, WI; and Ms. Mechthild Handke, Dusseldorf, Germany (representative for GBW and GHC).

''Supplier'' means a person who produces, provides, or sells any Product and/or Service.

V. Terms and Conditions of Certificate

1. Neither GBW, nor any of the Members, shall intentionally disclose, directly or indirectly, to any other Member or Supplier, any information about GBW's, any other Member's, or

any Supplier's costs, production, capacity, inventories, domestic prices, domestic sales, terms of domestic marketing or sale, or U.S. business plans, strategies, or methods, unless such information is already generally available to the trade or public.

2. Meetings at which GBW and the Members establish export prices shall not be open to the public.

3. GBW and the Members will comply with requests made by the Secretary of Commerce on behalf of the Secretary or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of section 303(a) of the Act.

VI. Protection Provided by Certificate

This Certificate protects GBW and the Members, and their directors, officers, and employees acting on their behalf, from private treble damage actions and governmental criminal and civil suits under U.S. federal and state antitrust laws for the export conduct specified in the Certificate and carried out during its effective period in compliance with its terms and conditions.

A copy of the Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: April 20, 2001.

Vanessa Bachman,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 01–10457 Filed 4–26–01; 8:45 am]

BILLING CODE 3510–DR–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042301A]

Atlantic Highly Migratory Species; Draft Biological Opinion

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

ACTION: Reopening of comment period.

SUMMARY: NMFS announces the reopening of the comment period on the draft biological opinion on authorization of the fisheries under the Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks that published in the **Federal Register** on April 11, 2001. This action is being taken because several constituents requested additional time to review the document due to its size and complexity.

DATES: Comments on the draft document will be accepted through 5 p.m. EST on May 4, 2001. The draft biological opinion is available from NMFS (see **ADDRESSES**).

ADDRESSES: Written comments on the document must be mailed to Bruce C. Morehead, Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910; or faxed to 301–713–1917. Comments will not be accepted if submitted via email or the Internet. Copies of the draft document may be obtained from Christopher Rogers, Acting Chief, Highly Migratory Species Management Division, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Christopher Rogers, 301–713–2347.

SUPPLEMENTARY INFORMATION: For tbhe notice of availability of the draft biological opinion on authorization of the fisheries under the Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks that published at 66 FR 18755, April 11, 2001, the comment period ended on April 18, 2001 at 5 p.m. EST. This document reopens the comment period to May 4, 2001. The document is available on the Internet at (http://www.nmfs.noaa.gov/); printed copies are available from NMFS upon request (see **ADDRESSES**).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 24, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–10521 Filed 4–24–01; 3:35 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041001C]

Taking and Importing of Marine Mammals

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

ACTION: Notice of affirmative finding renewal.

SUMMARY: The Assistant Administrator for Fisheries, NMFS, (Assistant Administrator) renewed the affirmative finding for the Republic of Ecuador under the Marine Mammal Protection Act (MMPA) on April 19, 2001. The renewal of Ecuador's affirmative finding allows for the continued importation into the United States of yellowfin tuna and yellowfin tuna products harvested in the eastern tropical Pacific Ocean (ETP) after March 3, 1999, by Ecuadorian-flag purse seine vessels or vessels with greater than 400 short tons (362.8 metric tons (mt)) carrying capacity operating under Ecuadorian jurisdiction. The affirmative finding renewal was based on the review of documentary evidence submitted by the Republic of Ecuador and obtained from the Inter-American Tropical Tuna Commission (IATTC) and the Department of State. This finding remains in effect through March 31, 2002.

DATES: Effective April 1, 2001, through March 31, 2002.

FOR FURTHER INFORMATION CONTACT: Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, California, 90802–4213; Phone 562–980–4000; Fax 562–980–4018.

SUPPLEMENTARY INFORMATION: The MMPA, 16 U.S.C. 1361 *et seq.*, as amended by the International Dolphin Conservation Program Act (IDCPA) (Pub. L. No. 105-42, 111 Stat. 1122 (1997)), allows the entry into the United States of yellowfin tuna harvested by purse seine vessels in the ETP under certain conditions. If requested by the harvesting nation, the Assistant Administrator for Fisheries, NMFS (Assistant Administrator), will determine whether to make an affirmative finding based upon documentary evidence provided by the harvesting nation, the IATTC, and/or the Department of State. A finding will remain valid for 1 year (April 1 through March 31) or for such other period as the Assistant Administrator may determine. An affirmative finding applies to tuna and tuna products that were harvested in the ETP by purse seine vessels of the nation and applies to any tuna harvested in the ETP purse seine fishery after March 3, 1999, the effective date of the IDCPA.

The affirmative finding process requires that the harvesting nation meet several conditions related to compliance

with the International Dolphin Conservation Program (IDCP). A nation may opt to provide information regarding compliance with the IDCP directly to NMFS on an annual basis or to authorize the IATTC to release the information to NMFS in years when NMFS will review and consider whether to issue an affirmative finding determination without an application from the harvesting nation.

An affirmative finding will be terminated, in consultation with the Secretary of State, if the Assistant Administrator determines that the requirements of 50 CFR 216.24(f)(9) are no longer being met or that a nation is consistently failing to take enforcement actions on violations which diminish the effectiveness of the IDCP. Every 5 years, the harvesting nation must request an affirmative finding and submit the required documentary evidence directly to the Assistant Administrator.

As a part of the annual review process set forth in 50 CFR 216.24 (f)(9), the Assistant Administrator considered documentary evidence submitted by the Republic of Ecuador and obtained from the IATTC and the Department of State and determined that the requirements under the MMPA to receive an affirmative finding have been met for the purposes of renewing an affirmative finding.

After consultation with the Department of State, NMFS renewed the Republic of Ecuador's affirmative finding allowing the continued importation into the United States of yellowfin tuna and products derived from yellowfin tuna harvested in the ETP by Ecuadorian-flag purse seine vessels or vessels under Ecuadorian jurisdiction greater than 400 short tons (362.8 mt) carrying capacity after March 3, 1999. This renewal will remain in effect for 1 year (April 1, 2001, through March 31, 2002).

In the subsequent years 2002 through 2004, the Assistant Administrator will determine on an annual basis whether the Republic of Ecuador is meeting the requirements under section 101 (a)(2)(B) and (C) of the MMPA. If necessary, additional documentary evidence may be requested from the Republic of Ecuador to determine whether the affirmative finding criteria are being met. If the affirmative finding for the Republic of Ecuador is renewed after NMFS's annual review in the years 2002 to 2004, the Republic of Ecuador must submit a new application in early 2005 for an affirmative finding to be effective for the period April 1, 2005, through March 31, 2006, and subsequent years.

Dated: April 19, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–10541 Filed 4–26–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041001F]

Taking and Importing of Marine Mammals

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

ACTION: Notice of affirmative finding renewal.

SUMMARY: The Assistant Administrator for Fisheries, NMFS, (Assistant Administrator) renewed the affirmative finding for the Government of Mexico under the Marine Mammal Protection Act (MMPA) on April 19, 2001. The renewal of Mexico's affirmative finding allows for the continued importation into the United States of yellowfin tuna and yellowfin tuna products harvested in the eastern tropical Pacific Ocean (ETP) after March 3, 1999, by Mexican-flag purse seine vessels or vessels operating with greater than 400 short tons (362.8 metric tons (mt)) carrying capacity under Mexican jurisdiction. The affirmative finding renewal was based on review of documentary evidence submitted by the Government of Mexico and obtained from the Inter-American Tropical Tuna Commission (IATTC) and the Department of State. This finding remains in effect through March 31, 2002.

DATES: Effective April 1, 2001, through March 31, 2002.

FOR FURTHER INFORMATION CONTACT: Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, California, 90802–4213; Phone 562–980–4000; Fax 562–980–4018.

SUPPLEMENTARY INFORMATION: The MMPA, 16 U.S.C. 1361 *et seq.*, as amended by the International Dolphin Conservation Program Act (IDCPA) (Pub. L. No. 105-42, 111 Stat. 1122 (1997)), allows the entry into the United States of yellowfin tuna harvested by purse seine vessels in the ETP under certain conditions. If requested by the harvesting nation, the Assistant Administrator for Fisheries, NMFS (Assistant Administrator), will determine whether to make an affirmative finding based upon documentary evidence provided by the government of the harvesting nation, the IATTC, or the Department of State. A finding will remain valid for 1 year (April 1 through March 31) or for such other period as the Assistant Administrator may determine. An affirmative finding applies to tuna and tuna products that were harvested in the ETP by purse seine vessels of the nation and applies to any tuna harvested in the ETP purse seine fishery after March 3, 1999, the effective date of the IDCPA.

The affirmative finding process requires that the harvesting nation meet several conditions related to compliance with the International Dolphin Conservation Program (IDCP). A nation may opt to provide information regarding compliance with the IDCP directly to NMFS on an annual basis or to authorize the IATTC to release the information to NMFS in years when NMFS will review and consider whether to issue an affirmative finding determination without an application from the harvesting nation.

An affirmative finding will be terminated, in consultation with the Secretary of State, if the Assistant Administrator determines that the requirements of 50 CFR 216.24(f)(9) are no longer being met or that a nation is consistently failing to take enforcement actions on violations which diminish the effectiveness of the IDCP. Every 5 years, the government of the harvesting nation must request an affirmative finding and submit the required documentary evidence directly to the Assistant Administrator.

As a part of the annual review process set forth in 50 CFR 216.24 (f)(9), the Assistant Administrator considered documentary evidence submitted by the Government of Mexico and obtained from the IATTC and the Department of State and determined that the requirements under the MMPA to receive an affirmative finding have been met for the purposes of renewing an affirmative finding.

After consultation with the Department of State, NMFS renewed the Government of Mexico's affirmative finding allowing the continued importation into the United States of yellowfin tuna and products derived from yellowfin tuna harvested in the ETP by Mexican-flag purse seine vessels or vessels under Mexican jurisdiction greater than 400 short tons (362.8 mt) carrying capacity after March 3, 1999. This renewal will remain in effect for 1 year (April 1, 2001, through March 31, 2002).

In the subsequent years 2002 through 2004, the Assistant Administrator will determine on an annual basis whether the Government of Mexico is meeting the requirements under section 101 (a)(2)(B) and (C) of the MMPA. If necessary, additional documentary evidence may be requested from the Government of Mexico to determine whether the affirmative finding criteria are being met. If the affirmative finding for the Government of Mexico is renewed after NMFS's annual review in the years 2002 to 2004, the Government of Mexico must submit a new application in early 2005 for an affirmative finding to be effective for the period April 1, 2005, through March 31, 2006, and subsequent years.

Dated: April 19, 2001.

William T. Hogarth,

Assistant Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–10542 Filed 4–26–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041801E]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Ad Hoc Groundfish Strategic Plan Implementation Oversight Committee (SPOC) will hold a telephone conference, which is open to the public.

DATES: The telephone conference will be held Monday, May 14, 2001, from 9 a.m.–12 p.m.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for locations of telephone conference availability.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, Oregon 97201.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Waldeck, telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION:

Meeting Locations

1. National Marine Fisheries Service, Northwest Region, Director's Conference Room, 7600 Sand Point Way NE, Building 1, Seattle, WA 98115; Contact: Mr. Bill Robinson (206) 526–6142.

2. Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201; Contact: Mr. Dan Waldeck (503) 326–6352.

3. California Fish and Game Commission Conference Room, Room 1320, 1416 Ninth Street, Sacramento, CA 95814; Contact: Mr. LB Boydstun (916) 653–6281.

4. Natural Resource Building, Room 677, 1111 Washington Street SE, Olympia, WA 98501; Contact: (360) 902–2819.

The purpose of the telephone conference is to discuss several issues: (1) the establishment of an Implementation Development Team for trawl permit stacking, (2) composition and purpose of a Council advisory committee for marine reserves, (3) conversion of the open access fishery to limited entry, and (4) a report detailing ongoing efforts related to marine reserves, protected areas, or sanctuaries.

Although non-emergency issues not contained in this agenda may come before the Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: April 23, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–10540 Filed 4–26–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE
GENERAL SERVICES ADMINISTRATION
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0012]

Submission for OMB Review and Extension; Termination Settlement Proposal Forms (Standard Forms 1435 through 1440)

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0012).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning termination settlement proposal forms (Standard Forms (SF's) 1435 through 1440). A request for public comments was published at 66 FR 11006, February 21, 2001. No comments were received.

Public comments are particularly invited on: whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Comments may be submitted on or before June 26, 2001.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Federal Acquisition Policy Division, GSA (202) 501–3775.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat, 1800 F Street, NW., Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0012,

Termination Settlement Proposal (SF's 1435 through 1440), in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

The termination settlement proposal forms (Standard Forms 1435 through 1440) provide a standardized format for listing essential cost and inventory information needed to support the terminated contractor's negotiation position. Submission of the information assures that a contractor will be fairly reimbursed upon settlement of the terminated contract.

B. Annual Reporting Burden

Respondents: *864.*
Responses Per Respondent: *2.4.*
Total Responses: *2,074.*
Hours Per Response: *2.5.*
Total Burden Hours: *5,185.*

Obtaining Copies of Proposals

Requester may obtain a copy of the proposal from the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0012, Termination Settlement Proposal Forms—FAR (SF's 1435 through 1440), in all correspondence.

Dated: April 24, 2001.

Gloria Sochon,

Acting Director, Acquisition Policy Division.

[FR Doc. 01–10519 Filed 4–26–01; 8:45 am]

BILLING CODE 6820–34–U

DEPARTMENT OF DEFENSE

Department of the Air Force

Federal Advisory Committee for the End-to-End Review of the U.S. Nuclear Command and Control System (NCCS)

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of forthcoming meetings of the Federal Advisory Committee for the End-to-End Review of the U.S. Nuclear Command and Control System (NCCS). The purpose of these meetings is to conduct a comprehensive and independent review of the NCCS positive measures to assure authorized use of nuclear weapons when directed by the President while assuring against unauthorized or inadvertent use. This meeting will be closed to the public.

DATES: May 22–23, 2001.

ADDRESSES: Eisenhower Executive Office Building, Room 208, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. William L. Jones, U.S. Nuclear Command and Control System Support Staff (NSS), Skyline 3, 5201 Leesburg Pike, Suite 500, Falls Church, Virginia 22041, (703) 681–8681.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–10543 Filed 4–26–01; 8:45 am]

BILLING CODE 5000–01–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 June 26, 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: April 23, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Undersecretary

Type of Review: New Collection.

Title: The Longitudinal Evaluation of the Effectiveness of School Interventions (LEESI).

Frequency: Annually Weekly Other: annually after 1st year of data collection.

Affected Public:

State, Local, or Tribal Gov't, SEAs or LEAs (primary).

Federal Government.

Reporting and Recordkeeping Hour Burden:

Responses: 2680.

Burden Hours: 2405.

Abstract: The purpose of the Longitudinal Evaluation of the Effectiveness of School Interventions (LEESI) is to determine how the provisions of Title I and Comprehensive School Demonstration (CSRD) programs foster school strategies that improve classroom practice and student outcomes. This project addresses both the implementation and the effectiveness of instructional interventions in 100 Title I elementary schools, including schools receiving CSRD funds. The LEESI will provide data that links classroom practices to student outcomes, and links school strategies to both classroom practices and student achievement, among a set of schools that operate Title I schoolwide programs.

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, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_RIMG@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at 703–426–9692. 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. 01–10497 Filed 4–26–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 29, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Lauren_Wittenberg@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, 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.

Dated: April 23, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Revision of a currently approved collection.

Title: Fulbright-Hays Training Grants: Faculty Research Abroad Program CFDA 84.019 Doctoral Dissertation Research Abroad Program CFDA 84.022 (JS).

Frequency: Annually.

Affected Public:

Not-for-profit institutions (primary).

Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 670.

Burden Hours: 12560.

Abstract: This application allows individual graduate students and faculty members to compete for Fulbright-Hays fellowships and enables the Department of Education to make awards to U.S. institutions of higher education to develop and improve modern foreign language and area studies training programs.

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 SCHUBART at (202) 708–9266. 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. 01–10496 Filed 4–26–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of Proposed Funding Priorities for Fiscal Years (FYs) 2001–2003 for three Disability and Rehabilitation Research Projects.

SUMMARY: We propose three funding priorities under the Disability and Rehabilitation Research Projects and Centers Program (DRRP): Strategies for Promoting Information Technology (IT)-based Educational Opportunities for Individuals with Disabilities, Strategies for Promoting Information Technology (IT)-based Employment and Training Opportunities for Individuals with Disabilities, and Wayfinding Technologies for Individuals Who are Blind under the National Institute on Disability and Rehabilitation Research (NIDRR) for FYs 2001–2003. We may use these priorities for competitions in FY 2001 and later years. We take this action to focus research attention on areas of national need. We intend these priorities to improve the rehabilitation services and outcomes for individuals with disabilities.

DATES: We must receive your comments on or before May 29, 2001.

ADDRESSES: All comments concerning these proposed priorities should be addressed to Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 3414, Switzer Building, Washington, DC 20202–2645. Comments may also be sent through the Internet: donna_nangle@ed.gov

FOR FURTHER INFORMATION CONTACT: Donna Nangle. Telephone: (202) 205–5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–4475.

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.

SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments regarding these proposed priorities.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed priorities. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these priorities in Room 3414, Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8:00 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed priorities. If you want to schedule an appointment for this type of aid, you may call (202) 205–8113 or (202) 260–9895. If you use a TDD, you may call the Federal Information Relay Service at 1–800–877–8339.

National Education Goals

These proposed priorities will address the National Education Goal that every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The authority for the program to establish research priorities by reserving funds to support particular research activities is contained in sections 202(g) and 204 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762(g) and 764). Regulations governing this program are found in 34 CFR part 350.

We will announce the final priorities in a notice in the **Federal Register.** We will determine the final priorities after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or funding additional priorities, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use these proposed priorities, we invite applications through a notice published in the **Federal Register**. When inviting applications we designate each priority as absolute, competitive preference, or invitational.

The proposed priorities refer to NIDRR's Long-Range Plan that can be accessed on the World Wide Web at: (*http://www.ed.gov/offices/OSERS/NIDRR/#LRP*).

Disability and Rehabilitation Research Projects and Centers Program

The purpose of the program is to plan and conduct research, demonstration projects, training, and related activities to:

(a) Develop methods, procedures, and rehabilitation technology that maximizes the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities; and

(b) Improve the effectiveness of services authorized under the Act.

Priorities for IT-based Employment and Education Initiatives

Background

The mission of the National Institute on Disability and Rehabilitation Research (NIDRR) is to ''generate, disseminate, and promote the full use of new knowledge that improves substantially the options for disabled individuals to perform regular activities in the community, and the capacity of society to provide full opportunities and appropriate supports for its disabled citizens'' (NIDRR Long-Range Plan, 64 FR 68575–68614, *http://www.ed.gov/offices/OSERS/NIDRR*). Consistent with NIDRR's mission, the NIDRR long-range plan introduced an expanded research agenda focused on elucidating the ''New Paradigm of Disability.'' The new paradigm of disability presents a framework for conceptualizing and understanding the interaction between individuals and the environment and how it impacts the lives of persons with disabilities. The dynamic person-environment relationship is complex, encompassing both influences and consequences in a variety of domains at the individual, institutional, and community levels. These complex person-environment relationships are not clearly understood although they have the potential to either facilitate community integration and independence for individuals with disabilities or, conversely, to serve as barriers to full participation in society, including education and employment.

Employment is a critical factor in providing individuals with disabilities opportunities to function independently in society. Employment frequently engenders empowerment, inclusion, and independence to the fullest extent possible. The National Organization on Disability, Harris Survey of Americans with Disabilities (2000) found that only 32% of individuals with disabilities of working age (18–64) work full or part time compared to 81% of the non-disabled population, a difference of 49 percent. More than two-thirds of those individuals with disabilities who are not employed say they would prefer to be working.

The Bureau of Labor Statistics has projected that four of the top ten fastest growing occupations over the next eight years will be in the information technology industry (''The 10 fastest growing occupations, 1998–2008'', Bureau of Labor Statistics, U.S. Department of Labor, 2000, *http://stats.bls.gov/news.release/ecopro.t06.htm*). Information technology (IT) is also projected to be the number one industry with the fastest wage and salary employment growth through 2008 (''Career Guide to Industries 2001–01 Edition, Bureau of Labor Statistics'', U.S. Department of Labor, pg. 4, 2000, *http://stats.bls.gov/cghome.htm*,). Given the increase in IT employment opportunities along with the flexibility these careers provide, the IT field offers tremendous opportunities for individuals with disabilities. One needs only to scan the daily newspapers to see the abundance of openings for skilled IT professionals. Therefore, research examining opportunities and barriers for individuals with disabilities in IT-based employment is crucial in this IT driven society.

For purposes of this discussion, IT-based education and training may occur in secondary, post-secondary, and vocational environments. IT-based employment careers encompass the use of, but are not limited to, high speed computers, modems, sophisticated telecommunications networks, cable networks, intranets, the Internet, the World Wide Web, and satellites.

In general, people with disabilities are less likely to have access to technology. For example, 11 percent of people with disabilities aged 15 and above have access to the Internet at home, compared to 31 percent of individuals without disabilities (National Center for Education Statistics, ''Students with disabilities in post-secondary education: A profile of preparation, participation, and outcomes'', NCES 199–187, Washington, DC: U.S. Department of Education, pg. 12, 1999, *http://nces.ed.gov/spider/webspider/1999187.shtml*). Consequently, many individuals with disabilities have not experienced the benefits of using information technology to advance their education or employment careers.

Students of all ages with disabilities encounter barriers that limit their participation in IT-based education and training. Environmental, attitudinal, technical, social, and financial barriers that limit access to IT-based education and training in IT are often referred to as the ''digital divide'' (U.S. Department of Commerce Report, ''Falling through the Net II: New Data on the Digital Divide'', pg. 2, 1998, *http://www.ntia.doc.gov/ntiahome/net2/falling.html*). Studies have found that students with disabilities in grades K–12 receive the poorest exposure to science and math of any category of students. Data comparing college students with and without disabilities indicates that students with disabilities are underrepresented in life sciences,

physical sciences, and math (National Center for Education Statistics, ''Students with disabilities in post-secondary education: A profile of preparation, participation, and outcomes'', NCES 199–187, Washington, DC: U.S. Department of Education, pg. 12, 1999, *http://nces.ed.gov/spider/webspider/1999187.shtml*). Therefore, an under-exposure to the disciplines of science, engineering and technology increases the likelihood that students with disabilities who seek higher education will arrive poorly prepared to pursue educational opportunities in these disciplines, further limiting their chances to compete for employment in these and related areas.

Strategies to expand access to IT careers vary immensely. Private and public partnerships may provide one mechanism for promoting skill and knowledge acquisition and employment in the field of information and communication technology. For instance, the DO-IT Scholars program at the University of Washington is an example of collaboration between educational and business partners to help students with disabilities explore technology careers and encourage the acquisition of knowledge and skills necessary to pursue technology careers. The National High School and High Tech Program allows students with disabilities to participate in ''hands on'' enrichment activities including site visits to laboratories and manufacturing plants, mentoring with professionals in high tech fields, and paid summer employment and internship opportunities in high tech environments (U.S. Department of Labor, ''High School and High Tech—Chapter I—Introduction,'' Office of Disability Employment Policy—U.S. Department of Labor, 2001, pg. 1, *http://www.dol.gov/pcepd/pubs/hsht00/chapter1.htm*).

Increased knowledge and understanding of different disabilities as well as reasonable accommodations, including assistive technologies and access to IT, are critical to the recruitment and ongoing support of individuals with disabilities in IT-based employment. In addition, expanded knowledge of employee rights and responsibilities, cost factors, legal issues, healthcare liabilities, and disability culture will have an impact on the development of strategies used by employers to successfully train and employ individuals with disabilities.

While individuals with disabilities are faced with barriers that limit access to technology and related education and training, the Internet and other information and communications technologies are changing the way our society operates. For example, these technologies have increased entrepreneurial and self-employment opportunities for individuals with and without disabilities (''Career Guide to Industries 2001–01 Edition'', Bureau of Labor Statistics, U.S. Department of Labor, pg. 42, 1999, *http://stats.bls.gov/cghome.htm*). To encourage growth in this sector, an examination of the factors involved in IT-related self-employment is needed to ensure that individuals with disabilities have access to a full-range of employment options. It is vital that more individuals with disabilities possess the skills necessary for employment in IT-related fields as this will greatly facilitate their full participation in America's economic, political, and social life.

Proposed Priority 1: Strategies for Promoting IT-Based Educational Opportunities for Individuals With Disabilities

We propose to establish multiple research projects to develop and evaluate IT-based education and training strategies that increase the employment of individuals with disabilities in IT related jobs. These projects must:

(1) Identify, develop, and evaluate strategies that assist with overcoming barriers that limit or preclude access to IT education and training in secondary, postsecondary, and vocational education programs;

(2) Identify and evaluate private and public partnerships between educational entities and businesses to provide education or skill-based training that assist individuals with disabilities in preparing for and securing employment in the IT industry or employment in jobs requiring expertise and training in IT; and

(3) Develop and implement in the first year of the grant, in consultation with the NIDRR-funded National Center for the Dissemination of Disability Research (NCDDR), a plan to disseminate the project's research results to the appropriate audiences including, but not limited to, educators, employers, manufacturers, persons with disabilities, disability organizations, technology service providers, businesses, and journals.

In addition to activities proposed by the applicants to carry out these purposes, the projects must:

- Coordinate with appropriate private and federally funded programs, such as the NIDRR-funded Community Based Rehabilitation Research Projects on Technology for Independence and the National Center on Accessible Education-Based Information Technology as identified through consultation with the NIDRR project officer; and
- Involve individuals with disabilities and underserved populations in all aspects of this project.

Proposed Priority 2: Strategies for Promoting IT-based Employment and Training Opportunities for Individuals With Disabilities

We propose to establish a project that will conduct research on IT-based employment and training strategies to identify barriers at the systems and individual level and to identify and evaluate effective strategies for promoting increased employment opportunities for individuals with disabilities. This project must:

(1) Identify and evaluate IT-based training and employment recruitment, hiring and placement strategies, including entrepreneurial opportunities, that promote successful employment for persons with disabilities in the IT industry;

(2) Identify, develop, and evaluate strategies to assist with overcoming barriers that limit opportunities for advanced skill development and promotions in jobs requiring significant IT knowledge and skills (including training for individuals currently working in IT industry and those in jobs requiring significant expertise with IT);

(3) Develop and evaluate training programs to inform employers, educators, and individuals with disabilities about effective strategies that will assist with overcoming barriers for IT-based training and improve IT based employment opportunities; and

(4) Develop and implement in the first year of the grant, in consultation with the NIDRR-funded National Center for the Dissemination of Disability Research (NCDDR), a plan to disseminate the project's research results to the appropriate audiences including, but not limited to, educators, employers, manufacturers, persons with disabilities, disability organizations, technology service providers, businesses, and journals.

In addition to activities proposed by the applicant to carry out these purposes, the project must:

- Coordinate with appropriate private and federally funded programs, such as the NIDRR-funded Community Based Rehabilitation Research Projects on Technology for Independence, Projects with Industry (PWI), as identified through consultation with the NIDRR project officer; and

• Involve individuals with disabilities and underserved populations in all aspects of this project.

Proposed Priority 3: Wayfinding Technologies for Individuals Who Are Blind

Background. Traveling independently without the use of sight presents certain challenges for some individuals and significant limitations for others. Typical approaches used to reduce problems associated with independent travel include environmental features that provide audible or tactile equivalents of information available visually to sighted pedestrians, training for individuals who are blind or visually impaired, and the provision of devices to aid in wayfinding.

Wayfinding refers to techniques used by people who are blind or visually impaired as they move from place to place independently and safely. Wayfinding is typically divided into two categories: orientation and mobility. Orientation concerns the ability for one to monitor his or her position in relationship to the environment; and mobility refers to one's ability to travel safely, detecting and avoiding obstacles and other potential hazards. In general terms, wayfinding is the ability to; know where you are, where you are headed, and how best to get there; recognize when you have reached your destination; and find your way out—all accomplished in a safe and independent manner.

On September 28, 1999, the Interagency Committee on Disability Research (ICDR), Subcommittee on Technology, sponsored a workshop to explore the state-of-the-art of wayfinding technology and to identify research and development activities that could improve the wayfinding capabilities of individuals who are blind or visually impaired. A panel of researchers, supported by the National Institute on Disability and Rehabilitation Research, the Department of Veterans Affairs, the National Science Foundation, and the Architectural and Transportation Barriers Compliance Board, described the state of current technology as well as ongoing research in the field. A panel of individuals who are blind or visually impaired provided consumer perspectives. A common theme expressed by the consumer panel was that newly developed wayfinding technologies should supplement, and not supplant, already accepted mobility aids such as white canes and guide dogs. Some expressed concern that individuals could become too dependent on electronic travel aids and lose their ability (or readiness) to travel elsewhere. However, the panel also expressed the need for better technical and environmental solutions that provide location and mobility orientation for blind individuals at critical points in their daily activities. (http://www.ncddr.org/icdr/icdr_wayfinding.html)

People who are blind or visually impaired rely heavily on their senses to gather information about their surroundings, then use their cognitive abilities, especially reasoning and memory, to determine what the sensory information ''means'' for spatial orientation. Typically individuals use auditory, tactile, olfactory and kinesthetic feedback as they move about and associate certain sensory and perceptual experiences with locations along a route. The quality and usefulness of sensory information depends in part on how the individual who is blind or visually impaired perceives the information and the specificity of the information provided (Blasch, B., ''An Overview of Wayfinding Issues and Technology,'' presented at the Interagency Committee on Disability Research, Subcommittee on Technology Wayfinding Technology Workshop, September 28, 1999).

Blind pedestrians often experience difficulty navigating where there is free flowing traffic such as in parking lots, malls and office complexes, campuses, and roads constructed to keep traffic flowing. They frequently find it difficult and dangerous to obtain information needed to cross at traffic intersections because of noise, intermittent traffic flow, veering due to little or no acoustic guidelines or the street being too wide, and intersections that offset from one another. Conventional traffic signals often complicate the situation. In contrast, intersections equipped with accessible pedestrian signal (APS) technologies (e.g., audible or vibrotactile information sources) have been shown to be helpful to blind and visually impaired pedestrians.

Another problem stems from a growing trend of using free-flowing roundabout intersections to move traffic quickly and safely. Roundabouts, also referred to as traffic circles, are defined as circular intersections typically with a center island and no traffic signals. Many traffic engineers feel that roundabouts increase safety because vehicles: (1) must yield on entry to a roundabout; (2) rarely travel perpendicular to one another: and (3) travel at relatively low rates of speed while in roundabouts (Guth, D., ''Wayfinding at Modern Roundabouts,'' presented at the Interagency Committee on Disability Research, Subcommittee on Technology Wayfinding Technology Workshop, September 28, 1999). However, much of the planning efforts for roundabouts have neglected the wayfinding requirements and as a result, blind or visually impaired pedestrians have reported difficulty with perceiving gaps in traffic that are sufficient to cross safely at high-volume roundabouts (National Safety Council, ''Pedestrian Accidents,'' National Safety Council Accident Facts (Injury Statistics), 1998). (See http://*www.nsc.org/Irs/stainfo/af80.html*)

Due to tremendous advances in electronic and computer technologies, there is great potential for development of new electronic travel aids (ETAs). Ubiquitous computing, Global Positioning Systems, wearable computers, wireless connectivity, microelectronic mechanical systems, and new interface technologies are all examples of technological advances that could be incorporated into a new generation of ETAs and ultimately improve the wayfinding skills of individuals who are blind or visually impaired. For example: traffic control buttons could be programmed to be interactive with a wearable device; digital compasses could aid users with alignment and veering; accessible digital maps could provide blind pedestrians with information regarding street names, addresses, and businesses; and sensor technology could help blind pedestrians navigate hallways in large buildings and correct veering in open spaces (i.e., malls, parks, transit plazas, etc.) (Ross, D., ''Integrating Current Wayfinding Technology,'' presented at the Interagency Committee on Disability Research, Subcommittee on Technology Wayfinding Technology Workshop, September 28, 1999). However, there is little evidence that advances in electronic and computer technologies have been incorporated into new ETAs.

Proposed Priority 3: Wayfinding Technologies for Individuals Who Are Blind

We propose to establish a project to investigate wayfinding strategies, designs, environmental features, and electronic information and travel aids that will enable blind and visually impaired pedestrians to safely and independently navigate their surroundings including traffic intersections and roundabouts. The project must:

(a) Identify, assess, and evaluate current and emerging needs, and barriers to meeting those needs, that affect the wayfinding abilities of blind and visually impaired pedestrians to safely, and independently, navigate

their surroundings, including traffic intersections and roundabouts;

(b) Based upon the activities described in paragraph (a), investigate, evaluate, and develop new planning strategies, environmental features, and electronic travel aids that can be used by blind and visually impaired pedestrians to safely and independently, navigate their surroundings, including traffic intersections and roundabouts; and

(c) Develop and explore various strategies for strengthening partnerships with industry to facilitate the development and implementation of new designs, technologies and applications that are appropriate for blind and visually impaired pedestrians to use for wayfinding.

In addition to activities proposed by the applicant to carry out these purposes, the project must:

- Collaborate on research projects of mutual interest with relevant projects such as the NIDRR-funded RERCs on Low Vision and Blindness and Information Technology Access as identified through consultation with the NIDRR project officer;
- Collaborate with relevant Federal agencies responsible for the administration of public laws that address access to and usability of traffic intersection for individuals with disabilities such as the Architectural and Transportation Barriers Compliance Board, the U.S. Department of Transportation's Federal Highway Administration, Federal Transit Administration and National Highway Traffic Safety Administration, and other relevant Federal agencies identified by NIDRR; and
- Involve individuals who are blind and visually impaired in all aspects of this project.

Applicable Program Regulations: 34 CFR part 350.

Program Authority: 29 U.S.C. 762(g) and 764(a).

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(Catalog of Federal Domestic Assistance Number: 84.133A, Disability and Rehabilitation Research Project and Centers Program)

Dated: April 10, 2001.

Francis V. Corrigan,

Deputy Director, National Institute on Disability and Rehabilitation Research.

[FR Doc. 01–10499 Filed 4–26–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Initiative on Cooperative Programs with States for Research, Development and Demonstration

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of competitive financial assistance solicitation.

SUMMARY: The Department of Energy (DOE) is announcing a competitive solicitation for applications for cooperative agreements to pursue applied research, development and demonstration involving energy efficiency. Demonstrations will be limited to field tests that are primarily designed to provide critical operational feedback to researchers and/or manufacturers for the purpose of improving technical performance or lowering costs. The solicitation will not support demonstration projects intended primarily to stimulate market acceptance or build institutional support for available technologies. It is estimated that funding of approximately $6 million will be available for 6 to 10 awards under this solicitation in fiscal year 2001. Projects may be for a maximum of three years with total DOE funding of no more than $1,000,000 (DOE funding of approximately of $300,000 per year). The following areas of interest have been identified: (1) Buildings; (2) State Industries of the Future; (3) Combined Heat and Power and Distributed Power; and (4) Transportation.

DATES: The formal solicitation document, which includes greater detail about specific program areas of interest, application instructions, due dates and evaluation criteria, is available on the Golden Field Office website (see address below). Prospective applicants will be required to submit a pre-application, not longer than two pages, by May 4, 2001. Any pre-applications which have been submitted to DOE under this solicitation in 2001, prior to this published notice, are not required to be re-submitted. All pre-applications must be submitted by an eligible applicant. A response to the pre-application encouraging or discouraging a formal application will be communicated to the applicant. Submission of a pre-application is a requirement for submitting an application under this solicitation.

ADDRESSES: The formal solicitation document is available electronically as Solicitation No. DE-PS36–01GO90010 through the Golden Field Office's World Wide Web site at: http://www.golden.doe.gov/businessopportunities.html.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Golden Field Office, 1617 Cole Blvd., Golden, CO 80401. The Contract Specialist is James Damm, at FAX (303) 275–4788 or e-mail at *gostate@nrel.gov.* All questions or comments concerning this announcement must be in writing and should be directed to the attention of Mr. Damm. The preferred method of submitting questions and/or comments is through e-mail. Only questions and comments submitted to Mr. Damm will be considered. Questions and/or comments requiring coordination with EERE program officials will be directed by Mr. Damm to the cognizant offices.

SUPPLEMENTARY INFORMATION: Proposals will be subject to the objective merit review procedures for the Office of Energy Efficiency and Renewable Energy (EERE). Eligibility for this assistance is restricted to state agencies, (including state energy offices or organizations that represent state energy offices), and organizations that represent state energy research entities. Institutions of higher education are not eligible to be recipients under this solicitation. However, these institutions can participate as subawardees to eligible applicants. Eligible applicants may enter teaming arrangements with industry, DOE national laboratories, institutions of higher education, non-profit organizations, and Native American organizations.

Applications by DOE management and operating contractors (M&O) will not be eligible for award. However, applications that include performance of a portion of the project, not to exceed 50 percent of the total effort, by an M&O contractor will be eligible provided that the proposed use of any such entity is specifically authorized in writing by the

DOE Contracting Officer or authorized designee responsible for the M&O.

This solicitation provides opportunities to leverage funds for Research, Development and Demonstration (RD&D) designed to advance technologies that promote energy efficiency. A minimum of 20 percent non-Federal cost-sharing will be required for all projects receiving awards. Any proposed cost-sharing above the minimum 20 percent will be given favorable consideration in the selection process.

The Office of EERE implements DOE's strategic objectives of increasing the efficiency and productivity of energy use, while limiting environmental impacts; reducing the vulnerability of the U.S. economy to disruptions in energy supplies; ensuring that a competitive electric utility industry is in place that can deliver adequate and affordable supplies with reduced environmental impacts; supporting U.S. energy, environmental, and economic interests in global markets; and delivering leading-edge technologies.

The purpose of the solicitation is to pursue applied research, development, and demonstration (including field testing) with state energy offices and state energy research organizations in the following technology areas (or combination of technology areas) as described below:

1. Building Technologies

A. Whole Buildings

Through a whole building (or ''systems engineering'') approach, individual building components and subsystems are considered collectively in terms of their interactions and joint impacts on building occupants and building operating performance. Projects should focus on the following topics: daylighting, indoor environmental quality, commissioning and controls.

B. Building Components

Building Equipment—energy conversion and control equipment supplying lighting, space conditioning (heating, cooling, dehumidification and ventilation), water heating, refrigeration, laundry, computing and information services and conveniences to building occupants and commercial operations. Specific needs include electric heat pump water heating, lighting controls, thermal distribution, unitary HVAC systems performance and dehumidification.

Building Envelope—materials, components and systems for the windows, walls, roofs, foundations, and other elements which comprise building exteriors and provide thermal integrity and daylighting. Specific research needs include moisture research and window systems.

2. State Industries of the Future

Specific needs include the following:

Projects will be considered for funding that have been identified through a State Industries of the Future needs assessment exercise (local industry identification of priority research, development and demonstration needs that will result in enhanced energy efficiency, waste reduction and operational performance for that industry.) Only projects that address the nine Office of Industrial Technologies Industries of the Future will be considered. These industries are agriculture, aluminum, chemicals, forest products, glass, metal casting, mining, petroleum refining and steel. (Please visit our website at *www.oit.doe.gov* for a detailed explanation of the Industries of the Future.)

Projects will be considered for funding that are not specifically addressed in one of the Office of Industrial Technologies national industry specific solicitations. Projects considered for funding will be projects that state industries have determined will address priority energy, environmental and operational needs, but are not included in the current national level solicitations. These needs might have either a state specific or national focus.

Participating state agencies are highly encouraged to partner with a State Land Grant University. Proposals will discuss how the Land Grant Extension Service will be utilized to promote the technology and to disseminate results to the local industrial and manufacturing communities. Other partners including other universities, research institutions and laboratories may also be included in the project.

3. Combined Heat and Power (CHP) and Distributed Power

Applications will be accepted for work involving distributed power and combined heat and power technologies. This work includes, but is not limited to, applied research and field testing to address:

(a) Transmission constraints, interconnect barriers, and to encourage strategic placement of distributed power technologies, consistent and streamlined siting and permitting regulations, and an equipment pre-certification program to avoid long and costly permitting delays;

(b) New commercial and industrial development and urban infill redevelopment for distributed generation utilizing several DOE developed technologies (e.g., fuel cells, microturbines, industrial turbines, photovoltaics, wind, solar geothermal and energy storage) and demand-side management measures to examine systemic operational parameters and capabilities;

(c) Advanced distributed power and combined heat and power technologies at state and federal facilities; and

(d) Hybrid applications (e.g., hybrid wind/fuel cell/microturbine applications) for institutional and commercial application.

4. Transportation

Projects should focus on field research and technology validations / operational tests designed to maximize the benefits of clean and efficient vehicle technologies. Cooperative projects should focus on the following:

(a) Establishing benefits of emission control technologies:

(1) Develop and validate sophisticated emissions models that can predict the emissions potential for a variety of engine (Compression-ignition, direct injection (CIDI), Spark-ignition, direct injection (SIDI), microturbines) and exhaust after treatment systems in various hybrid electric vehicles (HEV) configurations;

(2) Public sector field-testing of HEV performance (including emission effects) using various alternative fuels; and

(3) Working with a national laboratory or University to develop a simple model of the engine out and tailpipe emissions performance of HEV.

(b) Operational research on refueling infrastructure for alternative fuel vehicles (i.e. high pressure storage, low temperature liquefaction processes, fast charging and convenience charging issues).

(c) Demonstration of the performance, reliability and durability of advanced transportation technologies (i.e. fuel cells, hybrid start/stop propulsion systems, and motor with integrated controller systems) while providing feedback for furthering technology development.

Additional information about the programs of the Office of EERE can be obtained at the Office's Internet site at *http://www.eren.doe.gov.*

Issued in Golden, Colorado, on April 20, 2001.

Jerry L. Zimmer,

Director, Office of Acquisition and Financial Assistance.

[FR Doc. 01–10503 Filed 4–26–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATE: Thursday, May 17, 2001 5:30 p.m.–9:00 p.m.

ADDRESS: Paducah Information Age Park Resource Center 2000 McCracken Boulevard Paducah, Kentucky.

FOR FURTHER INFORMATION CONTACT: W. Don Seaborg, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6806.

SUPPLEMENTARY INFORMATION: Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration and waste management activities.

Tentative Agenda:

5:30 p.m. Informal Discussion
6:00 p.m. Call to Order
6:10 p.m. Approve Minutes
6:20 p.m. Presentations, Board Response, Public Comments
8:00 p.m. Subcommittee Reports, Board Response, Public Comments
8:30 p.m. Administrative Issues
9:00 p.m. Adjourn

Copies of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Pat J. Halsey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments as the first item of the meeting agenda.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Environmental Information Center and Reading Room at 175 Freedom Boulevard, Highway 60, Kevil, Kentucky between 8:00 a.m. and 5:00 p.m. on Monday thru Friday or by writing to Pat J. Halsey, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001 or by calling her at (270) 441–6802.

Issued at Washington, DC on April 23, 2001.

Belinda G. Hood,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 01–10502 Filed 4–26–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–320–044]

Gulf South Pipeline Company, LP; Notice of Negotiated Rate Filing

April 23, 2001.

Take notice that on April 19, 2001, Gulf South Pipeline Company, LP (Gulf South) filed with the Commission a contract between Gulf South and the following company for disclosure of a recently negotiated rate transaction. As shown on the contract, Gulf South requests an effective date of April 1, 2001.

Special Negotiated Rate Between Gulf South Pipeline Company, LP and Mobile Gas Services Corporation, Contract No. 27430

Gulf South states that it has served copies of this filing upon all parties on the official service list created by the Secretary in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). 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. 01–10475 Filed 4–26–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–320–043]

Gulf South Pipeline Company, LP; Notice of Negotiated Rate Filing

April 23, 2001.

Take notice that on April 19, 2001, Gulf South Pipeline Company, LP (Gulf South) filed with the Commission a contact between Gulf South and the following company for disclosure of a recently negotiated rate transaction. As shown on the contract, Gulf South requests an effective date of May 1, 2001.

Special Negotiated Rate Between Gulf South Pipeline Company, LP and AEP Energy Services, Inc., Contract No. 28691

Gulf South states that it has served copies of this filing upon all parties on the official service list created by the Secretary in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). 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. 01–10476 Filed 4–26–01; 8:45 am]

BILLING CODE 6716–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–66–000]

Idaho Power Company, Complainant, v. Bonneville Power Administration Respondent; Notice of Complaint

April 23, 2001.

Take notice that on April 20, 2001, Idaho Power Company (Idaho Power) tendered for filing a Complaint against Bonneville Power Administration (BPA).

In its Complaint, Idaho Power alleges that BPA violated section 18.8 of its Open Access Transmission Tariff by refusing to offer and grant Idaho Power partial interim transmission service in response to a two month short-term firm transmission request that could not be satisfied in its entirety. The service requested was to commence on May 1, 2001. Idaho Power requests that the Commission order BPA to immediately offer and grant Idaho Power partial interim service in response to its request.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before April 27, 2001. 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 this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance. Answers to the complaint shall also be due on or before April 27, 2001. 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. 01–10478 Filed 4–26–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–381–000]

Questar Pipeline Company; Notice of Tariff Filing

April 23, 2001.

Take notice that on April 18, 2001, Questar Pipeline Company (Questar) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Sixth Revised Sheet No. 54, to be effective May 18, 2001.

Questar states that this filing is being tendered to reflect a change in the name and ABA number of Questar's bank to which wire transfers are to be made.

Questar states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). 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. 01–10471 Filed 4–26–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–249–001]

Trunkline Gas Company; Notice of Compliance Filing

April 23, 2001.

Take notice that on April 17, 2001, Trunkline Gas Company (Trunkline) tendered for filing additional workpapers to support its Fuel Reimbursement Filing. Trunkline asserts that the purpose of this filing is to comply with the Commission's order issued March 28, 2001 in Docket No. RP01–249–000, 94 FERC ¶ 61,348 (2001).

Trunkline further states that copies of this filing are being served on all parties to this proceeding and applicable state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 30, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). 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. 01–10474 Filed 4–26–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–380–000]

Tuscarora Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

April 23, 2001.

Take notice that on April 18, 2001, Tuscarora Gas Transmission Company (Tuscarora) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheet to become effective on May 18, 2001:

Second Revised Sheet No. 66

Tuscarora states that the purpose of this filing is to revise Section 23.1 of the General Terms and Conditions of its FERC Gas Tariff, Sheet No. 66, to state that information regarding shared operating personnel and facilities will be posted on Tuscarora's Internet web site.

Tuscarora states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). 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. 01–10472 Filed 4–26–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–379–000]

Tuscarora Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

April 23, 2001.

Take notice that on April 18, 2001, Tuscarora Gas Transmission Company (Tuscarora) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, First Revised Sheet No. 51, to become effective on May 18, 2001.

Tuscarora states that the purpose of this filing is revise its hourly delivery requirement in order to provide natural gas transportation service to new electric generating facilities.

Tuscarora states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). 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. 01–10473 Filed 4–26–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–89–000, et al]

Wolverine Power Supply Cooperative, Inc., et al.; Electric Rate and Corporate Regulation Filings

April 20, 2001.

Take notice that the following filings have been made with the Commission:

1. Wolverine Power Supply Cooperative, Inc.

[Docket No. EC01–89–000]

Take notice that on April 18, 2001, Wolverine Power Supply Cooperative, Inc. (Wolverine), tendered for filing an application under section 203 of the Federal Power Act (FPA) requesting Commission authorization to transfer to its member distribution cooperatives Wolverine's distribution substations that are dedicated to the members' use. Wolverine states that each of these substations are jurisdictional facilities under the FPA.

Copies of the filing were served on the public utility's jurisdictional customers and the Public Utility Commission of Michigan.

Comment date: May 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Cogentrix Lawrence County, LLC

[Docket No. EG01–192–000]

Take notice that on April 18, 2001, Cogentrix Lawrence County, LLC (applicant) tendered for filing with the Federal Energy Regulatory Commission (Commission), an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935. The applicant is a limited liability company organized under the laws of the State of Delaware that is engaged directly and exclusively in developing, owning, and operating a gas-fired 810 MW combined-cycle power plant in Lawrence County, Indiana, near the City of Bedford, Indiana, which will be an eligible facility.

Comment date: May 11, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Power Dynamics, Inc.

[Docket No. EG01–193–000]

Take notice that on April 18, 2001, Power Dynamics, Inc. (PDI) tendered for

filing with the Federal Energy Regulatory Commission (Commission) pursuant to Part 365 of the Commission's Regulations, 18 CFR Part 365, its application for determination of exempt wholesale generator status.

PDI is a Delaware corporation and intends to engage in wholesale electric power and energy marketing. PDI will operate and market the output of the ''Marina Island Project,'' which project consists of generating units in Los Angeles County, California.

Comment date: May 11, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Cargill-Alliant, LLC

[Docket No. ER01–1306–000]

Take notice that on April 17, 2001, Cargill-Alliant, LLC (Cargill-Alliant), tendered for filing a Notice of Withdrawal of its application for authorization to make market-rate power sales to affiliated public utilities. Cargill-Alliant states that no parties have intervened or protested the Cargill-Alliant application, so no party will be prejudiced or otherwise affected by Cargill-Alliant's withdrawal.

Cargill-Alliant requests that its Notice of Withdrawal be accepted effective as of May 2, 2001, a date fifteen days after the date of its filing.

Comment date: May 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Great Bay Power Corporation

[Docket No. ER01–1468–001]

Take notice that on April 17, 2001, Great Bay Power Corporation (Great Bay) tendered for filing service agreements for Chicopee Municipal Light Plant (Chicopee) and South Hadley Electric Light Department (South Hadley) under Great Bay's revised Market-Based Rate Power Sales Tariff (FERC Electric Tariff Revised Volume No. 2).

Comment date: May 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Ameren Energy Marketing Company

[Docket No. ER01–1810–000]

Take notice that on April 17, 2001, Ameren Energy Marketing Company (AEM) tendered for filing a power sales agreement to allow sales of capacity and energy at market-based rates to its affiliate, Union Electric Company d/b/a AmerenUE. AEM seeks an effective date of June 1, 2001, for the power sales agreement with AmerenUE.

Copies of this filing were served on the affected state utility commissions.

Comment date: May 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Southwest Power Pool, Inc.

[Docket No. ER01–1811–000]

Take notice that on April 17, 2001, Southwest Power Pool, Inc. (SPP) tendered for filing a revised service agreement for Network Integration Transmission Service with Grand River Dam Authority (Network Customer). This agreement was previously filed on an unexecuted basis in Docket No. ER01–267–000. SPP seeks an effective date of October 1, 2000 for the service agreement.

A copy of this filing was served on the Network Customer, and on all parties on the Docket No. ER01–267 service list.

Comment date: May 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Commonwealth Edison Company

[Docket No. ER01–1812–000]

Take notice that on April 17, 2001, Commonwealth Edison Company (ComEd) tendered for filing thirteen Firm Point-to-Point Transmission Service Agreements with Duke Energy Trading and Marketing, L.L.C. (DETM) with an associated Network Upgrade Agreement under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of April 1, 2001, for the Agreements with DETM, and accordingly, seeks waiver of the Commission's notice requirements.

Comment date: May 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Commonwealth Edison Company

[Docket No. ER01–1813–000]

Take notice that on April 17, 2001, Commonwealth Edison Company (ComEd) tendered for filing a Firm Point-to-Point Transmission Service Agreement with Edison Mission Marketing & Trading, Inc. (EMMT) with an associated Network Upgrade Agreement and a Short-Term Firm Transmission Service Agreement with H.Q. Energy Services (U.S.), Inc. (HQ) and a Non-Firm Transmission Service Agreements with HQ under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of April 1, 2001, for the Agreements with EMMT and HQ and accordingly, seeks waiver of the Commission's notice requirements.

Comment date: May 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Xcel Energy Services Inc.

[Docket No. ER01–1814–000]

Take notice that on April 17, 2001, Xcel Energy Services, Inc. (XES), on behalf of Public Service Company of Colorado (Public Service), tendered for filing an Amendment No. 1 to the Power Purchase Agreement dated July 20, 1999 between Public Service and Yampa Valley Electric Association, Inc. (Service Agreement No. 4 to Public Service FERC Electric Tariff, Original Volume No. 6).

XES requests that this agreement become effective on July 1, 2001.

Comment date: May 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. FPL Energy Maine Holdings, LLC and Boralex Industries Inc.

[Docket No. EC01–90–000]

Take notice that on April 18, 2001, FPL Energy Maine Holdings, LLC (FPL Maine Holdings) and Boralex Industries Inc. (Boralex) filed with the Federal Energy Regulatory Commission an application pursuant to Section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities whereby FPL Maine Holdings will divest, and Boralex will acquire for cash, FPL Maine Holdings 100 percent ownership interest in AVEC Holdings, LLC, which includes the AVEC Wood Burning Power Plant, a 31 megawatt wood-fired generating facility located in Fort Fairfield, Maine, its appurtenant interconnection facilities, and rights and interest in the interconnection agreement, transmission service agreements, and market-based rate tariff and service agreements associated with the generating facility. Pursuant to Section 203 of the Federal Power Act, Federal Energy Regulatory Commission approval is required for both FPL Maine Holdings's divestiture and Boralex's acquisition of the jurisdictional facilities.

Comment date: May 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. United States Department of Energy—Western Area Power Administration

[Docket No. EF01–5011–000]

Take notice that on April 17, 2001, Western Area Power Administration's Administrator, by Rate Order No. WAPA–95, did confirm and approve on an interim basis, to be effective on April 1, 2001, Western's Rate Schedules CV–F10, CV–FT4, CV–NFT4, CV–TPT5, CV–

NWT2, CV–RFS2, CV–EID2, CV–SPR2, CV–SUR2, CV–PSS2, CV–SCS1, COTP–FT2, and COTP–NFT2 for the Central Valley Project (CVP) and for the California-Oregon Transmission Project (COTP). On April 10, 2001, by Amendment No. 4 to Delegation Order No. 0204–108, the Secretary of Energy delegated to Western Area Power Administration's Administrator the authority to confirm, approve, and place into effect on an interim basis the rates in Rate Order No. WAPA–95.

The rates in Rate Schedules CV–F10, CV–FT4, CV–NFT4, CV–TPT5, CV–NWT2, CV–RFS2, CV–EID2, CV–SPR2, CV–SUR2, CV–PSS2, CV–SCS1, COTP–FT2, and COTP–NFT2 will be in effect pending the Federal Energy Regulatory Commission's (Commission) approval of these rates or of substitute rates on a final basis, through December 31, 2004.

Comment date: May 11, 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, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance). 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. 01–10470 Filed 4–26–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM95–9–014]

Open Access Same-time Information System (OASIS) and Standards of Conduct; Notice of Filing of Recommended Revisions to OASIS Standards and Communications Protocol Document (Version 1.4) and Request for Comments

April 23, 2001.

Take notice that on March 23, 2001, the OASIS Standards Collaborative Group (OSCG) (formerly known as the OASIS How Working Group) submitted a list of recommended revisions to the OASIS Data Dictionary (Appendix ''A'') of the OASIS Standards and Communication Protocols Document (S&CP Document, Version 1.4). The OSCG states that the revisions merely correct minor errors in the data dictionary. We are contemplating adoption of these recommended revisions after consideration of the comments invited below.

Comments must be submitted on or before May 18, 2001 and must reference Docket No. RM95–9–014. We encourage commenters to file their comments electronically, in accordance with the Commission's procedures for electronic filing.[1] For Internet E-Mail submittal, comments should be submitted to ''*comment.rm@ferc.fed.us*'' in the following format. On the subject line, specify Docket No. RM95–9–014. In the body of the E-Mail message, include the name of the filing entity; the software and version used to create the file, and the name and telephone number of the contact person. Attach the comment to the E-Mail in one of the following formats: WordPerfect 8.0 or below, MS Word Office 97 or lower version, or ASCII. The Commission will send an automatic acknowledgment to the sender's E-Mail address upon receipt. Questions on electronic filing should be directed to Brooks Carter at 202–501–8145, E-Mail address *brooks.carter@ferc.fed.us.*

Comments may also be filed by paper copy, in which case an original and sixteen copies must be delivered to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 by 5 p.m. on the due date for comments. If comments are filed by paper copy, commenters are encouraged to also submit a copy of the comments on computer diskette in one of the formats specified above. If comments are filed by paper copy with attached diskette, any discrepancies will be resolved by reference to the paper copy.

Copies of this filing are on file with the Commission and are available for public inspection during normal business hours (8:30 a.m. to 5 p.m. Eastern time) in the Commission's Public Reference Room at 888 First Street, NE., Washington, DC 20426. The filing will also be posted on the Internet through FERC's Home Page (*http://www.ferc.fed.us*) in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS). Please call 202–208–2222 for assistance.

David P. Boergers,

Secretary.

[FR Doc. 01–10477 Filed 4–26–01; 8:45 am]

BILLING CODE 6717–01–M

[1] *See* Electronic Filing of Documents, 94 FERC ¶ 61,239 (2000), where the Commission gave instructions on how to file comments electronically.

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6970–8]

Agency Information Collection Activities: Submission for OMB review; Comment Request; Annual Public Water Systems Compliance Report

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 the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Annual Public Water Systems Compliance Report, EPA ICR number 1812.02, OMB Control Number 2020–0020. The current ICR expires April 30, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 29, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1812.02 and OMB Control No. 2020–0020, to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer

for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, call Sandy Farmer at EPA, (202) 260–2740, or download off the Internet at *http://www.epa.gov/icr/icr.htm* and refer to EPA ICR No. 1812.02. For technical questions about the ICR contact Kenneth Harmon on (202) 564–7049.

SUPPLEMENTARY INFORMATION:

Title: Annual Public Water Systems Compliance Report, EPA ICR number 1812.02, OMB Control Number 2020–0020, expiring April 30, 2001. This is a request for extension of a currently approved collection.

Abstract: Section 1414 (c)(3)(A) of the Safe Drinking Water Act requires that each state that has primary enforcement authority under the Act shall prepare, make readily available to the public, and submit to the Administrator of EPA, an annual report of violations of national primary drinking water regulations in the state. The states' reports are to include violations of maximum contaminant levels, treatment requirements, variances and exemptions, and monitoring requirements determined to be significant by the Administrator after consultation with the states. Section 1414(c)(3)(B) of the Safe Drinking Water Act requires EPA to prepare and make available to the public an annual report that summarizes and evaluates the reports submitted by the states pursuant to section 1414(c)(3)(A). EPA's annual national report must also provide specified information about implementation of the public water system supervision system on Indian reservations and make recommendations concerning the resources necessary to improve compliance with the Safe Drinking Water Act. The States have already prepared and published three annual reports. EPA has prepared three national reports and published two. The third annual national report has been prepared and its publication is pending.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on February 5, 2001 (66 FR 8960); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 80 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: States, Tribes, and territories that have primary enforcement authority and meet the definition of ''state'' under the Safe Drinking Water Act.

Estimated Number of Respondents: 54.

Frequency of Response: Annually.

Estimated Total Annual Hour Burden: 4,300 hours.

Estimated Total Annualized Capital, Operating/Maintenance Cost Burden: 0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1812.02 and OMB Control No. 2020–0020 in any correspondence.

Dated: April 16, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–10513 Filed 4–26–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6971–2]

Agency Information Collection Activities: Proposed Collection; Comment Request; General Conformity of Federal Actions to State Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed and continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): General Conformity of Federal Actions to State Implementation Plans, ICR number 1637.05, and OMB Control Number 2060–0279, expiration date: September 30, 2001. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 26, 2001.

ADDRESSES: A copy of the supporting statement may be obtained from the Ozone Policy and Strategies Group, Air Quality Strategies and Standards Division, Office of Air Quality Planning and Standards, MD–15, Research Triangle Park NC 27711 or is available electronically at *http://www.epa.gov/ttn/oarpg* under ''Search OAR P&G,'' type in General Conformity.

Comments must be mailed to Annie Nikbakht, Ozone Policy and Strategies Group, Air Quality Strategies and Standards Division, MD–15, Environmental Protection Agency, Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: Annie Nikbakht, telephone: (919) 541–5246, Facsimile: (919) 541–0824; E-Mail: *nikbakht.annie@epa.gov*

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which take Federal actions, or are subject to Federal actions, and emit pollutants above de minimis levels.

Title: General Conformity of Federal Actions to State Implementation Plans, EPA ICR Number 1637.05 and OMB Control Number 2060–0279, expiration date: September 30, 2001.

Abstract: Before any agency, department, or instrumentality of the Federal government engages in, supports in any way, provides financial assistance for, licenses, permits, approves any activity, that agency has the affirmative responsibility to ensure that such action conforms to the State implementation plan (SIP) for the attainment and maintenance of the national ambient air quality standards (NAAQS). 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. Section 176(c) of the Clean Air Act (42 U.S.C. 7401 *et seq.*) requires that all Federal actions

conform with the SIPs to attain and maintain the NAAQS. The EPA's implementing regulations require Federal entities to make a conformity determination for all actions which will impact areas designated as nonattainment or maintenance for the NAAQS and which will result in total direct and indirect emissions in excess of de minimis levels. The Federal entities must collect information on the SIP requirements and the pollution sources to make the conformity determination. Depending on the type of action, the Federal entities either collect the information themselves, hire consultants to collect the information or require applicants/sponsors of the Federal action to provide the information.

The type and quantity of information required will depend on the circumstances surrounding the action. First, the entity must make an applicability determination. If the net total direct and indirect emissions do not exceed de minimis levels established in the regulations or if the action meets certain criteria for an exemption, a conformity determination is not required. Actions requiring conformity determinations vary from straightforward, requiring minimal information, to complex, requiring significant amounts of information. The Federal entity must determine the type and quantity of information on a case-by-case basis. State and local air pollution control agencies are usually requested to provide information to the Federal entities making a conformity determination and are provided opportunities to comment on the proposed determinations. The public is also provided an opportunity to comment on the proposed determinations.

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 estimated total annual projected burden and cost for respondents of Federal agencies are 175,000 hours and $8,027,000. The estimated total annual projected burden and cost for respondents providing information to the Federal agencies are 5,040 hours and $223,000. The estimated total annual projected burden and cost for the State and local agencies are 13,600 hours and $377,279. The estimated total annual projected burden and cost for EPA is 26,200 hours and $720,934. The total annual burden is estimated to be 219,840 hours and $9,348,213. For the 3 years covered by this ICR, the total burden is estimated to be 659,520 hours and $28,044,639. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: April 2, 2001.

Henry C. Thomas, Jr.,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 01–10516 Filed 4–26–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6617–5]

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 April 16, 2001 Through April 20, 2001 Pursuant to 40 CFR 1506.9.

EIS No. 010127, DRAFT EIS, AFS, ID, Caribou National Forest Land and Resource Management Plan, Implementation Revised Forest Plan, Bannock, Bear Lake. Bingham, Bonneville, Caribou, Franklin, Oneida and Power Counties, Cache and Rich Counties, UT, Lincoln County, WY, Comment Period Ends: August 31, 2001, Contact: Ric Rine (208) 557–5766.

EIS No. 010128, DRAFT EIS, FHW, MT, Montana State Primary Route 78 (P–78), Reconstruction, Widening and Realignment, from the junction with State Secondary Route 419 (S–419) which is just South of Abarokee, to the Southern end of the Yellowstone River Bridge which is just south of Columbus, MT, Comment Period Ends: June 11, 2001, Contact: Dale W. Paulson (406) 449–5302.

EIS No. 010129, DRAFT EIS, FHW, WI, County Highway J/Wis 164 (I–94 to County E) Corridor Study, Improvements, City of Pewaukee, Villages of Pewaukee and Sussex Towns of Lisbon, Richfield and Polk, Waukesha and Washington Counties, WI, Comment Period Ends: June 18, 2001, Contact: Richard Madrzak (608) 829–7510.

EIS No. 010130, FINAL EIS, COE, CA, Guadalupe River Flood Control and Adjacent Streams Investigation, Proposed Modifications to the Guadalupe River Project, Downtown San Jose, Santa Clara County, CA, Wait Period Ends: May 29, 2001, Contact: Nina Bicknese (916) 557–7948.

EIS No. 010131, DRAFT EIS, UAF, VA, Initial F–22 Operational Wing Beddown Replacing the Existing F–15C at Langley (AFB) or one of the Four Alternative Locations, VA, Comment Period Ends: June 11, 2001, Contact: Brenda Cook (757) 764–5007.

EIS No. 010132, FINAL EIS, IBR, CA, Coachella Canal Lining Water Project, Revised and Updated Information, Approval of the Transfers and Exchanges of Conserved Coachella Canal Water, Construction, Operation and Funding, Riverside and Imperial Counties, CA, Wait Period Ends: May 29, 2001, Contact: Don Mitchell (760) 398–2651.

EIS No. 010133, DRAFT EIS, AFS, OR, Deep Vegetation Management Project, Implementation, Ochoco National Forest, Paulina Ranger District, Crook and Wheeler Counties, OR, Comment Period Ends: June 11, 2001, Contact: Eugene Skrine (541) 447–6900.

EIS No. 010134, FINAL EIS, COE, CA, Bolsa Chica Project, Construction/Road Construction, Restoration and Flood Control Improvement, Section 10/404 Permits and Land Use Plan, City of Huntington Beach, Orange County, CA, Wait Period Ends: May 29, 2001, Contact: Jack Fancher (760) 431–9440.

EIS No. 010135, DRAFT SUPPLEMENT, FHW, VA, Outer Connector Study—Northwest Quadrant Transportation Improvement, from I–95, US 17 and VA–3, Funding, COE Section 10 and 404 Permits, Stafford and Spotsylvania Counties, WA, Comment Period Ends: July 02, 2001, Contact: Roberto Foresca-Martinez (804) 775–3320.

Dated: April 24, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–10554 Filed 4–26–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6617–6]

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–AFS–K65230–CA Rating EC2, Fuels Reduction for Community Protection Phase 1 Project on the Six Rivers National Forest, Proposes to Reduce Fuels High Severity Burned Stands, Lower Trinity Ranger District, Humboldt and Trinity Counties, CA.

Summary: EPA expressed environmental concerns related to purpose and project scope, and the need for additional information on the transportation system in the area. EPA also suggested that the final EIS include additional mitigation measures to address sedimentation and temperature issues in affected streams.

ERP No. D–AFS–L65368–ID Rating EC2, Curfew National Grassland Land and Resource Management Plan, Implementation, Caribou-Targhee National Forest, Oneida County, ID.

Summary: EPA expressed environmental concerns with the range of alternatives, and the need for additional information on impacts to air and water quality, and cumulative impacts. EPA suggests that the final EIS include a modified alternative within the range of alternatives that considers a grazing limit of 1000 acres or less. In addition, the FEIS should explain the significance of the changes in sagebrush canopy cover that would occur under each alternative.

ERP No. D–BLM–J02011–00 Rating EO2, Programmatic EIS—Southern Ute Indian Reservation Oil and Gas Development, Implementation, San Juan Basin, LaPlata, Archuleta, Montezuma Counties, CO and Rio Arriba and San Juan Counties, NM.

Summary: EPA expressed environmental objections with potential adverse impacts from temporary drilling, construction and well service and maintenance activities on 171 acres of wetlands and to federally threatened and endangered species (TES) including protection to active bald eagle nesting areas. The final EIS should include additional information to calculate cumulative impacts to wetlands and TES.

ERP No. D–FAA–E40785–FL Rating EC2, Fort Lauderdale—Hollywood International Airport, Proposed Expansion of Runway 9R–2FL and other Associated Improvements, Funding, Broward County, FL.

Summary: EPA is concerned about the insufficiency of the NEPA air quality analysis, potential noise impacts of the Proposed Project in EJ and non-EJ residential communities near the airport, the predicted loss of tidal mangrove wetlands, the limiting of the alternatives analysis, as well as the potential safety concerns of the proposed runway bridge.

ERP No. D–MMS–L03010–AK Rating EO2, Liberty Development and Production Plan, Beaufort Sea Oil and Gas Development, Implementation, To Transport and Sell Oil to the U.S. and World Markets, Right-of-Way Application, Offshore Beaufort Sea Marine Environment and Onshore North Slope of Alaska Coastal Plan, AK.

Summary: EPA expressed environmental objections due to the lack of analysis of the issues and concerns of the Inupiat Eskimos as required by Executive Order (EO) 12898, the potentially significant effects from leaks and spills associated with the use of undersea pipelines in the Beaufort Sea, the technological/logistical difficulties in responding to oil spills in the Beaufort, and the potential use of project components for which there are less environmentally damaging options. EPA recommended that additional information and analysis related to these objections be included in the EIS.

ERP No. D–NPS–E64018–GA Rating LO, Cumberland Island National Seashore General Management Plan, Wilderness Management Plan, Commercial Services Plan, Interpretation Plan, Resource Cultural and Natural Management Plan, Implementation, St. Marys County, GA.

Summary: EPA expressed lack of concerns.

Final EISs

ERP No. FA–NOA–E64016–FL, Florida Keys National Sanctuary Comprehensive Management Plan, New Information Concerning the Establishment of the Tortugas Marine Reserves in Seven Fishery Management Plan Amendments in the Gulf of Mexico.

Summary: EPA had no objections to the proposed plan.

Dated: April 24, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–10555 Filed 4–26–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6971–5]

Science Advisory Board; Notification of Public Advisory Committee Meeting

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Clean Air Scientific Advisory Committee (CASAC or the ''Committee''), a chartered Federal advisory committee, will meet in a public teleconference on Monday, May 14, 2001 from 1 to 2 pm Eastern Time. The meeting will be hosted out of Conference Room 6428, US EPA, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20004. The meeting is open to the public, however, due to limited space, seating will be on a registration-only basis. Consequently, the public is encouraged to connect via phone to the teleconference. For further information concerning the meeting or how to obtain the phone number, please contact the individual listed below.

Background

The CASAC Technical Subcommittee for Fine Particle Monitoring (the ''Subcommittee'') was established in 1996 to provide advice and comment to EPA (through CASAC) on appropriate methods and network strategies for monitoring fine particles in the context of implementing the revised national ambient air quality standards (NAAQS)

for particulate matter. The Subcommittee last held a meeting/workshop on January 22, 2001 (see 66 FR 1343, January 8, 2001 for additional details). As a result of the meeting/workshop, the Subcommittee prepared a Commentary.

Purpose of the Meeting

At this meeting, the CASAC will review the Subcommittee Commentary (Exploring Opportunities for Accommodating Emerging Technologies for Continuous Monitoring in Routine Air Monitoring Networks—A Commentary stemming from a CASAC/Agency Workshop) that was prepared as a result of the January 22, 2001 Subcommittee meeting. CASAC will also discuss future activities planned for the remainder of this fiscal year.

Availability of Review Materials

The draft Subcommittee report is available on the SAB Website *(www.epa.gov/sab)* under the DRAFT REPORTS subheading.

FOR FURTHER INFORMATION CONTACT: Members of the public desiring additional information about the meeting, including registering for the limited number of seats in the meeting room, must contact Mr. Robert Flaak, Designated Federal Officer, Clean Air Scientific Advisory Committee, EPA Science Advisory Board (1400A), Suite 6450, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone/voice mail at (202) 564–4546; fax at (202) 501–0582; or via e-mail at *flaak.robert@epa.gov.* A copy of the draft agenda will be posted on the SAB Website *(www.epa.gov/sab)* (under the AGENDAS subheading) approximately 12 days before the meeting.

Members of the public who wish to make a brief oral presentation must contact Mr. Flaak in writing (by letter or by fax—see previously stated information) no later than 12 noon Eastern Time, Wednesday, May 9, 2001 in order to be included on the Agenda. Public comments will be limited to approximately three to five minutes per speaker or organization, with a total time of fifteen minutes overall for all speakers. Written comments must be received no later than the day prior to the meeting, preferably in electronic format.

Providing Oral or Written Comments at SAB Meetings

It is the policy of the Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

Oral Comments: In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes. For conference call meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total, unless otherwise stated. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting.

Written Comments: Although the SAB accepts written comments until two days following the date of the meeting (unless otherwise stated above), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the committee for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file formats: WordPerfect, Word, or Rich Text files (in IBM–PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 25 copies of their comments for public distribution.

General Information

Additional information concerning the EPA Science Advisory Board, its structure, function, and composition, may be found on our Website (http://www.epa.gov/sab) and in The FY2000 Annual Report of the Staff Director which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256. Committee rosters, draft Agendas and meeting calendars are also located on our website.

Meeting Access

Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact Mr. Flaak at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: April 19, 2001.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 01–10510 Filed 4–26–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6971–3]

Gulf of Mexico Program Comprehensive Meeting of the Focus Teams

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Act, Public Law 92463, EPA gives notice of a Comprehensive Meeting of the Gulf of Mexico Program (GMP) Focus Teams (Public Health, Nutrient Enrichment, Habitat, and Nonindigenous Species).

DATES: The Comprehensive Meeting will be held on Wednesday, May 30, 2001, from 8 a.m. to 5 p.m., and on Thursday, May 31, 2001, from 9 a.m. to 3 p.m.

ADDRESSES: The meetings will be held at the Embassy Suites Hotel, 315 Julia Street, New Orleans, LA, (504) 525–1993.

FOR FURTHER INFORMATION CONTACT: Gloria D. Car, Designated Federal Officer, Gulf of Mexico Program Office, Building 1103, Room 202, Stennis Space Center, MS 39529–6000 at (228) 688–2421.

SUPPLEMENTARY INFORMATION: Proposed agenda is attached. The meeting is open to the public.

Dated: April 18, 2001.

Gloria D. Car,

Designated Federal Officer.

Gulf of Mexico Program 2001 Comprehensive Meeting Agenda

Wednesday, May 30

8:00 a.m.—Meeting Opens.

5:00 p.m.—GMP Focus Teams (Public Health, Nutrient Enrichment, Habitat, and Nonindigenous Species) Convene in Separate Sessions to Initiate Development of FY2003 Performance Goal Recommendations and Supporting Strategies.

Thursday, May 31

9:00 a.m.—General Plenary Session (All Teams).

11:30 a.m.—

- Overview of FY2001 Workplan Process and Accomplishments.
- Briefing on FY2002 Workplan Schedule.
- Group Discussion / Q & A.
- Guest Speaker on Partnerships and Stakeholders.

11:30–1:00 p.m.—Lunch

1:00–3:00 p.m.—Focus Teams Re-convene in Plenary Session with Data and Information Transfer

Committee, Monitoring, Modeling and Research Committee, and Gulf Mapping and Assessment Center.

3:00 p.m.—Meeting Adjourns.

[FR Doc. 01–10517 Filed 4–26–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6971–4]

Science Advisory Board; Notification of Public Workshop

Notice is hereby given that the US EPA along with the US EPA Science Advisory Board (SAB), will jointly host a public Workshop on Understanding Public Values and Attitudes Related to Ecological Risk Management. The Workshop is open to the public, however, seating is limited and available on a registration basis. In most instances, SAB meetings are subject to the Federal Advisory Committee Act which includes opportunities for public comment. However, since this meeting meets the requirements of 41 CFR 101–6.1004, the provisions of the Federal Advisory Committee Act (Public Law 92–463) do not apply. Therefore, we are not soliciting public comments during this non-FACA Workshop.

Time and Location—The Workshop will be held on May 23–24, 2001 at the Academy for Educational Development, 1825 Connecticut Avenue, NW., Washington, DC, Telephone 202–884–8000. Registration is from 8:30–9:00 am on May 23. The Workshop will begin at 9:00 am each day, ending at 5:00 pm on May 23 and no later than 12:15 pm on May 24.

Purpose of the Workshop—To demonstrate how researchers using different kinds of analytical methods, tools and approaches from the social sciences can mutually inform each other and risk managers in understanding: (a) public values and attitudes related to specific threats to ecological resources, such as a specific water body threatened with nitrogen deposition and (b) the significance of those values.

The Workshop will focus on a particular waterbody, Tampa Bay Estuary, and will provide an opportunity for four researchers in the social sciences to address the following questions in terms that are relevant to and readily comprehendible to Agency management:

Given that the state of knowledge about ecological and human health effects of nitrogen deposition are fairly well known in the Tampa Bay Estuary, (a) Why do people care about protecting waterbodies against current problems and preventing further nitrogen deposition? and (b) How can EPA move beyond current economic considerations, per se, to identify and evaluate/measure why and how much people care about protecting the resource?

Workshop Agenda—A written agenda is available on the SAB website (see below). The first day of Workshop will include an introduction followed by four presentations of Research Plans commissioned on the issue. These proposals would demonstrate how different social science approaches (in the disciplines of anthropology, decision sciences, economics, and social psychology) could help decision makers at EPA and outside understand values, attitudes and decision factors related to protection of Tampa Bay against nitrogen deposition. There would be a short time following each presentation for a facilitated discussion.

The morning of the second day will feature a panel of managers who will discuss their reactions to the expert presentations. They would focus on the potential usefulness of the research proposals presented, whether and how they add value to information currently available to decision makers for making decisions, communicating decisions, and justifying decisions about ecological risk management.

FOR FURTHER INFORMATION CONTACT: To register for the Workshop, please send the following information via email to: Brian Heninger at *heninger.brian@epa.gov* by May 15: name; affiliation; address; phone; fax; e-mail address; occupation; area of expertise; and what aspects of this Workshop interest you the most.

Any member of the public wishing further information concerning this Workshop should consult the website for this Workshop at *http://www.epa.gov/sab/presentation-1/index.htm.* Questions concerning this Workshop can be directed to Dr. Angela Nugent, Special Assistant, EPA Science Advisory Board, (202) 564–4562 or *nugent.angela@epa.gov.*

Dated: April 18, 2001.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 01–10514 Filed 4–26–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6970–7]

Regulatory Reinvention (XL) Pilot Projects

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of the City of Columbus Project XL for Communities final project agreement and related documents.

SUMMARY: EPA is announcing the signing of the Project XL for Communities (XLC) Final Project Agreement (FPA) for the City of Columbus, Ohio.

DATES: The FPA was signed on September 26, 2000.

ADDRESSES: To obtain a copy of the Final Project Agreement, Fact Sheet, or public comments received, contact: Miguel Del Toral, 312–886–5253, US EPA Region 5, Water Division, WD–15J, 77 West Jackson Blvd, Chicago, Illinois 60604–3507 (deltoral.miguel@epa.gov) or Kristina Heinemann, US EPA, Office of Environmental Policy Innovation, 1807, 1200 Pennsylvania Ave., NW., Washington, DC 20460 (heinemann.kristina@epa.gov). The documents are also available via the internet at the following location: *http://www.epa.gov/ProjectXL/Columbus/index.htm.* In addition, public files on the project are located at the EPA Regional Office in Chicago. Questions to EPA regarding the documents can be directed to Miguel Del Toral at (312) 886–5253 or Kristina Heinemann at (202) 260–5355. Additional information on Project XL, and Project XL for Communities including documents referenced in this notice, other EPA policy documents related to Project XL, Regional and Headquarters contacts, application information and descriptions of existing XL projects and proposals are available via the Internet at *http://www.epa.gov/ProjectXL.*

SUPPLEMENTARY INFORMATION: The Final Project Agreement is a voluntary agreement developed by the City of Columbus (the project sponsor), the State of Ohio (the Ohio Department of Health and the Ohio Environmental Protection Agency), project stakeholders, and US EPA. Project XL and Project XLC, announced in the **Federal Register** on May 23, 1995 (60 FR 27282) and November 1, 1995 (60 FR 55569) respectively give regulated sources the opportunity to develop alternative strategies that will replace or modify specific regulatory requirements on the condition that they produce

greater environmental benefits. The legal implementing mechanism to be used in this project is described in the project's FPA.

On July 27, 2000, EPA announced the availability of the draft FPA in the **Federal Register** (65 FR 46166) and requested comments. As a result of that announcement, EPA received one comment from the National Rural Water Association. The comment and EPA's response to it are available from the contacts listed in the **ADDRESSES** section and on the Project XL website at *http://www.epa.gov/ProjectXL/Columbus/index.htm*. No other comments were received.

The City of Columbus XLC project will test a potentially more effective means of addressing health concerns from lead through the Lead Safe Columbus Program (LSCP), a program run by the Columbus Departments of Health and Trade and Development, and through closer coordination between the City, the State of Ohio and US EPA on drinking water treatment issues. Through this XLC Project, the US EPA will suspend the Lead Service Line sampling and replacement provisions of the Lead and Copper Rule promulgated under the Safe Drinking Water Act (see 40 CFR 141.84) for up to three years beginning if and when the City exceeds the Lead Action Level, provided this occurs within six years of making a drinking water treatment change. In exchange for this regulatory flexibility, the Columbus Division of Water has committed to contributing $300,000 a year for 15 years to the LSCP. The LSCP provides free blood testing, public education, medical intervention for lead-poisoned children, and grants and loans for lead abatement to residents of Columbus in high-risk areas. The LSCP targets an area consisting of twenty-five high-risk census tracts within ten zip codes in older, predominantly low-income, minority neighborhoods in Columbus, where 84% of all elevated blood lead levels in the City were found.

Dated: April 19, 2001.

Elizabeth A. Shaw,

Director, Office of Environmental Policy Innovation.

[FR Doc. 01–10515 Filed 4–26–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00701; FRL–6769–4]

Pesticides; Draft Guidance for Pesticide Registrants on Pesticide Label Identification for Pesticide Products Meeting the Requirements of the National Organic Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Agency is announcing the availability of, and seeking public comment on, a draft Pesticide Registration Notice (PR-Notice) entitled ''Pesticide Label Identification for Pesticide Products Meeting the Requirements of the National Organic Program.'' PR-Notices are issued by the Office of Pesticide Programs (OPP) to inform pesticide registrants and other interested persons about important policies, procedures and registration related decisions, and serve to provide guidance to pesticide registrants and OPP personnel. This particular draft PR-Notice describes how pesticide registrants can obtain EPA acceptance of label language indicating that all ingredients (active and inert) in a pesticide product and all uses of that pesticide meet the criteria defined in the United States Department of Agriculture's (USDA) National Organic Program (NOP) Rule. The information on the pesticide label will assist organic growers and those persons certifying organic production methods in knowing which pesticide products meet the requirements of the NOP Rule for use in organic agriculture. Label language on a pesticide product is not required, however, for an organic producer to utilize a pesticide product which meets the requirements of the NOP Rule. With this Notice of Availability, EPA is providing pesticide registrants and other interested parties with an opportunity to review and comment on this draft guidance.

DATES: Comments, identified by docket control number OPP–00701, must be received on or before June 26, 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 OPP–00701 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Robert Torla (7511C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8098; fax number: (703) 308–7026; e-mail address: torla.robert@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who intend to market pesticide products to farmers producing organic crops, to farmers using organic methods, and home gardeners who wish to use organic methods. 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 information in this notice, 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 the PR Notice from the Office of Pesticide Programs' Home Page at http://www.epa.gov/pesticides/. You can also go directly to the listings 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. *Fax-on-demand*. You may request a faxed copy of the draft Pesticide Registration (PR) Notice entitled ''Guidance for Pesticide Registrants on Pesticide Label Identification for Pesticide Products Meeting the Requirements of the National Organic Program,'' by using a faxphone to call (202) 401–0527 and selecting item 6137. You may also follow the automated menu.

3. *In person*. The Agency has established an official record for this action under docket control number OPP–00701. 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 OPP–00701 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 OPP–00701. 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. Offer alternative ways to improve the notice.
7. Make sure to submit your comments by the deadline in this notice.
8. 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. Background

A. What Guidance Does this PR Notice Provide?

PR Notices are issued by the Office of Pesticide Programs to inform pesticide registrants and other interested persons about important policies, procedures and regulatory decisions. Pesticide manufacturers and organic farmers have indicated that it would be useful to have some indication on pesticide labels to indicate which pesticide products are acceptable for organic production and handling. This PR Notice describes how registrants can obtain Environmental Protection Agency acceptance of label language indicating that all ingredients (active and inert) in a pesticide product and all uses of that pesticide meet the criteria defined in the United States Department of Agriculture's (USDA) National Organic Program (NOP) Rule. The information on the pesticide label will assist organic growers and those persons certifying organic production methods in knowing which pesticide products meet the requirements of the NOP Rule for use in organic agriculture. Label Language on a pesticide product stating that the pesticide product meets the NOP Rule criteria is not required for an organic producer to utilize a pesticide product which meets the requirements of the NOP.

B. What Questions/Issues Should You Consider?

1. Does this PR Notice provide adequate information for a registrant considering adding label information to a pesticide product indicating it is acceptable for use in organic agriculture?

2. While we believe delisting will be rare and almost always because of an action taken by this Agency, does this notice make the situation on delisting clear?

C. PR Notices are Guidance Documents

The PR Notice discussed in this document is intended to provide guidance to EPA personnel and decision-makers and to pesticide registrants. This notice is not binding on either EPA or pesticide registrants, and EPA may depart from the guidance where circumstances warrant and without prior notice. Likewise, pesticide registrants may assert that the guidance is not appropriate generally or not applicable to a specific pesticide or situation.

List of Subjects

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

Dated: January 19, 2001.

Anne E. Lindsay

Director, Office of Pesticide Programs

[FR Doc 01–10435 Filed 4–26–01; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6971–7]

Program Requirement Revisions Related to the Public Water System Supervision Program for the States of New Hampshire, Rhode Island, Vermont, and the Commonwealth of Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is hereby given that the States of New Hampshire, Rhode Island and Vermont, and the Commonwealth of Massachusetts are in the process of revising their approved Public Water System Supervision Programs to meet the requirements of the Safe Drinking Water Act (SDWA).

Massachusetts, New Hampshire, Rhode Island and Vermont have all adopted regulations establishing Administrative Penalty Authority that apply to their respective Drinking Water Programs. They have submitted documentation, along with certification from their respective State Attorney General's office, indicating that the Administrative Penalty Authority currently in effect meets the minimum requirements set forth in the 1996 SDWA Amendments. EPA has determined that the Administrative Penalty Authority currently in effect for Massachusetts, New Hampshire, Rhode Island, and Vermont are no less stringent than corresponding federal requirements, as authorized under the Safe Drinking Water Act Amendments of 1996 and final rule provided on April 28, 1998 (63 FR 23362). Therefore, EPA intends to approve the Administrative Penalty Authority requirement for Massachusetts, New Hampshire, Rhode Island, and Vermont.

In addition, the State of Rhode Island has adopted drinking water regulations for Synthetic Organic Chemicals and Inorganic Chemicals (also known as Phase V Drinking Water Regulations) that correspond to the National Primary Drinking Water Regulations promulgated by EPA on July 17, 1992 (57 FR 31776). After additional review of the submitted documentation, EPA has determined that the State program revisions for its Phase V Drinking Water Regulations are no less stringent than the corresponding federal regulations. Therefore, EPA intends to approve this Public Water System Supervision Program requirement for Rhode Island.

Furthermore, EPA has determined that Rhode Island's Revised Public Water Supply Definition is no less stringent than the corresponding revised federal definition, as authorized under the Safe Drinking Water Act Amendments of 1996 and final rule provided on April 28, 1998 (63 FR 23362). Therefore, EPA also intends to approve this Public Water Supply Supervision Program requirement for Rhode Island.

DATES: All interested parties may request a public hearing for any of the above EPA determinations. A request for a public hearing must be submitted to the Regional Administrator at the address shown below on or before May 29, 2001. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by this date, a public hearing will be held. If no timely and appropriate request for a hearing is received, and the Regional Administrator does not elect to hold a hearing on his/her own motion, this determination shall become final and effective on May 29, 2001.

Any request for a public hearing shall include the following information: (1) The name, address, and telephone number of the individual organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination; (3) information that the requesting person intends to submit at such hearing; and (4) the signature of the individual making the request, or if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8:30 am and 4:00 pm, Monday through Friday, at the following office(s): U.S. Environmental Protection Agency, Office of Ecosystem Protection, One Congress Street, 11th floor, Boston, MA 02114.

For documents specific to that State/Commonwealth:

Massachusetts Department of Environmental Protection, Drinking Water Program, One Winter Street, Boston, MA 02108

New Hampshire Department of Environmental Services, Water Supply Engineering Bureau, P.O. Box 95, 6 Hazen Drive, Concord, NH 03302–0095

Rhode Island Department of Health, Office of Drinking Water Quality, 3 Capitol Hill, Cannon Building, Room 209, Providence, RI 02908–5097

Vermont Department of Environmental Conservation, Water Supply Division, 103 South Main Street, Waterbury, Vermont 05671–0403

FOR FURTHER INFORMATION CONTACT: David Chin, EPA–New England, Municipal Assistance Unit, Office of Ecosystem Protection (telephone 617–918–1764) regarding the Administrative Penalty Authority determinations, or Ellie Kwong, EPA–New England, Rhode Island State Program Unit, Office of Ecosystem Protection (telephone 617–918–1592) regarding Rhode Island's Phase V Rule and Revised Public Water Supply Definition determinations.

Authority: (Section 1401 and section 1413 of the Safe Drinking Water Act, as amended (1996), and 40 CFR Part 142).

Dated: April 18, 2001.

Ira W. Leighton,

Acting Regional Administrator, EPA–New England.

[FR Doc. 01–10512 Filed 4–26–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–01–40–B (Auction No. 40); DA 01–850]

Lower and Upper Paging Bands Auction Scheduled for June 26, 2001; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedural Issues

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the procedures and minimum opening bids for the upcoming auction of licenses for the lower and upper paging bands (Auction No. 40) scheduled for June 26, 2001.

DATES: Auction No. 40 is scheduled for June 26, 2001.

FOR FURTHER INFORMATION CONTACT: Auctions and Industry Analysis Division: Erik Salovaara, Legal Branch, or Jeff Crooks, Auctions Operations Branch, at (202) 418–0660; Lisa Stover, Auctions Operations Branch, at (717) 338–2888. Commercial Wireless Division: Gary Oshinsky, Policy and Rules Branch, at (202) 418–7167, or Bettye Woodward, Licensing and Technical Analysis Branch, at (202) 418–0620. Media Contact: Meribeth McCarrick at (202) 418–0654.

SUPPLEMENTARY INFORMATION: This is a summary of the *Auction No. 40 Procedures Public Notice* released April 9, 2001. The complete text of the

Auction No. 40 Procedures Public Notice, including attachments, is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. It may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.) 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800. It is also available on the Commission's web site at *http://www.fcc.gov*.

List of Attachments available at the FCC:

Attachment A—Licenses to be Auctioned
Attachment B—FCC Auction Seminar Registration Form
Attachment C—Electronic Filing and Review of the FCC Form 175
Attachment D—Guidelines for Completion of FCC Form 175 and Exhibits
Attachment E—Instructions for FCC Remittance Advice (FCC Form 159)
Attachment F—Accessing the FCC Network to File FCC Form 175
Attachment G—Summary of Documents Addressing the Anti-Collusion Rules

I. General Information

A. Introduction

1. By the *Auction No. 40 Procedures Public Notice*, the Wireless Telecommunications Bureau (''Bureau'') announces the procedures and minimum opening bids for the upcoming auction of licenses for the lower and upper paging bands (''Auction No. 40'') scheduled for June 26, 2001. On March 7, 2001, in accordance with the Balanced Budget Act of 1997, the Bureau released the *Auction No. 40 Comment Public Notice,* 66 FR 15254 (March 16, 2001) seeking comment on reserve prices or minimum opening bids and the procedures to be used in Auction No. 40. The Bureau received three comments and four reply comments in response to the *Auction No. 40 Comment Public Notice.*

i. Background of Proceeding

2. In the *Paging Second Report and Order*, 66 FR 11616 (March 12, 1997), the Commission adopted rules governing geographic licensing for exclusive channels in the 35–36 MHz, 43–44 MHz, 152–159 MHz, 454–460 MHz, 929–930 MHz, and 931–932 MHz bands allocated for paging, and competitive bidding procedures for granting mutually exclusive applications for non-nationwide geographic area licenses in those bands. In order to facilitate geographic licensing, the Commission dismissed all pending mutually exclusive paging applications and all non-mutually exclusive paging applications filed after July 31, 1996. In part, the Commission developed a standard methodology for providing protection to incumbent licensees from co-channel interference for the 929–930 MHz and 931–932 MHz paging bands to supplement the existing formulas for determining interference contours on other paging bands.

i. Licenses To Be Auctioned

3. The licenses available in Auction No. 40 include 14,000 lower paging bands (35–36 MHz, 43–44 MHz, 152–159 MHz, and 454–460 MHz) licenses, as well as 1,514 upper paging bands (929–931 MHz) licenses that were unsold in the first paging auction (''Auction No. 26''). The lower bands licenses will be awarded in each of the 175 geographic areas known as Economic Areas (EAs) and the upper bands licenses will be awarded in each of the 51 geographic areas known as Major Economic Areas (MEAs). These EAs and MEAs both encompass the United States, Guam and Northern Mariana Islands, Puerto Rico and the United States Virgin Islands, and American Samoa. The tables contain the block/frequency cross-reference list for the paging bands. A complete list of licenses available for Auction No. 40 is included as Attachment A of the *Auction No. 40 Procedures Public Notice.*

Block (license suffix)	Frequency
35 MHz Lower Bands Unpaired Paging Channels	
CA	35.19–35.21
CB	35.21–35.23
CC	35.23–35.25
CD	35.25–35.27
CE	35.29–35.31
CF	35.33–35.35
CG	35.37–35.39
CH	35.41–35.43
CI	35.45–35.47
CJ	35.49–35.51
CK	35.53–35.55
CL	35.55–35.57
CM	35.57–35.59
CN	35.59–35.61
CO	35.61–35.63
CP	35.65–35.68
43 MHz Lower Bands Unpaired Paging Channels	
DA	43.19–43.21
DB	43.21–43.23
DC	43.23–43.25
DD	43.25–43.27
DE	43.29–43.31
DF	43.33–43.35
DG	43.37–43.39
DH	43.41–43.43
DI	43.45–43.47
DJ	43.49–43.51
DK	43.53–43.55
DL	43.55–43.57
DM	43.57–43.59
DN	43.59–43.61
DO	43.61–43.63
DP	43.65–43.67

Block (license suffix)	Frequency
152 MHz Lower Bands Unpaired Paging Channels	
EA	152.230–152.250
EB	152.830–152.850
EC	158.090–158.110
ED	158.690–158.710
FA	152.015–152.045/158.475–158.505
FB	152.045–152.075/158.505–158.535
FC	152.075–152.105/158.535–158.565
FD	152.105–152.135/158.565–158.595
FE	152.135–152.165/158.595–158.625
FF	152.165–152.195/158.625–158.655
FG	152.195–152.225/158.655–158.685
FH	152.495–152.525/157.755–157.785
FI	152.525–152.555/157.785–157.815
FJ	152.555–152.585/157.815–157.845
FK	152.585–152.615/157.845–157.875
FL	152.615–152.645/157.875–157.905
FM	152.645–152.685/157.905–157.935
FN	152.685–152.705/157.935–157.965
FO	152.705–152.735/157.965–157.995
FP	152.735–152.765/157.995–158.025
FQ	152.765–152.795/158.025–158.055
FR	152.795–152.825/158.055–158.085
454 MHz Lower Bands Paired Paging Channels	
GA	454.0125–454.0375/459.0125–459.0375
GB	454.0375–454.0625/459.0375–459.0625
GC	454.0625–454.0875/459.0625–459.0875
GD	454.0875–454.1125/459.0875–459.1125
GE	454.1125–454.1375/459.1125–459.1375
GF	454.1375–454.1625/459.1375–459.1625

Block (license suffix)	Frequency
GG	454.1625–454.1875/ 459.1625–459.1875
GH	454.1875–454.2125/ 459.1875–459.2125
GI	454.2125–454.2375/ 459.1265–459.2375
GJ	454.2375–454.2625/ 459.2375–459.2625
GK	454.2625–454.2875/ 459.2625–459.2875
GL	454.2875–454.3125/ 459.2875–459.3125
GM	454.3125–454.3375/ 459.3125–454.3375
GN	454.3375–454.3625/ 459.3375–459.3625
GO	454.3625–454.3875/ 459.3625–459.3875
GP	454.3875–454.4125/ 459.3875–459.4125
GQ	454.4125–454.4375/ 459.4125–459.4375
GR	454.4375–454.4625/ 459.4375–459.4625
GS	454.4625–454.4875/ 459.4625–459.4875
GT	454.4875–454.5125/ 459.4875–459.5125
GU	454.5125–454.5375/ 459.5125–459.5375
GV	454.5375–454.5625/ 459.5375–459.5625
GW	454.5625–454.5875/ 459.5625–459.5875
GX	454.5875–454.6125/ 459.5875–459.6125
GY	454.6125–454.6375/ 459.6125–459.6375
GZ	454.6375–454.6625/ 459.6375–459.6625

Block (license suffix)	Frequency
929–931 MHz Upper Bands Paging Channels	
A	929.0125
B	929.1125
C	929.2375
D	929.3125
E	929.3875
F	929.4375
G	929.4625
H	929.6375
I	929.6875
J	929.7875
K	929.9125
L	929.9625
AA	931.0125
AB	931.0375
AC	931.0625
AD	931.0875
AE	931.1125
AF	931.1375
AG	931.1625
AH	931.1875
AI	931.2125
AJ	931.2375
AK	931.2625
AL	931.2875
AM	931.3125
AN	931.3375
AO	931.3625
AP	931.3875
AQ	931.4125
AR	931.4375
AS	931.4625
AT	931.4875
AU	931.5125
AV	931.5375
AW	931.5625
AX	931.5875
AY	931.6125
AZ	931.6375
BA	931.6625
BB	931.6875
BC	931.7125
BD	931.7375
BE	931.7625
BF	931.7875
BG	931.8125
BH	931.8375
BI	931.8625
BJ	931.9625
BK	931.9875

(Licenses are not available for each block in every market; 985 upper bands licenses were sold in Auction No. 26. See Attachment A of the *Auction No. 40 Procedures Public Notice* to determine what licenses will be offered in Auction No. 40.)

B. Rules and Disclaimers

i. Relevant Authority

4. Prospective bidders must familiarize themselves thoroughly with the Commission's rules relating to the paging services, contained in title 47, parts 22 and 90 of the Code of Federal Regulations, and those relating to application and auction procedures, contained in title 47, part 1 of the Code of Federal Regulations.

5. Prospective bidders must also be thoroughly familiar with the procedures, terms and conditions (collectively, ''Terms'') contained in the *Auction No. 40 Procedures Public Notice;* the *Auction No. 40 Comment Public Notice;* the *Part 1 Fifth Report and Order,* 65 FR 52323 (August 29, 2000) (as well as prior Commission proceedings regarding competitive bidding procedures); the *Paging Notice,* 61 FR 6199 (February 16, 1996); the *Paging First Report and Order,* 61 FR 21380 (May 10, 1996); the *First Paging Reconsideration Order* 61 FR 34375 (July 2, 1996); the *Paging Second Report and Order;* the *Second Paging Reconsideration Order and Paging Third Report and Order* 64 FR 33762 (June 24, 1999); and the *Third Paging Reconsideration Order,* 66 FR 15041 (March 15, 2001).

6. The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. The Commission may amend or supplement the information contained in our public notices at any time, and will issue public notices to convey any new or supplemental information to bidders. It is the responsibility of all prospective bidders to remain current with all Commission rules and with all public notices pertaining to this auction. Copies of most Commission documents, including public notices, can be retrieved from the FCC Internet node via anonymous ftp at ftp://fcc.gov or the FCC Auctions World Wide Web site at *http://www.fcc.gov/wtb/auctions.* Additionally, documents may be obtained for a fee, by calling the Commission's copy contractor, International Transcription Service, Inc. (''ITS''), at (202) 314–3070. When ordering documents from ITS, please provide the appropriate FCC number (for example, FCC 99–98 for the *Paging Third Report and Order*).

ii. Prohibition of Collusion

7. To ensure the competitiveness of the auction process, the Commission's rules prohibit applicants for the same geographic license area from communicating with each other during the auction about bids, bidding strategies, or settlements. This prohibition begins at the short-form application filing deadline and ends at the down payment deadline after the auction. Bidders competing for licenses in the same geographic license areas are encouraged not to use the same individual as an authorized bidder. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more competing applicants, and conveys information concerning the substance of bids or bidding strategies between the bidders he or she is authorized to represent in the auction. Also, if the authorized bidders are different individuals employed by the same organization (*e.g.,* law firm or consulting firm), a violation could similarly occur. In such a case, at a minimum, applicants should certify on their applications that precautionary steps have been taken to prevent communication between authorized bidders and that applicants and their bidding agents will comply with the anti-collusion rule. However, the Bureau cautions that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred, nor will it preclude the initiation of an investigation when warranted.

8. Commission's anti-collusion rules allow applicants to form certain agreements during the auction, provided the applicants have not applied for licenses covering the same geographic

areas. Note that in Auction No. 40, applicants for licenses in overlapping EAs and MEAs will not be able to take advantage of these rule provisions, even though the licenses are not completely co-extensive. However, all applicants may enter into bidding agreements *before* filing FCC Form 175, as long as they disclose the existence of the agreement(s) in their FCC Form 175. If parties agree in principle on all material terms prior to the short-form filing deadline, those parties must be identified on the short-form application pursuant to § 1.2105(c), even if the agreement has not been reduced to writing. If the parties have not agreed in principle by the filing deadline, an applicant would not include the names of those parties on its application, and may not continue negotiations with other applicants for licenses covering the same geographic areas. By signing their FCC Form 175 short-form applications, applicants are certifying their compliance with § 1.2105(c) of the Commission's rules.

9. In addition, § 1.65 of the Commission's rules requires an applicant to *maintain* the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. Thus, § 1.65 requires an auction applicant to notify the Commission of any violation of the anti-collusion rules upon learning of such violation. Bidders therefore are required to make such notification to the Commission immediately upon discovery.

10. A summary listing of documents from the Commission and the Bureau addressing the application of the anti-collusion rules may be found in Attachment G of the *Auction No. 40 Procedures Public Notice.*

iii. Incumbent Licensees and Due Diligence

11. Incumbent (non-geographic) paging licensees operating under their existing authorizations are entitled to full protection from co-channel interference. Geographic area licensees are likewise afforded co-channel interference protection from incumbent licensees. Adjacent geographic area licensees are obligated to resolve possible interference concerns of adjacent geographic area licensees by negotiating a mutually acceptable agreement with the neighboring geographic licensee.

12. Potential bidders are reminded that there are a number of incumbent licensees already licensed and operating on frequencies that will be subject to the upcoming auction. Geographic area licensees must protect such incumbents from harmful interference. *See* 47 CFR 22.503(i). These limitations may restrict the ability of such geographic area licensees to use certain portions of the electromagnetic spectrum or provide service to certain areas in their geographic license areas.

13. In addition, potential bidders seeking licenses for geographic areas adjacent to the Canadian and Mexican border should be aware that the use of some or all of the channels they acquire in the auction could be restricted as a result of current or future agreements with Canada or Mexico. Licensees on the lower paging channels must submit a Form 601 to obtain authorization to operate stations north of Line A or east of Line C because these channels are subject to the *Above 30 Megacycles per Second Agreement* with Industry Canada. Although the upper paging channels do not require coordination with Canada, the *U.S.-Canada Interim Coordination Considerations for the Band 929–932 MHz, as amended* assigns specific 929 and 931 MHz frequencies to the United States for licensing along certain longitudes above Line A, and assigns other specific 929 and 931 MHz frequencies to Canada for licensing along certain longitudes along the U.S.-Canada border. In addition, the 929 and 931 MHz frequencies assigned to Canada are unavailable for use by U.S. licensees above Line A as set out in the agreement.

14. Potential bidders should also be aware that certain applications (including those for modification), waiver requests, petitions to deny, petitions for reconsideration, and applications for review are pending before the Commission that relate to particular applicants or incumbent licensees. In addition, certain decisions reached in the paging proceeding may be subject to judicial appeal and may be the subject of additional reconsideration or appeal. Resolution of these matters could have an impact on the availability of spectrum in Auction No. 40. In addition, the Commission will continue to act on pending applications, requests and petitions, some of these matters may not be resolved by the time of the auction.

15. Potential bidders are solely responsible for identifying associated risks, and investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of licenses available in Auction No. 40.

16. Potential bidders may obtain information about licenses available in Auction No. 40 through the Bureau's licensing databases on the World Wide Web at *http://www.fcc.gov/wtb/uls*. Potential bidders should direct questions regarding the search capabilities to the FCC Technical Support hotline at (202) 414–1250 (voice) or (202) 414–1255 (TTY), or via e-mail at *ulscomm@fcc.gov.* The hotline is available to assist with questions Monday through Friday, from 7 am to 10 pm ET, Saturday, 8 am to 7 pm ET, and Sunday, 12 noon to 6 pm ET. In order to provide better service to the public, *all calls to the hotline are recorded.* The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases or any third party databases, including, for example, court docketing systems.

17. The Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into the database. Potential bidders are strongly encouraged to physically inspect any sites located in, or near, the geographic area for which they plan to bid.

iv. Bidder Alerts

18. All applicants must certify on their FCC Form 175 applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license, and not in default on any payment for Commission licenses (including down payments) or delinquent on any non-tax debt owed to any Federal agency. Prospective bidders are reminded that submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

19. The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that a FCC auction represents an opportunity to become a FCC licensee in this service, subject to certain conditions and regulations. A FCC auction does not constitute an endorsement by the FCC of any particular services, technologies or products, nor does a FCC license constitute a guarantee of business success. Applicants and interested parties should perform their own due diligence before proceeding, as they would with any new business venture.

20. As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 40 to

deceive and defraud unsuspecting investors. Common warning signals of fraud include the following:

• The first contact is a ''cold call'' from a telemarketer, or is made in response to an inquiry prompted by a radio or television infomercial.

• The offering materials used to invest in the venture appear to be targeted at IRA funds, for example, by including all documents and papers needed for the transfer of funds maintained in IRA accounts.

• The amount of investment is less than $25,000.

• The sales representative makes verbal representations that: (a) the Internal Revenue Service (''IRS''), Federal Trade Commission (''FTC''), Securities and Exchange Commission (''SEC''), FCC, or other government agency has approved the investment; (b) the investment is not subject to state or federal securities laws; or (c) the investment will yield unrealistically high short-term profits. In addition, the offering materials often include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

21. Information about deceptive telemarketing investment schemes is available from the FTC at (202) 326–2222 and from the SEC at (202) 942–7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center at (800) 876–7060. Consumers who have concerns about specific proposals regarding Auction No. 40 may also call the FCC Consumer Center at (888) CALL–FCC ((888) 225–5322).

v. National Environmental Policy Act (''NEPA'') Requirements

22. Licensees must comply with the Commission's rules regarding the National Environmental Policy Act (NEPA). The construction of a wireless antenna facility is a federal action and the licensee must comply with the Commission's NEPA rules for each such facility. The Commission's NEPA rules require, among other things, that the licensee consult with expert agencies having NEPA responsibilities, including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the Army Corp of Engineers and the Federal Emergency Management Agency (through the local authority with jurisdiction over floodplains). The licensee must prepare environmental assessments for facilities that may have a significant impact in or on wilderness areas, wildlife preserves, threatened or endangered species or designated critical habitats, historical or archaeological sites, Indian religious sites, floodplains, and surface features. The licensee must also prepare environmental assessments for facilities that include high intensity white lights in residential neighborhoods or excessive radio frequency emission.

A. Auction Specifics

i. Auction Date

23. The auction will begin on Tuesday, June 26, 2001. The initial schedule for bidding will be announced by public notice at least one week before the start of the auction. Unless otherwise announced, bidding on all licenses will be conducted on each business day until bidding has stopped on all licenses.

ii. Auction Title

24. Auction No. 40—Paging.

iii. Bidding Methodology

25. The bidding methodology for Auction No. 40 will be simultaneous multiple round bidding. Bidding will be permitted only from remote locations, either telephonically or electronically (by computer via the Internet or the Bureau's wide area network).

iv. Pre-Auction Dates and Deadlines

26. These are important dates relating to Auction No. 40:

Auction Seminar—May 3, 2001
Short-Form Application (FCC Form 175)—May 14, 2001; 6:00 p.m. ET
Upfront Payments (via wire transfer)—June 4, 2001; 6:00 p.m. ET
Mock Auction—June 22, 2001
Auction Begins—June 26, 2001

v. Requirements For Participation

27. Those wishing to participate in the auction must:

• Submit a short-form application (FCC Form 175) electronically by 6 p.m. ET, May 14, 2001.

• Submit a sufficient upfront payment and a FCC Remittance Advice Form (FCC Form 159) by 6 p.m. ET, June 4, 2001.

• Comply with all provisions outlined in the *Auction No. 40 Procedures Public Notice.*

vi. General Contact Information

28. The following is a list of general contact information relating to Auction No. 40:

General Auction Information—General Auction Questions, Seminar Registration—FCC Auctions Hotline, (888) 225–5322, Press Option #2, or direct (717) 338–2888, Hours of service: 8 a.m.–5:30 p.m. ET
Auction Legal Information—Auction Rules, Policies, Regulations—Auctions and Industry Analysis Division, Legal Branch (202) 418–0660
Licensing Information—Rules, Policies, Regulations, Licensing Issues, Due Diligence, Incumbency Issues—Commercial Wireless Division, (202) 418–0620
Technical Support—Electronic Filing, Automated Auction System—FCC Auctions Technical Support Hotline, (202) 414–1250 (Voice), (202) 414–1255 (TTY), Hours of service: Monday through Friday 7 a.m. to 10 p.m. ET, Saturday, 8 a.m. to 7 p.m., Sunday, 12 noon to 6 p.m.
Payment Information—Wire Transfers, Refunds—FCC Auctions Accounting Branch, (202) 418–1995, (202) 418–2843 (Fax)
Telephonic Bidding—Will be furnished only to qualified bidders
FCC Copy Contractor—Additional Copies of Commission Documents—International Transcription Services, Inc., 445 12th Street, SW., Room CY–B400, Washington, DC 20554, (202) 314–3070
Press Information—Meribeth McCarrick (202) 418–0654
FCC Forms—(800) 418–3676 (outside Washington, DC), (202) 418–3676 (in the Washington Area), http://www.fcc.gov/formpage.html
FCC Internet Sites—http://www.fcc.gov, http://www.fcc.gov/wtb/auctions

II. Short-Form (FCC Form 175) Application Requirements

29. Guidelines for completion of the short-form (FCC Form 175) are set forth in Attachment D to the *Auction No. 40 Procedures Public Notice.* The short-form application seeks the applicant's name and address, legal classification, status, small business bidding credit eligibility, identification of the license(s) sought, the authorized bidders and contact persons. All applicants must certify on their FCC Form 175 applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license and, as discussed in section II.D (Provisions Regarding Defaulters and Former Defaulters), that they are not in default on any payment for Commission licenses (including down payments) or delinquent on any non-tax debt owed to any Federal agency.

30. The Commission determines whether there are mutually exclusive applications for any given license by reviewing all of the Form 175's submitted to determine whether more than one party has applied for a given

license. In the event that review of all the Form 175's accepted for filing determines that only one party has applied for a given license(s), those license(s) will be removed from the auction. In such cases, the party that applied for the given license(s) will be permitted to file a long-form application.

31. In Auction No. 40, Form 175 will include a mechanism that allows an applicant to filter the 15,514 licenses by paging service, frequency band, market area, and/or channel block/license suffix to create customized lists of licenses. The applicant will make selections for one or more of the filter criteria and the system will produce a list of licenses satisfying the specified criteria. The applicant may apply for all the licenses in the customized list by using the ''Select All'' option; select individual licenses separately from the list; or create a second customized list without selecting any of the licenses from the first list. Applicants also will be able to select licenses from one customized list and then create a second customized list to select additional licenses.

A. Ownership Disclosure Requirements (FCC Form 175 Exhibit A)

32. All applicants must comply with the uniform Part 1, ownership disclosure standards and provide information required by §§ 1.2105 and 1.2112 of the Commission's rules. Specifically, in completing FCC Form 175, applicants will be required to file an ''Exhibit A'' providing a full and complete statement of the ownership of the bidding entity. The ownership disclosure standards for the short-form are set forth in § 1.2112 of the Commission's rules.

B. Consortia and Joint Bidding Arrangements (FCC Form 175 Exhibit B)

33. Applicants will be required to identify on their short-form applications any parties with whom they have entered into any consortium arrangements, joint ventures, partnerships or other agreements or understandings which relate in any way to the licenses being auctioned, including any agreements relating to post-auction market structure. *See* 47 CFR 1.2105(a)(2)(viii) and 1.2105(c)(1). Applicants will also be required to certify on their short-form applications that they have not entered into any explicit or implicit agreements, arrangements or understandings of any kind with any parties, other than those identified, regarding the amount of their bids, bidding strategies, or the particular licenses on which they will or will not bid. *See* 47 CFR 1.2105(a)(2)(ix). As discussed, if an applicant has had discussions, but has not reached a joint bidding agreement by the short-form deadline, it would not include the names of parties to the discussions on its applications and may not continue discussions with applicants for the same geographic license area(s) after the deadline. Where applicants have entered into consortia or joint bidding arrangements, applicants must submit an ''Exhibit B'' to the FCC Form 175.

34. A party holding a non-controlling, attributable interest in one applicant will be permitted to acquire an ownership interest in, form a consortium with, or enter into a joint bidding arrangement with other applicants for licenses in the same geographic license area provided that (i) the attributable interest holder certifies that it has not and will not communicate with any party concerning the bids or bidding strategies of more than one of the applicants in which it holds an attributable interest, or with which it has formed a consortium or entered into a joint bidding arrangement; and (ii) the arrangements do not result in a change in control of any of the applicants. While the anti-collusion rules do not prohibit non-auction related business negotiations among auction applicants, bidders are reminded that certain discussions or exchanges could touch upon impermissible subject matters because they may convey pricing information and bidding strategies.

C. Eligibility

i. Small Business Bidding Credit Eligibility (FCC Form 175 Exhibit C)

35. In the *Paging Second Report and Order,* the Commission adopted small business bidding credits to promote and facilitate the participation of small businesses in competitive bidding for licenses in the paging service. In the *Second Paging Reconsideration Order and Paging Third Report and Order,* the Commission subsequently increased the size of the bidding credits.

36. Bidding credits are available to small businesses, or consortia thereof, (as defined in 47 CFR 1.2110(c) and 22.217(a)). A bidding credit represents the amount by which a bidder's winning bids are discounted. The size of the bidding credit depends on the average annual gross revenues for the preceding three years of the bidder, its affiliates, its controlling interests, and the affiliates of its controlling interests:

- A bidder with attributed average annual gross revenues of more than $3 million but not more than $15 million for the preceding three years receives a 25 percent discount on its winning bids for paging licenses;
- A bidder with attributed average annual gross revenues of not more than $3 million for the preceding three years receives a 35 percent discount on its winning bids for paging licenses.

37. Bidding credits are not cumulative; qualifying applicants receive either the 25 percent or the 35 percent bidding credit, but not both.

ii. Tribal Land Bidding Credit

38. To encourage the growth of wireless services in federally recognized tribal lands the Commission has implemented a tribal land bidding credit. *See* Part V.C.

iii. Applicability of Part 1 Attribution Rules

39. *Controlling interest standard.* On August 14, 2000, the Commission released the *Part 1 Fifth Report and Order,* in which the Commission, *inter alia,* adopted a ''controlling interest'' standard for attributing to auction applicants the gross revenues of their investors and affiliates in determining small business eligibility for future auctions. The Commission observed that the rule modifications adopted in the various part 1 orders would result in discrepancies and/or redundancies between certain of the new part 1 rules and existing service-specific rules, and the Commission delegated to the Bureau the authority to make conforming edits to the Code of Federal Regulations (CFR) consistent with the rules adopted in the prt 1 proceeding. Part 1 rules that superseded inconsistent service-specific rules will control in Auction No. 40. *Accordingly, the ''controlling interest'' standard as set forth will be in effect for Auction No. 40, even if conforming edits to the CFR are not made prior to the auction.*

40. *Control.* The term ''control'' includes both *de facto* and *de jure* control of the applicant. Typically, *ownership of at least 50.1 percent of an entity's voting stock evidences de jure control. De facto* control is determined on a case-by-case basis. The following are some common indicia of *de facto* control:

- The entity constitutes or appoints more than 50 percent of the board of directors or management committee;
- The entity has authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the licensee; or
- The entity plays an integral role in management decisions.

41. *Attribution for small business eligibility.* In determining which entities

qualify as small businesses, the Commission will consider the gross revenues of the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests. The Commission does not impose specific equity requirements on controlling interest holders. Once principals or entities with a controlling interest are determined, only the revenues of those principals or entities, the applicant and their affiliates will be counted in determining small business eligibility.

42. A consortium of small businesses is a ''conglomerate organization formed as a joint venture between or among mutually independent business firms,'' each of which *individually* must satisfy the definition of small business in § 1.2110(f) and § 22.223(b) of the Commission's rules. Thus, each consortium member must disclose its gross revenues along with those of its affiliates, its controlling interests, and the affiliates of its controlling interests. Although the gross revenues of the consortium members will not be aggregated for purposes of determining eligibility for small business credits, this information must be provided to ensure that each individual consortium member qualifies for any bidding credit awarded to the consortium.

iv. Supporting Documentation

43. Applicants will be required to file supporting documentation to their FCC Form 175 short-form applications to establish that they satisfy the eligibility requirements to qualify as small businesses (or consortia of small businesses) for this auction.

44. Submission of an FCC Form 175 application constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, has read the form's instructions and certifications, and that the contents of the application and its attachments are true and correct. Submission of a false certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

D. Provisions Regarding Defaulters and Former Defaulters (FCC Form 175 Exhibit D)

45. Each applicant must certify on its FCC Form 175 application that it is not in default on any Commission licenses and that it is not delinquent on any non-tax debt owed to any Federal agency. In addition, each applicant must attach to its FCC Form 175 application a statement made under penalty of perjury indicating whether or not the applicant has ever been in default on any Commission licenses or has ever been delinquent on any non-tax debt owed to any federal agency. Applicants must include this statement as Exhibit D of the FCC Form 175. If any of an applicant's controlling interests holders or their affiliates, as defined by § 1.2110 of the Commission's rules (as recently amended in the *Part 1 Fifth Report and Order*) have ever been in default on any Commission license or have ever been delinquent on any non-tax debt owed to any Federal agency, the applicant must include such information as part of the same attached statement. Prospective bidders are reminded that the statement must be made under penalty of perjury and, further, submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

46. ''Former defaulters''—*i.e.,* applicants, including their attributable interest holders, that in the past have defaulted on any Commission licenses or been delinquent on any non-tax debt owed to any Federal agency, but that have since remedied all such defaults and cured all of their outstanding non-tax delinquencies—are eligible to bid in Auction No. 40, provided that they are otherwise qualified. However, as discussed *infra* in Section III.D.iii, former defaulters are required to pay upfront payments that are fifty percent more than the normal upfront payment amounts.

E. Installment Payments

47. Installment payment plans will not be available in Auction No. 40.

F. Other Information (FCC Form 175 Exhibits E and F)

48. Applicants owned by minorities or women, as defined in 47 CFR 1.2110(c)(2), may attach an exhibit (Exhibit E) regarding this status. This applicant status information is collected for statistical purposes only and assists the Commission in monitoring the participation of ''designated entities'' in its auctions. Applicants wishing to submit additional information may do so on Exhibit F (Miscellaneous Information) to the FCC Form 175.

G. Minor Modifications to Short-Form Applications (FCC Form 175)

49. After the short-form filing deadline (May 14, 2001), applicants may make only minor changes to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (*e.g.,* change their license selections or proposed service areas, change the certifying official or change control of the applicant or change bidding credits). *See* 47 CFR 1.2105. Permissible minor changes include, for example, deletion and addition of authorized bidders (to a maximum of three) and revision of exhibits. Applicants should make these changes on-line, and submit a letter to Margaret Wiener, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW., Suite 4–A669, Washington, DC 20554, briefly summarizing the changes. Questions about other changes should be directed to Erik Salovaara of the Auctions and Industry Analysis Division at (202) 418–0660.

H. Maintaining Current Information in Short-Form Applications (FCC Form 175)

50. Applicants have an obligation under 47 CFR 1.65, to maintain the completeness and accuracy of information in their short-form applications. Amendments reporting substantial changes of possible decisional significance in information contained in FCC Form 175 applications, as defined by 47 CFR 1.2105(b)(2), will not be accepted and may in some instances result in the dismissal of the FCC Form 175 application.

III. Pre-Auction Procedures

A. Auction Seminar

51. On Thursday, May 3, 2001, the FCC will sponsor a free seminar for Auction No. 40 at the Federal Communications Commission, located at 445 12th Street, SW., Washington, DC. The seminar will provide attendees with information about pre-auction procedures, conduct of the auction, the FCC Automated Auction System, and the paging and auction rules. The seminar will also provide an opportunity for prospective bidders to ask questions of FCC staff.

52. To register, complete the registration form, Attachment B of the *Auction No. 40 Procedures Public Notice,* and submit it by Tuesday, May 1, 2001. Registrations are accepted on a first-come, first-served basis.

B. Short-Form Application (FCC Form 175)—Due May 14, 2001

53. In order to be eligible to bid in this auction, applicants must first submit a FCC Form 175 application. This application must be submitted electronically and received at the Commission no later than 6 p.m. ET on

May 14, 2001. Late applications will not be accepted.

54. There is no application fee required when filing a FCC Form 175. However, to be eligible to bid, an applicant must submit an upfront payment. *See* Part III.D.

i. Electronic Filing

55. Applicants must file their FCC Form 175 applications electronically. Applications may generally be filed at any time beginning at noon ET on May 3, 2001, until 6 p.m. ET on May 14, 2001. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. Applicants may update or amend their electronic applications multiple times until the filing deadline on May 14, 2001.

56. Applicants must press the ''SUBMIT Application'' button on the ''Submission'' page of the electronic form to successfully submit their FCC Form 175s. Any form that is not submitted will not be reviewed by the FCC. Information about accessing the FCC Form 175 is included in Attachment C of the *Auction No. 40 Procedures Public Notice.* Technical support is available at (202) 414–1250 (voice) or (202) 414–1255 (text telephone (TTY)); the hours of service Monday through Friday, from 7 am to 10 pm ET, Saturday, 8 am to 7 pm ET, and Sunday, 12 noon to 6 pm ET. In order to provide better service to the public, *all calls to the hotline are recorded.*

57. Applicants can also contact Technical Support via e-mail. To obtain the address, click the Support tab on the Form 175 Homepage.

iii. Completion of the FCC Form 175

58. Applicants should carefully review 47 CFR 1.2105, and must complete all items on the FCC Form 175. Instructions for completing the FCC Form 175 are in Attachment D of the *Auction No. 40 Procedures Public Notice.* Applicants are encouraged to begin preparing the required attachments for FCC Form 175 prior to submitting the form. Attachments C and D to the *Auction No. 40 Procedures Public Notice* provide information on the required attachments and appropriate formats.

iv. Electronic Review of FCC Form 175

59. The FCC Form 175 electronic review system may be used to locate and print applicants' FCC Form 175 information. Applicants may also view other applicants' completed FCC Form 175s after the filing deadline has passed and the FCC has issued a public notice explaining the status of the applications. For this reason, it is important that applicants do not include their Taxpayer Identification Numbers (TINs) on any exhibits to their FCC Form 175 applications. There is no fee for accessing this system. *See* Attachment C of the *Auction No. 40 Procedures Public Notice* for details on accessing the review system.

C. Application Processing and Minor Corrections

60. The FCC will process all timely submitted applications to determine which are acceptable for filing, and subsequently will issue a public notice identifying: (i) those applications accepted for filing; (ii) those applications rejected; and (iii) those applications which have minor defects that may be corrected, and the deadline for filing such corrected applications.

61. As described more fully in the Commission's rules, after the May 14, 2001, short-form filing deadline, applicants may make only minor corrections to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (*e.g.,* change their license selections, change the certifying official, change control of the applicant, or change bidding credit eligibility).

D. Upfront Payments—Due June 4, 2001

62. In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by a FCC Remittance Advice Form (FCC Form 159). After completing the FCC Form 175, filers will have access to an electronic version of the FCC Form 159 that can be printed and faxed to Mellon Bank in Pittsburgh, PA. All upfront payments must be received at Mellon Bank by 6:00 p.m. ET on June 4, 2001.

Please note that:

- All payments must be made in U.S. dollars.
- All payments must be made by wire transfer.
- Upfront payments for Auction No. 40 go to a lockbox number different from the lockboxes used in previous FCC auctions, and different from the lockbox number to be used for post-auction payments.
- Failure to deliver the upfront payment by the June 4, 2001, deadline will result in dismissal of the application and disqualification from participation in the auction.

i. Making Auction Payments by Wire Transfer

63. Wire transfer payments must be received by 6 p.m. ET on June 4, 2001. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline. Applicants will need the following information:

ABA Routing Number: 043000261
Receiving Bank: Mellon Pittsburgh
BNF: FCC/AC 910–1174
OBI Field: (Skip one space between each information item)
''AUCTIONPAY''
TAXPAYER IDENTIFICATION NO.: (same as FCC Form 159, block 12)
PAYMENT TYPE CODE (enter ''A40U'')
FCC CODE 1 (same as FCC Form 159, block 24A: ''40'')
PAYER NAME (same as FCC Form 159, block 2)
LOCKBOX NO. #358405

Note: The BNF and Lockbox number are specific to the upfront payments for this auction; do not use BNF or Lockbox numbers from previous auctions.

64. Applicants must fax a completed FCC Form 159 (Revised 2/00) to Mellon Bank at (412) 236–5702 at least one hour before placing the order for the wire transfer (but on the same business day). On the cover sheet of the fax, write ''Wire Transfer—Auction Payment for Auction Event No. 40.'' Bidders should confirm receipt of their upfront payment at Mellon Bank by contacting their sending financial institution.

ii. FCC Form 159

65. A completed FCC Remittance Advice Form (FCC Form 159, Revised 2/00) must be faxed to Mellon Bank with each upfront payment. Proper completion of FCC Form 159 (Revised 2/00) is critical to ensuring correct credit of upfront payments. Detailed instructions for completion of FCC Form 159 are included in Attachment E of the *Auction No. 40 Procedures Public Notice.* An electronic version of the FCC Form 159 is available after filing the FCC Form 175. The FCC Form 159 can be completed electronically, but must be filed with Mellon Bank via facsimile.

iii. Amount of Upfront Payment

66. In the *Part 1 Order, Memorandum Opinion and Order, and Notice of Proposed Rule Making,* the Commission delegated to the Bureau the authority and discretion to determine appropriate upfront payment(s) for each auction. In addition, in the *Part 1 Fifth Report and Order,* the Commission ordered that ''former defaulters,'' *i.e.,* applicants that have ever been in default on any Commission license or have ever been delinquent on any non-tax debt owed to

any Federal agency, be required to pay upfront payments fifty percent greater than non-''former defaulters.''

67. Bidders' upfront payments will be translated to bidding units on a bidding unit for dollar basis. In order to bid on a license, otherwise qualified bidders who applied for that license on Form 175 must make a sufficient upfront payment to have an eligibility level that meets or exceeds the number of bidding units assigned to that license.

68. The bidding units for each license will equal the license's upfront payment on a bidding unit for dollar basis. The bidding unit level for each license will remain constant throughout the auction. The specific upfront payments and bidding units for each license are set forth in Attachment A of the *Auction No. 40 Procedures Public Notice.*

69. In calculating its upfront payment amount, an applicant should determine the *maximum* number of bidding units it may wish to bid on in any single round, and submit an upfront payment covering that number of bidding units. In order to make this calculation, an applicant should add together the upfront payments for all licenses on which it seeks to bid in any given round. Bidders should check their calculations carefully, as there is no provision for increasing a bidder's maximum eligibility after the upfront payment deadline.

70. At a minimum, therefore, an applicant's total upfront payment must be enough to establish eligibility to bid on at least one of the licenses applied for on Form 175, or else the applicant will not be eligible to participate in the auction. An applicant does not have to make an upfront payment to cover all licenses for which the applicant has applied on Form 175, but rather to cover the maximum number of bidding units that are associated with licenses on which the bidder wishes to place bids and hold high bids at any given time.

71. Former defaulters should calculate their upfront payment for all licenses by multiplying the number of bidding units they wish to purchase by 1.5. In order to calculate the number of bidding units to assign to former defaulters, the Commission will divide the upfront payment received by 1.5 and round the result up to the nearest bidding unit. NOTE: An applicant may, on its FCC Form 175, apply for every applicable license being offered, but its actual bidding in any round will be limited by the bidding units reflected in its upfront payment.

iv. Applicant's Wire Transfer Information for Purposes of Refunds for Upfront Payments

72. The Commission will use wire transfers for all Auction No. 40 refunds. To ensure that refunds of upfront payments are processed in an expeditious manner, all pertinent information should be supplied to the FCC. Applicants can provide the information electronically during the initial short-form filing window after the form has been submitted. Wire Transfer Instructions can also be manually faxed to the FCC, Financial Operations Center, Auctions Accounting Group, ATTN: Tim Dates or Gail Glasser, at (202) 418–2843 by June 4, 2001. All refunds will be returned to the payer of record as identified on the FCC Form 159 unless the payer submits written authorization instructing otherwise. For additional information, please call (202) 418–1995.

Name of Bank
ABA Number
Contact and Phone Number
Account Number to Credit
Name of Account Holder
Taxpayer Identification Number
Correspondent Bank (if applicable)
ABA Number
Account Number

(Applicants should also note that implementation of the Debt Collection Improvement Act of 1996 requires the FCC to obtain a Taxpayer Identification Number (TIN) before it can disburse refunds.) Eligibility for refunds is discussed in Part V.E.

A. Auction Registration

73. Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants whose FCC Form 175 applications have been accepted for filing and have timely submitted upfront payments sufficient to make them eligible to bid on at least one of the licenses for which they applied.

74. All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by two separate overnight mailings, one containing the confidential bidder identification number (BIN) required to place bids and the other containing the SecurID cards. These mailings will be sent only to the contact person at the contact address listed in the FCC Form 175.

75. Applicants that do not receive both registration mailings will not be able to submit bids. Therefore, any qualified applicant that has not received both mailings by noon on Thursday, June 21, 2001 should contact the Auctions Hotline at (717) 338–2888. Receipt of both registration mailings is critical to participating in the auction and each applicant is responsible for ensuring it has received all of the registration material.

76. Qualified bidders should note that lost bidder identification numbers or SecurID cards can be replaced only by appearing *in person* at the FCC Auction Headquarters located at 445 12th St., SW., Washington, DC 20554. Only an authorized representative or certifying official, as designated on an applicant's FCC Form 175, may appear in person with two forms of identification (one of which must be a photo identification) in order to receive replacement codes. Qualified bidders requiring replacements must call technical support prior to arriving at the FCC.

F. Remote Electronic Bidding

77. This is the first auction that the Commission will conduct over the Internet. Telephonic bidding and access via the Bureau's wide area network will also be available, as in prior auctions. Qualified bidders are permitted to bid telephonically or electronically, *i.e.,* over the Internet or the Bureau's wide area network. In either case, each bidder must have their own Remote Security Access SecurID card, which the FCC will provide at no charge. Each applicant will be issued at least two SecurID cards, and up to a maximum of three cards. For security purposes, the SecurID cards are only mailed to the contact person at the contact address listed on the FCC Form 175. Please note that the SecurID card is tailored to a specific auction, so a SecurID card obtained from a source other than the FCC will not work for Auction No. 40. The telephonic bidding phone number will be supplied in the first Federal Express mailing of the confidential bidder identification number. Your bidding preference—electronic or telephonic—is specified on the FCC Form 175.

G. Mock Auction

78. All qualified bidders will be eligible to participate in a mock auction on Friday, June 22, 2001. The mock auction will enable applicants to become familiar with the electronic system prior to the auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

IV. Auction Event

79. The first round of bidding for Auction No. 40 will begin on Tuesday,

June 26, 2001. The initial bidding schedule will be announced in a public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction.

A. Auction Structure

i. Simultaneous Multiple Round Auction

80. All licenses in Auction No. 40 will be awarded in a single, simultaneous multiple round auction. Unless otherwise announced, bids will be accepted on all licenses in each round of the auction. This approach allows bidders to take advantage of any synergies that exist among licenses and is administratively efficient.

ii. Maximum Eligibility and Activity Rules

81. The amount of the upfront payment submitted by a bidder will determine the initial maximum eligibility (as measured in bidding units) for each bidder. Upfront payments are not attributed to specific licenses, but instead will be translated into bidding units to define a bidder's initial maximum eligibility (*see* ''Amount of Upfront Payment'' in Part III.D.iii). The total upfront payment defines the maximum number of bidding units on which the applicant will be permitted to bid and hold high bids. As there is no provision for increasing a bidder's maximum eligibility during the course of an auction (as described under ''Auction Stages'' in Part IV.A.iii), prospective bidders are cautioned to calculate their upfront payments carefully. The total upfront payment does not affect the total dollars a bidder may bid on any given license.

82. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until the end before participating. Bidders are required to be active on a specific percentage of their current eligibility during each round of the auction.

83. A bidder's activity level in a round is the sum of the bidding units associated with licenses on which the bidder is active. A bidder is considered active on a license in the current round if it is either the high bidder at the end of the previous bidding round and does not withdraw the high bid in the current round, or if it submits an acceptable bid in the current round (*see* ''Bid Increments and Minimum Accepted Bids'' in Part IV.B.iii). The minimum required activity level is expressed as a percentage of the bidder's maximum bidding eligibility, and increases by stages as the auction progresses.

iii. Auction Stages

84. Auction No. 40 will be conducted in three stages and employ an activity rule. In each round of Stage One, a bidder desiring to maintain its current eligibility will be required to be active on licenses encompassing at least 80 percent of its current bidding eligibility. In each round of Stage Two, a bidder desiring to maintain its current eligibility will be required to be active on at least 90 percent of its current bidding eligibility. Finally, in Stage Three, in order to maintain eligibility, a bidder will be required to be active on 98 percent of its current bidding eligibility. The FCC reserves the discretion to further alter the activity percentages before and/or during the auction.

85. The procedures for each stage are:

Stage One: During the first stage of the auction, a bidder desiring to maintain its current eligibility will be required to be active on licenses that represent at least 80 percent of its current bidding eligibility in each bidding round. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the bidder's current activity (the sum of bidding units of the bidder's standing high bids and valid bids during the current round) by five-fourths (5/4).

Stage Two: During the second stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on 90 percent of its current bidding eligibility. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage Two, reduced eligibility for the next round will be calculated by multiplying the bidder's current activity (the sum of bidding units of the bidder's standing high bids and valid bids during the current round) by ten-ninths (10/9).

Stage Three: During the third stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on 98 percent of its current bidding eligibility. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). In this stage, reduced eligibility for the next round will be calculated by multiplying the bidder's current activity (the sum of bidding units of the bidder's standing high bids and valid bids during the current round) by fifty-fortyninths (50/49).

Caution: Since activity requirements increase in each auction stage, bidders must carefully check their current activity during the bidding period of the first round following a stage transition. This is especially critical for bidders that have standing high bids and do not plan to submit new bids. In past auctions, some bidders have inadvertently lost bidding eligibility or used an activity rule waiver because they did not re-verify their activity status at stage transitions. Bidders may check their activity against the required minimum activity level by using the bidding system's bidding module.

iv. Stage Transitions

86. Auction No. 40 will start in Stage One and it will advance to the next stage (*i.e.,* from Stage One to Stage Two, and from Stage Two to Stage Three) when, in each of three consecutive rounds of bidding, the high bid has increased on 10 percent or less of the licenses being auctioned (as measured in bidding units). In addition, the Bureau will retain the discretion to regulate the pace of the auction by announcement. This determination will be based on a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentages of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue.

v. Activity Rule Waivers and Reducing Eligibility

87. In Auction No. 40, each bidder will be provided five activity rule waivers that may be used in any round during the course of the auction. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular license.

88. The FCC Automated Auction System assumes that bidders with insufficient activity prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an ''automatic waiver'') at the end of any round where a bidder's activity level is below the minimum required unless: (i) There are no activity rule waivers available; or (ii) the bidder overrides the automatic application of a waiver by reducing

eligibility, thereby meeting the minimum requirements.

89. A bidder with insufficient activity that wants to reduce its bidding eligibility rather than use an activity rule waiver must affirmatively override the automatic waiver mechanism during the round by using the reduce eligibility function in the bidding system. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described in ''Auction Stages'' (*see* Part IV.A.iii discussion). Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

90. Finally, a bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding system) during a round in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. However, an automatic waiver triggered during a round in which there are no new valid bids or withdrawals will not keep the auction open.

vi. Auction Stopping Rules

91. For Auction No. 40, the Bureau will employ a simultaneous stopping rule. Under this rule, bidding will remain open on all licenses until bidding stops on every license. The auction will close for all licenses when one round passes during which no bidder submits a new acceptable bid on any license, applies a proactive waiver, or withdraws a previous high bid. After the first such round, bidding closes simultaneously on all licenses.

92. The Bureau also will retain discretion to implement a modified version of the simultaneous stopping rule. The modified version will close the auction for all licenses after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the standing high bidder will not keep the auction open under this modified stopping rule.

93. The Bureau will retain discretion to keep the auction open even if no new acceptable bids or proactive waivers are submitted and no previous high bids are withdrawn in a round. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. Thus, the activity rule will apply as usual, and a bidder with insufficient activity will either lose bidding eligibility or use an activity rule waiver (if it has any left).

94. In addition, the Bureau reserves the right to declare that the auction will end after a designated number of additional rounds (''special stopping rule''). If the Bureau invokes this special stopping rule, it will accept bids in the final round(s) only for licenses on which the high bid increased in at least one of the preceding specified number of rounds. We proposed to exercise this option only in circumstances such as where the auction is proceeding very slowly, where there is minimal overall bidding activity or where it appears likely that the auction will not close within a reasonable period of time. Before exercising this option, the Bureau is likely to attempt to increase the pace of the auction by, for example, moving the auction into the next stage (where bidders will be required to maintain a higher level of bidding activity), increasing the number of bidding rounds per day, and/or adjusting the amount of the minimum bid increments for the licenses.

vii. Auction Delay, Suspension, or Cancellation

95. By public notice or by announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. Exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers.

B. Bidding Procedures

i. Round Structure

96. The initial bidding schedule will be announced in the public notice listing the qualified bidders, which will be released approximately 10 days before the start of the auction and will be included in the registration mailings. The round structure for each bidding round contains a single bidding round followed by the release of the round results. Multiple bidding rounds may be conducted in a given day. The Bureau will consider all relevant factors, including but not limited to the number of licenses in the auction, when determining the number of bidding rounds per day. Details regarding round results formats and locations will also be included in the public notice listing qualified bidders.

97. The FCC has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The FCC may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors.

ii. Reserve Price or Minimum Opening Bid

98. *Background.* The Balanced Budget Act of 1997, codified at 47 U.S.C. 309(j)(4)(f), calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when FCC licenses are subject to auction unless the Commission determines that a reserve price or minimum opening bid is not in the public interest. Consistent with this mandate, the Commission directed the Bureau to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction. Among other factors, the Bureau must consider the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, the extent of interference with other spectrum bands, and any other relevant factors that could have an impact on the spectrum being auctioned. The Commission concluded that the Bureau should have the discretion to employ either or both of these mechanisms for future auctions.

99. In the *Auction No. 40 Comment Public Notice,* the Bureau proposed to establish minimum opening bids for Auction No. 40 and to retain discretion to lower the minimum opening bids. Specifically, for Auction No. 40, the Bureau proposed the following formula for minimum opening bids:

- For a license being auctioned by MEA, the minimum opening bid will be 20% of the average gross high bid received in Auction No. 26 in the same MEA.
- For a license being auctioned by EA, the minimum opening bid will be the EA population multiplied by 20% of the gross average dollars per population received in Auction No. 26 for the corresponding MEA.

100. The Bureau will set a ''floor'' for minimum opening bids at $1000 for licenses in the upper paging bands (929–931 MHz) and $500 for the licenses in the lower paging bands (35–36 MHz, 43–44 MHz, 152–159 MHz, and 454–460 MHz).

101. In the alternative, the Bureau sought comment on whether, consistent with the Balanced Budget Act, the public interest would be served by having no minimum opening bid or reserve price.

102. All the parties filing comments and replies addressed the minimum opening bids proposed in the *Auction No. 40 Comment Public Notice.* As a preliminary matter, none of the parties contended that having minimum opening bids in Auction No. 40 is contrary to the public interest. Several parties expressly endorsed the use of minimum opening bids as an effective auction tool. Accordingly, pursuant to the Balanced Budget Act, the Bureau adopts its proposal to use minimum opening bids in Auction No. 40.

103. All the comments and replies propose that some or all the minimum opening bids be lower than those proposed in the *Auction No. 40 Comment Public Notice.* One commenter proposes that for lower paging bands markets with a population of less than 1 million, the Bureau use $200, rather than $500, as an absolute minimum opening bid. Another proposes a ''floor price'' of $50, at least for licenses in the lower paging bands. A third asserts that minimum opening bids should be set based on the filing fee for additional site licenses under the former licensing system. One reply comment proposes that the floor be reduced to $200 for all licenses.

104. After reviewing the comments and replies, the Bureau has concluded that it should adopt its original proposal and the minimum opening bids listed in the *Auction No. 40 Comment Paging Notice.* The specific minimum opening bid for each license is set forth in Attachment A to the *Auction No. 40 Procedures Public Notice.* The Bureau believes that parties unable or unwilling to make the proposed absolute minimum opening bids most likely will be unable or unwilling to use the licenses to provide service to the public. The commenters' observations regarding the extent of incumbency, proposals to grant licenses based on incumbency, and concerns about the transition from site specific licensing to geographic area licensing, were the subject of prior rule making proceedings and are not within the scope of auction procedures.

105. The minimum opening bids for Auction No. 40 are reducible at the discretion of the Bureau. Such discretion will be exercised, if at all, sparingly and early in the auction, *i.e.*, before bidders lose all waivers and begin to lose substantial eligibility. During the course of the auction, the Bureau will not entertain any bidder request to reduce the minimum opening bid on specific licenses.

iii. Bid Increments and Minimum Accepted Bids

106. In Auction No. 40, the minimum accepted bid will be set as the minimum opening bid or the standing high bid plus a defined increment. Bidders will be able to place any of nine higher bids, each higher bid being equal to the minimum accepted bid plus one to nine times the defined increment. The defined increment will be based on a percentage of the standing high bid or, if no standing high bid had been placed, on the minimum opening bid. At the outset of the auction, we will use twenty percent of the standing high bid or minimum opening bid to calculate the increment. We retain the discretion to change the percentage used to calculate the defined increment if circumstances so dictate and to set a floor for the increment used to calculate the minimum acceptable bid at an absolute dollar amount.

107. Finally, in Stage III of Auction No. 40, we will have discretion to use a smaller percentage to calculate the increment used in setting acceptable bids higher than the minimum accepted bid. In all other respects, such as rounding, the smaller defined increment would be calculated in the same manner as the defined increment used to set the minimum accepted bid. Some commenters advocated that the Bureau should use ten percent (10%) or less should it exercise this discretion in Stage III and use a smaller percentage to calculate acceptable bids higher than the minimum accepted bid. We conclude that there is no need to so restrict our discretion. Advanced notice of the Bureau's decision to exercise its discretion with regard to acceptable bids in any manner will be announced via the Automated Auction System.

iv. High Bids

108. An implementation of the Lecuyer pseudo-random generator will be used to determine the standing high bidder in the case of tie high bids. A random number will be assigned to each bid. The tie bid having the highest random number will become the standing high bid. As noted in the *Auction No. 40 Comment Public Notice,* we have adopted this method of breaking ties for this auction because, unlike prior auctions, bidders in Auction No. 40 will be able to bid via the Internet. Breaking ties by reference to the timing of the bids, as in prior auctions, is inappropriate in Auction No. 40 because bidders may access the Internet at widely varying speeds.

v. Bidding

109. During a bidding round, a bidder may submit bids for as many licenses as it wishes (subject to its eligibility), withdraw high bids from previous bidding rounds, remove bids placed in the same bidding round, or permanently reduce eligibility. Bidders also have the option of making multiple submissions and withdrawals in each bidding round. If a bidder submits multiple bids for a single license in the same round, the system takes the last bid entered as that bidder's bid for the round.

110. Please note that all bidding will take place remotely either through the Automated Auction System or by telephonic bidding. (Telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. In the past, four to five minutes have been necessary to complete a bid submission. Due to the large number of licenses in Auction No. 40, bidders may require more time to submit their bids than in past auctions.) There will be no on-site bidding during Auction No. 40.

111. A bidder's ability to bid on specific licenses in the first round of the auction is determined by two factors: (i) the licenses applied for on FCC Form 175 and (ii) the upfront payment amount deposited. The bid submission screens will allow bidders to submit bids on only those licenses for which the bidder applied on its FCC Form 175.

112. The FCC Automated Auction System requires each bidder to be logged in during the bidding round using the bidder identification number provided in the registration materials, and the generated SecurID code. Bidders are strongly encouraged to print bid confirmations *after* they submit their bids.

113. In each round, eligible bidders will be able to place acceptable bids on a given license in any of ten different amounts. The Automated Auction System interface will list as acceptable bids for each license a minimum acceptable bid and nine higher bids. Until a bid has been placed on a license, the minimum acceptable bid for that license will be equal to its minimum opening bid. In the rounds after an acceptable bid is placed on a license,

the minimum acceptable bid for that license will be equal to the standing high bid plus a defined increment. (If a high bid on a license was withdrawn, however, the Commission will specify the minimum acceptable bid.)

114. Finally, bidders are cautioned in selecting their bid amounts because, as explained in the following section, bidders who withdraw a standing high bid from a previous round, even if mistakenly or erroneously made, are subject to bid withdrawal payments.

vi. Bid Removal and Bid Withdrawal

115. Procedures. Before the close of a bidding round, a bidder has the option of removing any bids placed in that round. By using the ''remove bid'' function in the bidding system, a bidder may effectively ''unsubmit'' any bid placed within that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments. Removing a bid will affect a bidder's activity for the round in which it is removed, *i.e.,* a bid that is subsequently removed does not count toward the bidder's activity requirement.

116. Once a round closes, a bidder may no longer remove a bid. However, in later rounds, a bidder may withdraw standing high bids from previous rounds using the ''withdraw bid'' function (assuming that the bidder has not exhausted its withdrawal allowance). A high bidder that withdraws its standing high bid from a previous round during the auction is subject to the bid withdrawal payments specified in 47 CFR 1.2104(g).

117. In previous auctions, we have detected bidder conduct that, arguably, may have constituted strategic bidding through the use of bid withdrawals. While we continue to recognize the important role that bid withdrawals play in an auction, *i.e.*, reducing risk associated with efforts to secure various licenses in combination, we conclude that, for Auction No. 40, adoption of a limit on their use to two rounds is the most appropriate outcome. By doing so we believe we strike a reasonable compromise that will allow bidders to use withdrawals.

118. The Bureau will limit the number of rounds in which bidders may place withdrawals to two rounds. These rounds will be at the bidder's discretion and there will be no limit on the number of bids that may be withdrawn in either of these rounds. Withdrawals during the auction will still be subject to the bid withdrawal payments specified in 47 CFR 1.2104(g). Bidders should note that abuse of the Commission's bid withdrawal procedures could result in the denial of the ability to bid on a market. If a high bid is withdrawn, the minimum accepted bid in the next round will be the prior round's second highest bid price, which may be less than, or equal to, in the case of tie bids, the amount of the withdrawn bid. To set additional acceptable bids, the second highest bid price also will be used in place of the standing high bid in the formula used to calculate the increment between bids. The Commission will serve as a ''place holder'' on the license until a new acceptable bid is submitted on that license.

119. Calculation. Generally, the Commission imposes payments on bidders that withdraw high bids during the course of an auction. If a bidder withdraws its bid and there is no higher bid in the same or subsequent auction(s), the bidder that withdrew its bid is responsible for the difference between its withdrawn bid and the net high bid in the same or subsequent auction(s). In the case of multiple bid withdrawals on a single license, within the same or subsequent auctions(s), the payment for each bid withdrawal will be calculated based on the sequence of bid withdrawals and the amounts withdrawn. No withdrawal payment will be assessed for a withdrawn bid if either the subsequent winning bid or any of the intervening subsequent withdrawn bids, in either the same or subsequent auction(s), equals or exceeds that withdrawn bid. Thus, a bidder that withdraws a bid will not be responsible for any withdrawal payments if there is a subsequent higher bid in the same or subsequent auction(s). This policy allows bidders most efficiently to allocate their resources as well as to evaluate their bidding strategies and business plans during an auction while, at the same time, maintaining the integrity of the auction process. The Bureau retains the discretion to scrutinize multiple bid withdrawals on a single license for evidence of anti-competitive strategic behavior and take appropriate action when deemed necessary.

120. In the *Part 1 Fifth Report and Order,* the Commission modified § 1.2104(g)(1) of the Commission's rules regarding assessments of interim bid withdrawal payments. As amended, § 1.2104(g)(1) provides that in instances in which bids have been withdrawn on a license that is not won in the same auction, the Commission will assess an interim withdrawal payment equal to 3 percent of the amount of the withdrawn bids. The 3 percent interim payment will be applied toward any final bid withdrawal payment that will be assessed after subsequent auction of the license. Assessing an interim bid withdrawal payment ensures that the Commission receives a minimal withdrawal payment pending assessment of any final withdrawal payment. The *Part 1 Fifth Report and Order* provides specific examples showing application of the bid withdrawal payment rule.

vii. Round Results

121. Information relating to the bids during Auction No. 40 will be disclosed after each round of bidding closes, including all bids and withdrawals placed in each round, the identity of the bidder placing each bid or withdrawal, and the net and gross amounts of each bid or withdrawal.

122. Bids placed during a round will not be published until the conclusion of that bidding period. After a round closes the Bureau will post the results of the round for public access. Reports reflecting bidders' identities and bidder identification numbers for Auction No. 40 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

viii. Auction Announcements

123. The FCC will use auction announcements to announce items such as schedule changes and stage transitions. All FCC auction announcements will be available by clicking a link on the FCC Automated Auction System.

ix. Maintaining the Accuracy of FCC Form 175 Information

124. As noted in Part II.G., after the short-form filing deadline, applicants may make only minor changes to their FCC Form 175 applications. For example, permissible minor changes include deletion and addition of authorized bidders (to a maximum of three) and certain revision of exhibits. Filers must make these changes on-line, and submit a letter summarizing the changes to: Margaret Wiener, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW., Room 4–A669, Washington, DC 20554.

125. A separate copy of the letter should be mailed to Erik Salovaara, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW., Room 4–B457, Washington, DC 20554. Questions about other changes should

be directed to Erik Salovaara at (202) 418–0660.

V. Post-Auction Procedures

A. Down Payments and Withdrawn Bid Payments

126. After bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying winning bidders, down payments and any withdrawn bid payments due.

127. Within ten business days after release of the auction closing notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Government to 20 percent of its net winning bids (actual bids less any applicable small business bidding credits). *See* 47 CFR 1.2107(b). In addition, by the same deadline all bidders must pay any bid withdrawal payments due under 47 CFR 1.2104(g), as discussed in ''Bid Removal and Bid Withdrawal,'' Part IV.B.vi. (Payments are applied first to satisfy any withdrawn bid liability, before being applied toward down payments.)

B. Long-Form Application

128. Within ten business days after release of the auction closing notice, winning bidders must electronically submit a properly completed long-form application (FCC Form 601) and required exhibits for each license won through Auction No. 40. Winning bidders that are small businesses must include an exhibit demonstrating their eligibility for small business bidding credits. *See* 47 CFR 1.2112(b), 24.709(c)(2)(i). Further filing instructions will be provided to auction winners at the close of the auction.

C. Tribal Land Bidding Credit

129. A winning bidder that intends to use its license(s) to deploy facilities and provide services to federally-recognized tribal lands that are unserved by any telecommunications carrier or that have a telephone service penetration rate equal to or below 70 percent is eligible to receive a tribal land bidding credit as set forth in 47 CFR 1.2107 and 1.2110(e). A tribal land bidding credit is in addition to, and separate from, any other bidding credit for which a winning bidder may qualify.

130. Unlike other bidding credits that are requested prior to the auction, a winning bidder applies for the tribal land bidding credit *after* winning the auction when it files its long-form application (FCC Form 601). When filing the long-form application, the winning bidder will be required to advise the Commission whether it intends to seek a tribal land bidding credit, for each market won in the auction, by checking the designated box(es). After stating its intent to seek a tribal land bidding credit, the applicant will have 90 days from the close of the long-form filing window to amend its application to select the specific tribal lands to be served and provide the required tribal government certifications. Licensees receiving a tribal land bidding credit are subject to performance criteria as set forth in 47 CFR 1.2110(e).

131. For additional information on the tribal land bidding credit, including how the amount of the credit is calculated, applicants should review the Commission's rule making proceeding regarding tribal land bidding credits and related public notices. Relevant documents can be viewed on the Commission's web site by going to *http://www.fcc.gov/wtb/auctions* and clicking on *Information on Tribal Land Bidding Credits.*

D. Default and Disqualification

132. Any high bidder that defaults or is disqualified after the close of the auction (*i.e.*, fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 CFR 1.2104(g)(2). In such event the Commission may re-auction spectrum associated with the license or offer it to the next highest bidder (in descending order) at their final bid. *See* 47 CFR 1.2109(b) and (c). In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses held by the applicant. *See* 47 CFR 1.2109(d).

E. Refund of Remaining Upfront Payment Balance

133. All applicants that submitted upfront payments but were not winning bidders for a license in Auction No. 40 may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. No refund will be made unless there are excess funds on deposit from that applicant after any applicable bid withdrawal payments have been paid.

134. Qualified bidders that have exhausted all of their activity rule waivers, have no remaining bidding eligibility, and have not withdrawn a high bid during the auction must submit a written refund request. If you have completed the refund instructions electronically, then only a written request for the refund is necessary. If not, the request must also include wire transfer instructions and a Taxpayer Identification Number (TIN). Send refund request to: Federal Communications Commission, Financial Operations Center, Auctions Accounting Group, Shirley Hanberry, 445 12th Street, SW., Room 1–A824, Washington, DC 20554.

135. Bidders are encouraged to file their refund information electronically using the refund information portion of the FCC Form 175, but bidders can also fax their information to the Auctions Accounting Group at (202) 418–2843. Once the information has been approved, a refund will be sent to the party identified in the refund information. NOTE: Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Tim Dates or Gail Glasser at (202) 418–1995.

Federal Communications Commission.

Margaret Wiener,

Chief, Auctions and Industry Analysis Division, WTB.

[FR Doc. 01–10492 Filed 4–26–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3164–EM]

Maine; Amendment No. 3 to Notice of an Emergency Declaration Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Maine, (FEMA–3164–EM), dated March 20, 2001, and related determinations.

EFFECTIVE DATE: April 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 an emergency declaration for the State of Maine is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of March 20, 2001:

Hancock County for emergency protective measures (Category B) under the Public Assistance program for a period of 48 hours.

(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. 01–10491 Filed 4–26–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1364–DR]

Massachusetts; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Massachusetts (FEMA–1364–DR), dated April 10, 2001, and related determinations.

EFFECTIVE DATE: April 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 April 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.)

Robert J. Adamcik,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 01–10489 Filed 4–26–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1364–DR]

Massachusetts; 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 declaration for the Commonwealth of Massachusetts, (FEMA–1364–DR), dated April 10, 2001, and related determinations.

EFFECTIVE DATE: April 19, 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 declaration for the Commonwealth of Massachusetts 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 April 10, 2001:

Bristol, Plymouth, Suffolk, and Worcester 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. 01–10490 Filed 4–26–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1361–DR]

Washington; Amendment No. 6 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: April 19, 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: Chelan and Kittitas 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. 01–10488 Filed 4–26–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the

standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 21, 2001.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. First Virginia Banks, Inc., Falls Church, Virginia; to merge with James River Bankshares, Inc., Suffolk, Virginia, and thereby indirectly acquire James River Bank, Waverly, Virginia, First Colonial Bank, Hopewell, Virginia, James River Bank/Colonial, Suffolk, Virginia, and State Bank, Remington, Virginia.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Harrodsburg First Financial Bancorp, Inc., Harrodsburg, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Financial Bank, Glasgow, Kentucky.

In connection with this application, Applicant also has applied to retain ownership of its subsidiary, First Financial Bank, Glasgow, Kentucky, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4) of Regulation Y.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. First Liberty Capital Corporation ESOP, Hugo, Colorado; to acquire an additional 2.8 percent, for a total of 28.2 percent, of the voting shares of First Liberty Capital Corporation, and thereby indirectly acquire The First National Bank of Hugo, both of Hugo, Colorado.

Board of Governors of the Federal Reserve System, April 23, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–10469 Filed 4–26–01; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01052]

Community Health Programs; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for grant programs for community health promotion. This announcement is related to the focus areas of Arthritis, Osteoporosis, Chronic Back Conditions, Cancer, Chronic Kidney Disease, Diabetes, Educational and Community-Based Programs, Heart Disease and Stroke, Nutrition and Overweight, Physical Activity and Fitness, and Tobacco Use.

The purpose of the program is to improve and to promote health among specified populations and to reduce morbidity and disability associated with specified chronic diseases.

B. Eligible Applicants

Assistance will be provided only to the organizations listed below. No other applications are solicited. The Conference Report H.R. 4577, Consolidated Appropriations Act, 2001, specified these funds for the organizations listed below.

1. Roger Williams Medical Center Healthlink program in Providence, Rhode Island, to develop and implement a comprehensive health promotion initiative for senior retirees. ($666,303)
2. Sisters of Charity Health Care System and Staten Island University Hospital's Heart Center to develop telecommunication teaching tools to enhance training. ($43,784)
3. Michael DeBakey Institute for Comprehensive Cardiovascular Science to continue the development of information on the viability of artificial hearts. ($475,931)
4. Kettering Medical Center to support the Medical Center Healthy Hearts 2001 Initiative. ($866,591)
5. Jackson State University, Office of Research and Development to establish an epidemiological research institute. ($951,478)
6. Baltimore City Health Department, Maryland, to establish a Center for Chronic Diseases. ($515,831)
7. University of Texas, Southwestern Medical Center, Dallas, to establish a National Training Program for the Comprehensive Care of Individuals with Multiple Sclerosis. ($839,506)

C. Availability of Funds

Approximately $4,359,424 is available in FY 2001 to fund seven awards as described in paragraph ''B'' above. It is expected that the awards will begin on or about July 15, 2001, and will be made for a 12-month budget period within a one year project period. Funding estimates may change.

D. Where To Obtain Additional Information

To obtain additional information, contact: Robert Hancock, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 01052, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: (770) 488–2746, Email Address: rhancock@cdc.gov.

For overall program technical assistance, contact: Michael Waller, Division of Adult and Community Health, National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), 4770 Buford Highway, NE., MS K–45, Atlanta, Georgia 30341, Telephone: (770) 488–5264, E-Mail Address: mwaller@cdc.gov.

Technical assistance for Roger Williams Medical Center will be provided by: David Elswick, Division of Adult and Community Health, National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), 4770 Buford Highway, NE, MS K–30, Atlanta, Georgia 30341, Telephone: (770) 488–5506, E-Mail Address: delswick@cdc.gov.

Technical assistance for Sisters of Charity Health Care System will be provided by: Mags Malone, Division of Adult and Community Health, National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), 4770 Buford Highway, NE, MS K–47, Atlanta, Georgia 30341, Telephone: (770) 488–8055, E-Mail Address: mmalone@cdc.gov.

Technical assistance for Michael DeBakey Institute for Comprehensive Cardiovascular Science will be provided by: Mags Malone, Division of Adult and Community Health, National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), 4770 Buford Highway, NE, MS K–47, Atlanta, Georgia 30341, Telephone: (770) 488–8055, E-Mail Address: mmalone@cdc.gov.

Technical assistance for the Kettering Medical Center Healthy Hearts 2001 Initiative will be provided by: Mags Malone, Division of Adult and Community Health, National Center for

Chronic Disease Prevention and Health Promotion (NCCDPHP), 4770 Buford Highway, NE, MS K–47 Atlanta, Georgia 30341, Telephone: (770) 488–8055, E-Mail Address: mmalone@cdc.gov.

Technical assistance for the Jackson State University, Office of Research and Development to establish an epidemiological research institute will be provided by: Mags Malone, Division of Adult and Community Health, National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), 4770 Buford Highway, NE, MS K–47, Atlanta, Georgia 30341, Telephone: (770) 488–8055, E-Mail Address: mmalone@cdc.gov.

Technical assistance for the Baltimore City Health Department, Maryland, to establish a Center for Chronic Diseases will be provided by: Catherine A. Hutsell, M.P.H., Division of Adult and Community Health, National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), 4770 Buford Highway, NE, MS K–30, Atlanta, Georgia 30341, Telephone: (770) 488–5438, E-Mail Address: chutsell@cdc.gov.

Technical assistance for the University of Texas, Dallas, for the Southwestern Medical Center, National Multiple Sclerosis Training center will be provided by: David Thurman, Division of Adult and Community Health, National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), 4770 Buford Highway, NE, MS K–45, Atlanta, Georgia 30341, Telephone: (770) 488–6090, E-Mail Address: dthurman@cdc.gov.

Dated: April 23, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–10480 Filed 4–26–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: Financial Status Reporting (SF–269) with Supplemental ADD–02 for State Councils on Dev. Disabilities

OMB No. 0980–0212

Description: For the program of the State Council on Developmental Disabilities, funds are awarded to State Agencies contingent on fiscal requirements in Subtitle B of the Developmental Disabilities Assistance and Bill of Rights Act. The SF–269, mandated in the revised OMB Circular A–102, provides no accounting breakouts necessary for proper stewardship. The proposed supplement will allow compliance monitoring and proactive compliance maintenance and technical assistance.

Respondents: State and Tribal Governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ADD02	55	2	9	990
Estimated total annual burden hours				990

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, D.C. 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 the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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: April 24, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–10504 Filed 4–26–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Cardiovascular and Renal 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: Cardiovascular and Renal 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 May 24, 2001, from 8:30 a.m. to 5 p.m., and on May 25, 2001, from at 9 a.m. to 3:30 p.m.

Location: National Institutes of Health (NIH), 9000 Rockville Pike, Bldg. 10, Clinical Center, Jack Masur Auditorium, Bethesda, MD.

Contact: Joan C. Standaert, Center for Drug Evaluation and Research (HFD–110), Food and Drug Administration, Woodmont II Bldg., 1451 Rockville Pike, Rockville, MD, 20752, 419–259–6211, or John M. Treacy, 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington DC area), code 12533. Please call the Information Line for up-to-date information on this meeting.

Agenda: On May 24, 2001, the committee will discuss: (1) Published interim analyses of ALLHAT (antihypertensive and lipid lowering treatment to prevent heart attack trial) sponsored by the National Heart, Lung, and Blood Institute, NIH, and (2) response to the citizen's petition of Lawrence D. Bernhardt and Arnold Liebman, regarding new drug application (NDA) 19–668, Cardura® (doxazosin), Pfizer, Inc. On May 25, 2001, the committee will discuss NDA 20–920 Natrecor® (nesiritide), Scios, Inc., for treatment of acute heart failure.

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 May 18, 2001. Oral presentations from the public will be scheduled between approximately 8:30 a.m. and 9:30 a.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before May 18, 2001, and submit a brief statement on 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: April 11, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–10450 Filed 4–26–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Vaccines and Related Biological Products 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: Vaccines and Related Biological Products 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 May 16, 2001, from 8 a.m. to 6:30 p.m., and May 17, 2001, from 8 a.m. to 1:30 p.m.

Location: Holiday Inn, Grand Ballroom, Two Montgomery Village Ave., Gaithersburg, MD.

Contact: Nancy T. Cherry or Denise H. Royster, Center for Biologics Evaluations and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138, (301–443–0572 in the Washington, DC area), code 12391. Please call the Information Line for up-to-date information on this meeting.

Agenda: On May 16, 2001, the committee will discuss adventitious agent testing, tumorigenicity testing, and issues related to residual cell substrate deoxyribonucleic acid (DNA) of novel and neoplastic cell substrates used to manufacture viral vaccines.

Procedure: On May 16, 2001, from 9 a.m. to 6:30 p.m., the meeting is open to the public. 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 May 8, 2001. Oral presentations from the public will be held between approximately 2:30 p.m. and 3:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before May 8, 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 May 16, 2001, from 8 a.m. to 9 a.m. and on May 17, 2001, from 8 a.m. to 1:30 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: April 19, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–10451 Filed 4–26–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–3028]

Draft Guidance for Industry; Premarket Approval Applications for In Vitro Diagnostic Devices Pertaining to Hepatitis C Viruses (HCV); Assays Intended for Diagnosis, Prognosis, or Monitoring of HCV Infection, Hepatitis C, or Other HCV-Associated Disease; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Premarket Approval Applications for In Vitro Diagnostic Devices Pertaining to Hepatitis C Viruses (HCV): Assays Intended for Diagnosis, Prognosis, or Monitoring of HCV Infection, Hepatitis C, or Other HCV-Associated Disease; Draft Guidance for Industry and FDA.'' FDA is issuing this draft guidance to provide current recommendations about the design, data collection, and data analysis of studies that are important to the premarket approval application (PMA) process for in vitro diagnostic (IVD) devices pertaining to HCV. This draft guidance is not final nor is it in effect at this time.

DATES: Submit written comments on the draft guidance by July 26, 2001.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the draft guidance entitled ''Premarket Approval Applications for In Vitro Diagnostic Devices Pertaining to Hepatitis C Viruses (HCV): Assays Intended for Diagnosis, Prognosis, or Monitoring of HCV Infection, Hepatitis C, or Other HCV-Associated Disease; Draft Guidance for Industry and FDA'' to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for

information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Doria DuBois, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2096.

SUPPLEMENTARY INFORMATION:

I. Background

On February 12, 1998, FDA called a meeting of the Microbiology Devices Advisory Panel to obtain recommendations from the panel regarding scientific information necessary for premarket approval of tests for hepatitis viruses. Following the panel meeting and subsequent discussions between FDA and industry, FDA developed and published a draft guidance (See 64 FR 54902, October 8, 1999). FDA accepted public comments regarding the draft guidance until January 6, 2000. This second draft guidance incorporates those comments and replaces the October 8, 1999, draft guidance document.

II. Significance of Guidance

This draft guidance document represents the agency's current thinking on assays for detecting evidence of infection with HCV. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statutes and regulations.

The agency has adopted good guidance practices (GGPs) and published the final rule, which set forth the agency's regulations for the development, issuance, and use of guidance documents (65 FR 56468, September 19, 2000). This draft guidance document is issued as a level 1 guidance in accordance with the GGP regulations.

III. Electronic Access

In order to receive ''Premarket Approval Applications for In Vitro Diagnostic Devices Pertaining to Hepatitis C Viruses (HCV): Assays Intended for Diagnosis, Prognosis, or Monitoring of HCV Infection, Hepatitis C, or Other HCV-Associated Disease; Draft Guidance for Industry and FDA'' via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number (1353) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. The CDRH home page may be accessed at http://www.fda.gov/cdrh. ''Premarket Approval Applications for In Vitro Diagnostic Devices Pertaining Hepatitis C Viruses (HCV): Assays Intended for Diagnosis, Prognosis, or Monitoring of HCV Infection or HCV-Associated Disease; Draft Guidance for Industry and FDA,'' will be available at http://www.fda.gov/cdrh/ode/guidance/1353.pdf. Updated on a regular basis, the CDRH home page also includes the civil money penalty guidance documents package, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information.

IV. Comments

Interested persons may submit to Dockets Management Branch (address above) written comments regarding this draft guidance by July 26, 2001. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 18, 2001.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 01–10528 Filed 4–26–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1891.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Evaluation of the Health Care for the Homeless Respite Pilot Initiative—New

The Bureau of Primary Health Care (BPHC), Health Resources Services Administration (HRSA), proposes to conduct an evaluation of the Health Care for the Homeless (HCH) Respite Pilot Initiative. Data will be collected from the ten HCH grantees participating in the Pilot Initiative. The evaluation will be developed and conducted by the National Health Care for the Homeless Council through a cooperative agreement with the BPHC. The focus of the evaluation will be on assessing the effect of respite services on the health of homeless people as well as looking at any differences in outcomes based on client or program characteristics. The evaluation will be conducted throughout the three-year period of the Pilot Initiative.

The estimated response burden is as follows:

Type of respondent	Number of respondents	Response per respondents	Hours per response	Total hour burden
HCH Grantees	10	600	0.25	1500

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received on or before June 26, 2001.

Dated: April 23, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–10529 Filed 4–26–01; 8:45 am]

BILLING CODE 4160–15–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Uniform Data System (OMB No. 0915–0193)—Revision—This is a request for revision of approval of the Uniform Data System (UDS), which contains the annual reporting requirements for the cluster of primary care grantees funded by the Bureau of Primary Health Care (BPHC), Health Resources and Services Administration (HRSA). The UDS includes reporting requirements for grantees of the following primary care programs: Community Health Centers, Migrant Health Centers, Health Care for the Homeless, Outreach and Primary Health Services for Homeless Children and Public Housing Primary Care. Authorizing Legislation is found in Public Law 104–299, Health Center Consolidation Act of 1996, enacting Section 330 of the Public Health Service Act.

The Bureau of Primary Health Care collects data on its programs to ensure compliance with legislative mandates and to report to Congress and policymakers on program accomplishments. To meet these objectives, BPHC requires a core set of information collected annually that is appropriate for monitoring and evaluating performance and reporting on annual trends. The UDS includes two components: the Universal Report, completed by all grantees, provides data on services, staffing, and financing; and the Grant Report, completed by grantees funded under the Homeless or Public Housing Program as well as one of the other programs, provides data on characteristics of users whose services fall within the scope of the Homeless or Public Housing Program grant. Grantees are also asked to provide information on the charges, collections, bad debt write off and contractual disallowances by payor sources (Medicaid, Medicare, self pay and private insurance). In addition, grantees need to include categories to some of the lists (*e.g.,* services, ICD codes, CPT codes) and annotating the forms to indicate which lines are subtotals and the lines to which they sum.

Estimates of annualized reporting burden are as follows:

Type of report	Number of respondents	Hours per response	Total burden hours
Universal	712	24	17,088
Grant	96	16	1,536
Total	712		18,624

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Morrall, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: April 23, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–10531 Filed 4–26–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Federal Assistance to the Columbia Hospital for Women Medical Center Community Outreach Programs

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of grant award.

SUMMARY: The Maternal and Child Health Bureau (MCHB), Health Resources and Services Administration (HRSA), awarded a grant for $5 million in fiscal year (FY) 2001 to Columbia Hospital for Women Medical Center, in Washington, DC. The grant supports community outreach programs for women. The award was made from funds appropriated under Public Law 106–554 (HHS Appropriation Act for FY 2001). As part of MCHB's overall appropriation, monies were specifically designated to support the Columbia Hospital for Women Medical Center project. The grant for the project is a Special Project of Regional and National Significance authorized by section 501(a)(2) of the Social Security Act, the Maternal and Child Health Federal Set-Aside Program.

SINGLE SOURCE JUSTIFICATION: The HRSA is providing Federal financial assistance to the Columbia Hospital for Women Medical Center to support infrastructure development of community outreach programs for women (and their high risk infants), to: (1) Maintain capacity and increase coordination of primary care and preventive services for women and high risk infants who have limited

access to these health services; and (2) develop a sustainable system of care for these women and high risk infants.

The grant supports four key outreach programs needed by the local community and uniquely available at Columbia Hospital for Women: the Teen Health Center; Ambulatory Care Center; Low-Income Mammography Program of the Betty Ford Comprehensive Breast Center; and High Risk Infant Development and Follow-up Program. The project will utilize existing resources to build relationships, attract additional support, and develop a sustainable system of care for women with limited access to care in the District of Columbia. The goal is to establish or improve community outreach strategies to recruit and retain women in the hospital's comprehensive and preventive women's health services programs.

AVAILABILITY OF FUNDS: Approximately $5 million was made available for obligation to support this project for a single project/budget period beginning in FY 2001, extending from April 1, 2001 through September 29, 2002.

OTHER AWARD INFORMATION: This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal programs (as implemented by 45 CFR part 100). This is intended to be a one-time program, and, therefore, a Catalog of Federal Domestic Assistance number was not requested.

FOR FURTHER INFORMATION: Contact: Ann M. Koontz, Dr.P.H., C.N.M., Division of Perinatal and Women's Health, Maternal and Child Health Bureau, HRSA, 5600 Fishers Lane, Room 11A–05, Rockville, MD 20857, 301–443–6327.

Dated: April 2, 2001.

Elizabeth M. Duke,

Acting Administrator.

[FR Doc. 01–10530 Filed 4–26–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2001 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of funding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Mental Health Services (CMHS) announces the availability of FY 2001 funds for grants for the following activity. This notice is not a complete description of the activity; potential applicants must obtain a copy of the Guidance for Applicants (GFA), including Part I, *State Mental Health Data Infrastructure Grants,* and Part II, *General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements,* before preparing and submitting an application.

Activity	Application deadline	Est. funds FY 2001	Est. No. of awards	Project period
State Mental Health Data Infrastructure Grants	June 19, 2001	$5.5 million [1]	[1] 59	3 years.

[1] See the text below for more detailed information on the estimated funds available and the estimated number of awards. The actual amount available for the awards may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2001 funds for the activities discussed in this announcement were appropriated by the Congress under Public Law No. 106–310. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions

Applicants must use application form PHS 5161–1 (Rev. 7/00. The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: National Mental Health Services Knowledge Exchange, Network (KEN), P.O. Box 42490, Washington, DC 20015, Telephone: 1–800–789–2647.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: http://www.samhsa.gov

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose

The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS) announces the availability of Fiscal Year 2001 funds for grants to develop and sustain State and community data infrastructure that helps promote comprehensive, community-based systems of care for all children and adults with mental illness or at risk of developing mental illness. In this program, referred to as ''Data Infrastructure Grants,'' grants will be available for developing data infrastructure to permit future data compilation of Uniform Data Reporting under the Block Grant program to be reported as part of the CMHS Block Grant Application.

Eligibility

Applicants must be State Mental Health Authorities or the equivalent in the District of Columbia, or State Mental Health Authority equivalents in U.S. Territories.

Availability of Funds

Approximately $5,500,000 will be available to fund 59 grants. It is expected that 51 grant awards will be made to State Mental Health Authorities for $100,000 each, and 8 grant awards will be made to the Mental Health Authority in U.S. Territories for $50,000 each. This program also requires a matching requirement of at least 50 percent of total costs will be provided (in cash or in-kind) directly by the applicant or through donations from public or private entities.

Period of Support: Grants will be awarded for a period of 3 years. Annual awards will be made subject to continued availability of funds to SAMHSA/CMHS and progress achieved by the grantee.

Criteria for Review and Funding

General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be

used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria.

Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.230.

Program Contact:

For questions on the *Mental Health Block Grant Program,* contact: Nainan Thomas, Ph.D., Public Health Adviser, Room 15C–26, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4257, E-Mail: nthomas@samhsa.gov.

For questions on *Measures and the GFA Application* contact: Olinda González, Ph.D., Public Health Adviser, Room 15C–04, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2849, E-Mail: ogonzale@samhsa.gov.

For questions on *grants management issues,* contact: Steve Hudak, Division of Grants Management, Substance Abuse and Mental Health Services Administration, Room 13–103, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9666, E-Mail: shudak@samhsa.gov.

Public Health System Reporting Requirements: The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2001 activity is subject to the Public Health System Reporting Requirements.

PHS Non-use of Tobacco Policy Statement: The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372: Applications submitted in response to the FY 2001 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: April 20, 2001.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 01–10453 Filed 4–26–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2001 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of Funding Availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Mental Health Services (CMHS) announces the availability of FY 2001 funds for grants for the following activity. This notice is not a complete description of the activity; potential applicants must obtain a copy of the Guidance for Applicants (GFA), including Part I, Grants to Support Restraint & Seclusion Training in Programs that Serve Children and Youth, and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

Activity	Application deadline	Est. funds—FY 2001 (in millions)	Est. No. of awards	Project period (in years)
Restraint and Seclusion Training Demonstration sites	June 19, 2001	$1.5	5	3
Restraint and Seclusion Coordinating Center	June 19, 2001	$.5	1	3

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of application received. FY 2001 funds for the activities discussed in this announcement were appropriated by Congress under Public Law No. 106–310. SAMHSA's policies and

procedures for peer review and Advisory Council review of grant and cooperative agreement application were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions

Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: National Mental Health Services Knowledge Exchange, Network (KEN), P.O. Box 42490, Washington, DC 20015, Telephone: 1–800–789–2647.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: http://www.samhsa.gov.

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Mental Health Services (CMHS) announces the availability of FY 2001 funds for grants for five demonstration site grants and one coordinating center to develop and demonstrate the effectiveness of a best-practices training model on appropriate use of restraint and seclusion which emphasizes conflict resolution and de-escalation. This training initiative targets non-medical community-based residential and day treatment programs serving children and youth. Applicants may apply for either the demonstration sites or the coordinating center, but not both.

Eligibility: For the demonstration projects, applications may be submitted by public and private non-profit entities. For example, applications may be submitted from day treatment programs; non-medical community-based, 24-hour residential programs; legal protection and advocacy organizations; child welfare agencies/organizations; consumer advocacy organizations; community and faith based organizations and programs; and other child and/or youth serving organizations. Applicants for the demonstration site grants must be have been licensed to provide mental health treatment services for the past three years.

For the coordinating center, applications may be submitted by a public or a private non-profit entity. For example, applications may be submitted by consumer advocacy and rights organizations that representing children and youth; state mental health agencies; universities and research institutions; and faith-based organizations and institutions.

Availability of Funds: A total of $1,500,000 will be available for five demonstration site grants at $300,000 each. A total of $500,000 will be available to support one coordinating center.

Period of Support: Awards for demonstration sites and the coordinating center may be requested for up to 3 years. Annual non-competitive continuation awards will depend upon the availability of funds and progress achieved.

Criteria for Review and Funding

General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.230.

Program Contact: For questions on the program, contact: Deborah Baldwin, Public Health Advisor, Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 15C–21, Rockville, MD 20857, Telephone: 301–443–4257, E-mail: *dbaldwin@samhsa.gov.*

For questions regarding grants management issues, contact: Steve Hudak, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Rm 13–103, Rockville, MD 20857, (301) 443–9666, E-mail: shudak@samhsa.gov.

Public Health System Reporting Requirements

The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2001 activity is subject to the Public Health System Reporting Requirements.

PHS Non-use of Tobacco Policy Statement

The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372

Applications submitted in response to the FY 2001 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance.

Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: April 20, 2001.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 01–10454 Filed 4–26–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Change in Eligibility and Special Funding Opportunities for Two Ongoing Substance Abuse Treatment Programs

AGENCY: Center for Substance Abuse Treatment (CSAT), Substance Abuse and Mental Health Services Administration (SAMHSA), DHHS

ACTION: Change in eligibility and special funding opportunities under SAMHSA/CSAT Comprehensive Community Treatment Program (PA 99–050) and Action Grant Program (PA 00–002)

SUMMARY: This notice is to inform the public that the eligibility requirements in the SAMHSA/CSAT program announcements: PA 99–050-Comprehensive Community Treatment Program for the Development of New and Useful Knowledge (Short Title: Community Treatment Program) and PA 00–002-Community Action Grants for Service Systems Change (Short Title: CSAT Action Grant Program) will be changed immediately following the May 10, 2001 receipt date for the Community Treatment Program. Effective May 11, 2001, for profit entities will not be eligible applicants under these programs. On October 17, 2000, Public Law 106–310 reauthorized SAMHSA. Section 509 of the law, Priority Substance Abuse Treatment Needs of Regional and National Significance, authorized CSAT, through the Secretary, DHHS, to carry out activities described in the section directly or through grants or cooperative agreements with States, political subdivisions of States, Indian tribes and tribal organizations, and other public or nonprofit private entities. For profit entities are excluded under section 509; therefore, for profit entities are no longer eligible to apply for grants under PA 99–050 and PA 00–002. Applications received for the May 10, 2001, or earlier receipt dates, are not affected by this change.

PA 99–050, Community Treatment Program, was published in the **Federal Register** on March 8, 1999 (Vol. 64, Number 44, pages 11027–11031). A modification/clarification notice for PA 99–050 was published in the **Federal Register** on December 13, 1999 (Vol. 64, Number 238, pages 69544–69545).

PA 00–002, CSAT Action Grant Program, was published in the **Federal Register** on February 17, 2000 (Vol. 65, Number 33, pages 8184–8186).

Potential applicants under these SAMHSA/CSAT programs should be aware that one or both of these programs could be updated and reannounced in the **Federal Register** within the next year.

This notice also is to inform the public about special funding opportunities under the aforementioned programs. The specifics are as follows:

Subject to the availability of funds, an additional $500,000 will be allocated to PA 99–050, Community Treatment Program, to support exploratory/pilot studies related to managed care. Pilot studies may be submitted that are responsive to the following areas: (l) Evaluation of substance abuse treatment computerized clinical and/or patient decision support systems and/or (2) examining the links between established substance abuse performance measures, e.g., Washington Circle Group Performance Measures and Treatment Outcomes. Exploratory/pilot study proposals should build upon the existing resources within substance abuse treatment delivery systems. This notice applies to applications submitted for the September 10, 2001 receipt date only. It is anticipated that 4–5 grants will be awarded.

Applicants must follow the eligibility criteria (except, as noted above, for profit entities are not eligible) and guidelines for preparing and submitting an application presented in the complete program announcement (PA 99–050). The complete announcement and application materials and the December 13, 1999 addendum that includes modified/clarified sections are available through the SAMHSA web site-www.samhsa.gov or from the National Clearinghouse for Alcohol and Drug Information (telephone 800–729–6686).

Additional information related to exploratory/pilot studies related to managed care may be obtained from: Sarah Wattenberg, Office of Managed Care, Center for Substance Abuse Treatment, SAMHSA, Tele: 301–443–0092.

General questions related to program announcement PA 99–050 should be directed to: Tom Edwards, Jr., Division of Practice and Systems Development, Center for Substance Abuse Treatment, SAMHSA, Tele: 301–443–8453.

* * * * *

Subject to the availability of funds, an additional $500,000 will be allocated to PA 00–002, CSAT Action Grant Program, to support exemplary practice models for rural communities experiencing problems with addiction to heroin or prescription opiates such as OxyContin or hydrocodone. Proposed projects are intended to help treatment providers, including physicians, hospitals, community health centers and community mental health centers adopt exemplary practice models for opioid agonist treatment (OAT) into their communities. These exemplary practices will be targeted at delivering medication assisted therapy (with opioid agonists) to rural populations where previous access to OAT services has been limited or nonexistent. Projects should be prepared to provide leadership in developing consensus among key stakeholders in the State and local community(ies) toward the goal of developing OAT services to meet the unique needs of the community, and to address new and emerging treatment needs related to the increased availability of heroin or prescribed opioid medications, such as OxyContin or hydrocodone, which are being diverted for illicit use.

Applications for this special funding related to exemplary practice models for OAT will be accepted under the special one-time receipt date of September 10, 2001, only. It is anticipated that 5 grants will be awarded. Applications under the standing CSAT Community Action Grant program must be submitted for the standing January 10 receipt date.

Applicants must follow the eligibility criteria (except, as noted above, for

profit entities are not eligible) and guidelines for preparing and submitting an application presented in the complete program announcement (PA 00–002). The complete announcement and application materials are available through the SAMHSA web site-www.samhsa.gov or from the National Clearinghouse for Alcohol and Drug Information (telephone 800–729–6686).

Additional information about exemplary practice models for OAT may be obtained from: Mike Bacon, Office of Pharmacologic and Alternative Therapies, Center for Substance Abuse Treatment, SAMHSA, Tele: 301–443–7749.

General questions related to program announcement PA 00–002 should be directed to: Jim Herrell, Ph.D., Division of Practice and Systems Development, Center for Substance Abuse Treatment, SAMHSA, Tele: 301–443–2376.

Dated: April 23, 2001.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 01–10452 Filed 4–26–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4644–N–17]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by the Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Clifford Taffet at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: COE: Ms. Shirley Middleswarth, Army Corps of Engineers, Management & Disposal Division, 441 G Street, Washington, DC 20314–1000; (202) 761–7425; DOT: Mr. Rugene Spruill, Space Management, SVC–140, Transportation Administrative Service Center, Department of Transportation, 400 7th Street, SW., Room 2310, Washington, DC 20590; (202) 366–4246; ENERGY: Mr. Tom Knox, Department of Energy, Office of Contract & Resource Management, MA–53, Washington, DC 20585; (202) 586–8715; GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–0052; INTERIOR: Ms. Linda Tribby, Acquisition & Property Management, Department of the Interior, 1849 C Street, NW., Washington, DC 20240; (202) 606–3139; NAVY: Mr. Charles C. Cocks, Director, Department of the Navy, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9200; (These are not toll-free numbers).

Dated: April 19, 2001.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

Title V, Federal Surplus Property Program Federal Register Report for 4/27/01

Suitable/Available Properties

Buildings (by State)

Alaska

Bldg. 736
CG Integrated Support Command
Kodiak Co: AK 99615–
Landholding Agency: DOT
Property Number: 87200110026

Status: Excess
Comment: 6912 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

Bldg. 738
CG Integrated Support Command
Kodiak Co: AK 99615–
Landholding Agency: DOT
Property Number: 87200110027
Status: Excess
Comment: 5336 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

Bldg. 740
CG Integrated Support Command
Kodiak Co: AK 99615–
Landholding Agency: DOT
Property Number: 87200110028
Status: Excess
Comment: 6912 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

Bldg. 745
CG Integrated Support Command
Kodiak Co: AK 99615–
Landholding Agency: DOT
Property Number: 87200110029
Status: Excess
Comment: 5336 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

Bldg. 746
CG Integrated Support Command
Kodiak Co: AK 99615–
Landholding Agency: DOT
Property Number: 87200110030
Status: Excess
Comment: 5336 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

Bldg. 748
CG Integrated Support Command
Kodiak Co: AK 99615–
Landholding Agency: DOT
Property Number: 87200110031
Status: Excess
Comment: 5336 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

Bldg. 761
CG Integrated Support Command
Kodiak Co: AK 99615–
Landholding Agency: DOT
Property Number: 87200110032
Status: Excess
Comment: 6912 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

Bldg. 762
CG Integrated Support Command
Kodiak Co: AK 99615–
Landholding Agency: DOT
Property Number: 87200110033
Status: Excess
Comment: 6912 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

Bldg. 763
CG Integrated Support Command
Kodiak Co: AK 99615–
Landholding Agency: DOT
Property Number: 87200110034
Status: Excess
Comment: 6912 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

Bldg. 770
CG Integrated Support Command
Kodiak Co: AK 99615–
Landholding Agency: DOT
Property Number: 872000110035
Status: Excess
Comment: 6912 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only.

Indiana

Radio Tower
Cannelton Locks & Dam
Cannelton Co: IN 47520–
Landholding Agency: COE
Property Number: 31200110006
Status: Unutilized
Comment: 88 sq. ft.

Kentucky

Soc. Sec. Admin. Fed. Bldg.
614 Master Street
Corbin Co: KY 40702–
Landholding Agency: GSA
Property Number: 54200120001
Status: Excess
Comment: Approx. 9078 sq. ft., some repair needed, presence of asbestos/lead paint, most recent use—offices
GSA Number: 4–G–KY–609.

Maryland

Bldg. 104
Naval Surface Warfare
Carderock Division
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120079
Status: Unutilized
Comment: 8050 sq. ft., most recent use—garage, off-site use only.

Bldg. 109
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–5000
Landholding Agency: Navy
Property Number: 77200120080
Status: Unutilized
Comment: 9650 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. 110
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120081
Status: Unutilized
Comment: 10,750 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. 111
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120082
Status: Unutilized
Comment: 4220 sq. ft., most recent use—office, off-site use only.

Bldg. 112
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120083
Status: Unutilized
Comment: 2440 sq. ft., most recent use—printing bldg., off-site use only.

Bldg. 113
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120084
Status: Unutilized
Comment: 2440 sq. ft., most recent use—lab, off-site use only.

Bldg. 143
Naval Surface Warfare
West Bethesda Co: MD 20817–5700
Property Number: 77200120085
Status: Unutilized
Comment: 16,950 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. 152
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–5700
Property Number: 77200120086
Status: Unutilized
Comment: 1400 sq. ft., most recent use—fire house annex, off-site use only.

Bldg. 159
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–5700
Property Number: 77200120087
Status: Unutilized
Comment: 605sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—hazardous storage, off-site use only.

Bldg. 187
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–5700
Property Number: 77200120088
Status: Unutilized
Comment: 768sq. ft., most recent use—pump house, off-site use only.

New Mexico

Qtrs. No. 1
Cochiti Lake Project
Pena Blanca Co: Sandoval NM 87041–
Landholding Agency: COE
Property Number: 31200110003
Status: Unutilized
Comment: 1400 sq. ft., presence of asbestos/lead paint, most recent use—storage/residential, off-site use only.

Qtrs. No. 2
Cochiti Lake Project
Pena Blanca Co: Sandoval NM 87041–
Landholding Agency: COE
Property Number: 31200110004
Status: Unutilized
Comment: 1400 sq. ft., presence of asbestos/lead paint, most recent use—storage/residential, off-site use only.

Qtrs. No. 3
Cochiti Lake Project
Pena Blanca Co: Sandoval NM 87041–
Landholding Agency: COE
Property Number: 31200110005

Status: Unutilized
Comment: 1400 sq. ft., presence of asbestos/lead paint, most recent use—storage/residential, off-site use only.

Tennessee

Marine Corps Rsv Center
2109 W. Market St.
Johnson City Co: Washington TN 37604–
Landholding Agency: GSA
Property Number: 54200120003
Status: Surplus
Comment: 4 bldgs., presence of asbestos/lead paint, possible environmental restrictions, most recent use—training/storage
GSA Number: 4–N–TN–0651.

Texas

Tract No. 104–44
8918 Graf Road
San Antonio Co: Bexar, TX 78223—
Landholding Agency: Interior
Property Number: 61200120012
Status: Unutilized
Comment: 1210 sq. ft., most recent use—residential, off-site use only.

Tract No. 110–01
1234 S. Presa
San Antonio Co: Bexar, TX 78210—
Landholding Agency: Interior
Property Number: 61200120013
Status: Unutilized
Comment: 1100 sq. ft., most recent use—residential, off-site use only.

Georgia

U.S. Post Office/Courthouse
337 W. Broad St.
Albany Co: Dougherty GA 31702–
Landholding Agency: GSA
Property Number: 54200120002
Status: Excess
Comment: 4800 sq. ft., presence of asbestos/lead paint, historic preservation covenants, most recent use—Fed. ofcs/P.O./Courthouse
GSA Number: 4–G–GA–866A.

California

Bldg. 121 SNI
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200120001
Status: Excess
Reason: Extensive deterioration.

Bldg. 121A SNI
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200120002
Status: Excess
Reason: Extensive deterioration.

Bldg. 121B SNI
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200120003
Status: Excess
Reason: Extensive deterioration.

Bldg. 137 SNI
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200120004
Status: Excess
Reason: Extensive deterioration.

Bldg. 223 SNI
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200120005
Status: Excess
Reason: Extensive deterioration.

Bldg. 171
Naval Base Pt. Loma
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200120069
Status: Unutilized
Reason: Secured Area.

Bldg. 336
Naval Base Pt. Loma
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200120070
Status: Unutilized
Reason: Secured Area.

Bldg. 338
Naval Base Pt. Loma
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200120071
Status: Unutilized
Reason: Secured Area.

Bldg. 339
Naval Base Pt. Loma
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200120072
Status: Unutilized
Reason: Secured Area.

Bldg. 345
Naval Base Pt. Loma
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200120073
Status: Unutilized
Reason: Secured Area.

Bldg. 354
Naval Base Pt. Loma
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200120074
Status: Unutilized
Reason: Secured Area.

Bldg. 355
Naval Base Pt. Loma
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200120075
Status: Unutilized
Reason: Secured Area.

Bldg. 357
Naval Base Pt. Loma
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200120076
Status: Unutilized
Reason: Secured Area. Extensive deterioration.

Bldg. F–28
Naval Base Pt. Loma
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200120077
Status: Unutilized
Reason: Secured Area.

Bldg. F–31
Naval Base Pt. Loma
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200120078
Status: Unutilized
Reason: Secured Area.

Colorado

Bldg. 125
Rocky Flats Env. Tech. Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200120001
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area.

Bldg. 333
Rocky Flats Env. Tech. Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200120002
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area.

Connecticut

5 Bldgs.
Naval Submarine Base #1, 3, 80, 154, 426
Groton Co: New London CT 06349–
Landholding Agency: Navy
Property Number: 77200120006
Status: Unutilized
Reason: Extensive deterioration.

Florida

Bldg. 369
Naval Station
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200120007
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 370
Naval Station
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200120008
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 2012
Naval Station
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200120009
Status: Unutilized
Reason: Extensive deterioration.

Maint/Carpentry Shop
USCG Station
St. Petersburg Co: Pinellas FL 33701–
Landholding Agency: DOT
Property Number: 87200120001
Status: Excess
Reasons: Secured Area. Extensive deterioration.

Maryland

Bldg. 867
Naval Air Station
Patuxent River Co: MD 20670–
Landholding Agency: Navy
Property Number: 77200120010
Status: Excess
Reason: Extensive deterioration.

Bldg. 868
Naval Air Station
Patuxent River Co: MD 20670–
Landholding Agency: Navy

Property Number: 77200120011
Status: Excess
Reason: Extensive deterioration.

Bldg. 1044
Naval Air Station
Patuxent River Co: MD 20670–
Landholding Agency: Navy
Property Number: 77200120012
Status: Excess
Reason: Extensive deterioration.

5 Bldgs.
USCG Yard #9, 21, 23, 52, 57
Baltimore Co: MD 21226–
Landholding Agency: DOT
Property Number: 87200120002
Status: Unutilized
Reason: Extensive deterioration.

Michigan

Station Bldg.
USCG Station
Manistee Co: MI 49660–
Landholding Agency: DOT
Property Number: 87200120003
Status: Unutilized
Reasons: Floodway. Secured Area.

Garage Bldg.
USCG Station
Manistee Co: MI 49660–
Landholding Agency: DOT
Property Number: 87200120004
Status: Unutilized
Reasons: Floodway. Secured Area.

Shed/Pump Bldg.
USCG Station
Manistee Co: MI 49660–
Landholding Agency: DOT
Property Number: 87200120005
Status: Unutilized
Reasons: Floodway. Secured Area.

Storage Bldg.
USCG Station
Manistee Co: MI 49660–
Landholding Agency: DOT
Property Number: 87200120006
Status: Unutilized
Reasons: Floodway. Secured Area.

New Jersey

Ames Cabin
Old Mine Road
Walpack Co: Sussex NJ 07881–
Landholding Agency: Interior
Property Number: 61200120001
Status: Unutilized
Reason: Extensive deterioration.

Jennings House
Old Mine Road
Walpack Co: Sussex NJ 07881–
Landholding Agency: Interior
Property Number: 61200120002
Status: Unutilized
Reason: Extensive deterioration.

Lester Cabin
Old Mine Road
Walpack Co: Sussex NJ 07881–
Landholding Agency: Interior
Property Number: 61200120003
Status: Unutilized
Reason: Extensive deterioration.

Cassidy Cabin
Blue Mountain Lakes Rd.
Layton Co: Sussex NJ 07851–
Landholding Agency: Interior
Property Number: 61200120004
Status: Unutilized
Reason: Extensive deterioration.

Chalker House & Garage
Skyline Drive
Layton Co: Sussex NJ 07851–
Landholding Agency: Interior
Property Number: 61200120005
Status: Unutilized
Reason: Extensive deterioration.

Waldman House
14 Walpack-Flatbrookville Rd.
Layton Co: Sussex NJ 07851–
Landholding Agency: Interior
Property Number: 61200120006
Status: Unutilized
Reason: Extensive deterioration.

Myra House
Off Mountain Rd.
Smithfield Twnshp Co: Monroe NJ 18327–
Landholding Agency: Interior
Property Number: 61200120007
Status: Unutilized
Reason: Extensive deterioration.

Pennsylvania

Schneider Cottage
Route 209
Dingman's Ferry Co: Pike PA 18328–
Landholding Agency: Interior
Property Number: 61200120008
Status: Unutilized
Reason: Extensive deterioration.

Schneider Farmhouse
Route 209
Dingman's Ferry Co: Pike PA 18328–
Landholding Agency: Interior
Property Number: 61200120009
Status: Unutilized
Reason: Extensive deterioration.

Schneider Garage/Shop
Route 209
Dingman's Ferry Co: Pike PA 18328–
Landholding Agency: Interior
Property Number: 61200120010
Status: Unutilized
Reason: Extensive deterioration.

Vayda House & Garage
Mary Stuart Rd.
Dingman's Ferry Co: Pike PA 18328–
Landholding Agency: Interior
Property Number: 61200120011
Status: Unutilized
Reason: Extensive deterioration.

Tennessee

Army Reserve Center #2
360 Ornamental Metal Museum Dr.
Memphis Co: Shelby TN 38106–
Landholding Agency: GSA
Property Number: 54200120004
Status: Surplus
Reasons: 2000 ft. of flammable or explosive material. Extensive deterioration
GSA Number: 4–D–TN–0650.

6 Bldgs.
Naval Support Activity
#2003, 2016, 2024, 2025, 2076, 2077
Millington Co: TN 38054–
Landholding Agency: Navy
Property Number: 77200120013
Status: Excess
Reason: Secured Area.

Texas

Bldg. 1149
Naval Air Station
Ft. Worth Co: Tarrant TX 76127–6200
Landholding Agency: Navy
Property Number: 77200120014
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 4200
Naval Air Station
Ft. Worth Co: Tarrant TX 76127–6200
Landholding Agency: Navy
Property Number: 77200120015
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 1173
Naval Air Station
Ft. Worth Co: Tarrant TX 76127–6200
Landholding Agency: Navy
Property Number: 772200120016
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 1268
Naval Air Station
Ft. Worth Co: Tarrant TX 76127–6200
Landholding Agency: Navy
Property Number: 772200120017
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 1837
Naval Air Station
Ft. Worth Co: Tarrant TX 76127–6200
Landholding Agency: Navy
Property Number: 772200120018
Status: Unutilized
Reason: Extensive deterioration.

Virginia

Bldg. 375
Norfolk Naval Shipyard
Norfolk Co: VA 23511–2699
Landholding Agency: Navy
Property Number: 772200120019
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Floodway. Secured Area. Extensive deterioration.

Bldg. 376
Norfolk Naval Shipyard
Norfolk Co: VA 23511–2699
Landholding Agency: Navy
Property Number: 772200120020
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Floodway. Secured Area. Extensive deterioration.

Bldg. 482
Norfolk Naval Shipyard
Norfolk Co: VA 23511–2699
Landholding Agency: Navy
Property Number: 772200120021
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Floodway. Secured Area. Extensive deterioration.

Bldg. 483
Norfolk Naval Shipyard
Norfolk Co: VA 23511–2699
Landholding Agency: Navy
Property Number: 772200120022
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Floodway. Secured Area. Extensive deterioration.

Bldg. 3531
Naval Amphibious Base
Norfolk Co: VA 223521–3229

Landholding Agency: Navy
Property Number: 772200120023
Status: Excess
Reason: Extensive deterioration.

Bldg. 13
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 772200120024
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area. Extensive deterioration.

Bldg. 14
Naval Weapons Station
Yorktown Co: VA 2369–
Landholding Agency: Navy
Property Number: 772200120025
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area. Extensive deterioration.

Bldg. 22
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 772200120026
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area. Extensive deterioration.

Bldg. 23
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 772200120027
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area. Extensive deterioration.

Bldg. 70
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120028
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area. Extensive deterioration.

Bldg. 87
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120029
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area. Extensive deterioration.

Bldg. 88
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120030
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area. Extensive deterioration.

Bldg. 118
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120031
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area. Extensive deterioration.

Bldg. 385
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120032
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area. Extensive deterioration.

Bldg. 396A
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120033
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area. Extensive deterioration.

Bldg. 492
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120034
Status: Excess
Reasons: Secured Area. Extensive deterioration.

Bldg. 507
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120035
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area.

Bldg. 612
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120036
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area. Extensive deterioration.

Bldg. 1224
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120037
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area. Extensive deterioration.

Bldg. 1225
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120038
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area. Extensive deterioration.

Bldg. 1226
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120039
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area. Extensive deterioration.

Bldg. 1227
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120040
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area. Extensive deterioration.

Bldg. 1228
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120041
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area. Extensive deterioration.

Bldg. 1587
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120042
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area. Extensive deterioration.

Bldg. 1588
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120043
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area. Extensive deterioration.

Bldg. 1589
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120044
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area. Extensive deterioration.

Bldg. 1590
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120045
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area. Extensive deterioration.

Bldg. 1591
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120046
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area. Extensive deterioration.

Bldg. 1612
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120047
Status: Excess
Reasons: Secured Area. Extensive deterioration.

Structure 1743
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy

Property Number: 77200120048
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material. Secured Area. Extensive deterioration.

Bldg. 103B
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120049
Status: Excess
Reasons: Secured Area. Extensive deterioration.

Bldg. B109
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120050
Status: Unutilized
Reason: Extensive deterioration.

Bldg. B112
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120051
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 123
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120052
Status: Unutilized
Reason: Extensive deterioration.

Bldg. B132
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120053
Status: Unutilized
Reason: Extensive deterioration.

Bldg. B157
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120054
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 170A
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120055
Status: Unutilized
Reason: Extensive deterioration.

Bldg. B239
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120056
Status: Unutilized
Reason: Extensive deterioration.

Bldg. B362
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120057
Status: Unutilized
Reason: Extensive deterioration.

Bldg. B396
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120058
Status: Unutilized
Reason: Extensive deterioration.

Bldg. B402
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120059
Status: Unutilized
Reason: Extensive deterioration.

Bldg. B425
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120060
Status: Unutilized
Reason: Extensive deterioration.

Bldg. B428
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120061
Status: Unutilized
Reason: Extensive deterioration.

Bldg. B451
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120062
Status: Unutilized
Reason: Extensive deterioration.

Bldg. B465
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120063
Status: Unutilized
Reason: Extensive deterioration.

Bldg. B1100
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120064
Status: Unutilized
Reason: Extensive deterioration.

Bldg. B1124
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120065
Status: Unutilized
Reason: Extensive deterioration.

Bldg. B9411
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120066
Status: Unutilized
Reason: Extensive deterioration.

Bldg. B9429
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120067
Status: Unutilized
Reason: Extensive deterioration.

Tracks
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120068
Status: Unutilized
Reason: Extensive deterioration.

Washington

Brundage Cabin
3003 Camp David Jr. Rd.
Port Angeles Co: Clallam WA 98362–
Landholding Agency: Interior
Property Number: 61200120014
Status: Unutilized
Reason: Extensive deterioration.

Nigro Cabin
2805 East Beach Rd.
Port Angeles Co: Clallam WA 98363–
Landholding Agency: Interior
Property Number: 61200120015
Status: Unutilized
Reason: Extensive deterioration.

West Virginia

Akers House
River Road
Hinton Co: Raleigh WV 25951
Landholding Agency: Interior
Property Number: 61200120016
Status: Excess
Reason: Extensive deterioration.

Wickline House
River Road
Hinton Co: Raleigh WV 25951–
Landholding Agency: Interior
Property Number: 61200120017
Status: Excess
Reason: Extensive deterioration.

Burdett Cabin
Army Camp Road
Prince Co: Fayette WV 25907–
Landholding Agency: Interior
Property Number: 61200120018
Status: Excess
Reason: Extensive deterioration.

[FR Doc. 01–10184 Filed 4–26–01; 8:45 am]
BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Applications

AGENCY: Fish and Wildlife Service.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Permit No. TE–034101

Applicant: Southwest Division of the Naval Facilities Engineering Command, San Diego, California.

The applicant requests a permit to take (harass by survey, collect and sacrifice) the San Diego fairy shrimp (*Branchinecta sandiegonensis*) and the Riverside fairy shrimp (*Streptocephalus wootoni*), take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*), take (harass by survey, capture, band, color-band,

and release) the California least tern (*Sterna antillarum browni*), take (harass by survey and nest monitor) the southwestern willow flycatcher (*Empidonax traillii extimus*), take (nest monitor) the least Bell's vireo (*Vireo bellii pusillus*), take (capture, handle, and release) the Stephen's kangaroo rat (*Dipodomys stephensi*) in conjunction with surveys and population monitoring throughout the species' range in California for the purpose of enhancing their survival. With the exception of the Quino checkerspot butterfly, this activities were previously covered under subpermit NAVYSW–8.

Permit No. TE–040553; TE–040531

Applicants: Daniel Marschalek, San Diego, California; Kelly Volansky, Riverside, California.

These applicants request a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with surveys throughout the species' range in California for the purpose of enhancing its survival.

Permit No. TE–039199

Applicant: Louis LaPierre, Topanga, California.

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editah Quino*) and Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*) in conjunction with surveys throughout each species' range in California for the purpose of enhancing their survival.

Permit No. TE–040239

Applicant: SWCA, Inc. Environmental Consultants, Salt Lake City, Utah.

The applicant requests a permit to take (harass by survey and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with surveys in Clark County, Nevada for the purpose of enhancing its survival.

Permit No. TE–025733

Applicant: Dynamac Corporation, Corvallis, Oregon.

The permittee requests a permit amendment to take (harass by survey, capture, handle, and release) the Topeka shiner (*Notropis topeka*), Colorado pikeminnow (*Ptychocheilus lucius*), razorback sucker (*Xyrauchen texamus*), bonytail chub (*Gila elegans*), and humpback chub (*Gila cypha*) in conjunction with surveys throughout each species' range for the purpose of enhancing their survival.

Permit No. TE–825577

Applicant: Directorate of Public Works, Honolulu, Hawaii.

The permittee requests a permit amendment to remove and reduce to possession (collect) specimens from the following plant species: *Chamaesyce celastroides* var. *kaenana, Hedyotis degeneri, Hibiscus brackenridgei*, and *Cyanea st-johnii* in conjunction with a genetic storage bank and possible propagation for reintroduction throughout Department of the Army lands in Hawaii for the purpose of enhancing their survival.

Permit No. TE–009018

Applicant: Rancho Santa Ana Botanic Garden, Claremont, California.

The permittee requests a permit amendment to remove and reduce to possession (collect) specimens from the following plant species: *Allium munzii, Arctostaphylos glandulosa* ssp. *crassifolia, Arenaria paludicola, Astragalus albens, Astragalus brauntonii, Astragalus lentiginosus* var. *coachellae, Astragalus tener* var. *titi, Astragalus tricarinatus, Atriplex coronata* var. *notatior, Berberis nevinii, Castilleja grisea, Cercocarpus traskiae, Chorizanthe orcuttiana, Cordylanthus maritimus* ssp. *maritimus, Delphinium variegatum* ssp. *kinkiense, Dodecahema leptoceras, Eriastrum densifolium* ssp. *sanctorum, Eriogonum ovalifolium* var. *vineum, Eryngium aristulatum* var. *parishii, Fremontodendron mexicanum, Lesquerella kingii* ssp. *bernardina, Lithophragma maximum, Lotus dendroideus* var. *traskiae, Malacothamnus clementinus, Monardella linoides* ssp. *viminea, Orcuttia californica, Oxytheca parishii* var. *goodmaniana, Pentachaeta lyonii, Poa atropurpurea, Pogogyne abramsii, Pogogyne nudiuscula, Rorippa gambellii, Sibara filifolia, Sidalcea pedata, Swallenia alexandrae, Taraxacum californicum*, and *Thelypodium stenopetalum* in conjunction with scientific research and conservation activities throughout each species' range in California for the purpose of enhancing their survival.

Permit No. TE–040952

Applicant: John A. Ebrey, Jacksonville, Illinois.

The applicant requests a permit to purchase, in interstate commerce, three female and three male captive bred Hawaiian (=nene) geese (*Nesochen* [=*Branta*] *sandvicensis*) for the purpose of enhancing the species propagation and survival. This notification covers activities conducted by the applicant over the next 5 years.

Permit No. TE–040765

Applicant: Bureau of Land Management, Klamath Falls Resource Area, Klamath Falls Oregon.

The applicant requests a permit to take (capture and release; collect tissue samples) the Lost River sucker (*Deltistes luxatus*) and the shortnose sucker (*Chasmistes brevirostris*) in conjunction with surveys and population demographic studies in Klamath County, Oregon for the purpose of enhancing their survival.

Permit No. TE–040833

Applicant: Mello Dee Hrdlicka, Riverside, California.

The applicant requests a permit to take (capture, mark, and release) the San Bernardino kangaroo rat (*Dipodomys merriami parvus*) in conjunction with surveys, population monitoring and research in San Bernardino Counties, California for the purpose of enhancing its survival.

Permit No. TE–023250

Applicant: Department of the Navy, Navy Region Southwest, San Diego, California.

The applicant requests a permit to take (capture, band, collect eggs and feathers, incubate eggs, release, and euthanize unhealthy individuals to benefit the health of the captive population) the San Clemente loggerhead shrike (*Lanius ludovicianus mearnsi*) in conjunction with a captive breeding program, take (capture and band) the San Clemente Island sage sparrow (*Amphispiza belli clementae*) and take (capture, toe-clip) the Island night lizard (*Xantusia riversiana*) in conjunction with population monitoring, and to remove and reduce to possession (collect) the San Clemente Island broom (*Lotus dendroideus var. traskiae*), San Clemente Island Indian paintbrush (*Castilleja grisea*), San Clemente Island bush-mallow (*Malacothamnus clementinus*), San Clemente Island larkspur (*Delphinium variegatum ssp. kinkienae*), Island rock cress (*Sibara filifolia*), and the San Clemente Island woodland star (*Lithophragma masimum*) for DNA-based phylogenetic studies on San Clemente Island, California for the purpose of enhancing their survival. With the exception of the San Clemente Island sage sparrow, Island night lizard, Island rock cress, and San Clemente Island woodland star, these activities were previously covered under subpermit NASNI–4.

DATES: Written comments on these permit applications must be received

within 30 days of the date of publication of this notice.

ADDRESSES: Written data or comments should be submitted to the Chief, Endangered Species, Ecological Services, Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232–4181; Fax: (503) 231–6243. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: (503) 231–2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: April 18, 2001.

Rowan W. Gould,

Regional Director, Region 1, Portland, Oregon.

[FR Doc. 01–10482 Filed 4–26–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Bolsa Chica Lowland Restoration Project Final Environmental Impact Statement/Report

AGENCY: Fish and Wildlife Service, Department of the Interior, and the U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of availability.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, the Fish and Wildlife Service (FWS) announces the availability of a final environmental impact statement/report (FEIS/R) for the Bolsa Chica Lowland Restoration Project, Orange County, California.

DATES: A 30-day review period will follow the Environmental Protection Agency's notice of availability of the FEIS/R on April 27, 2001.

ADDRESSES: Public reading copies of the FEIS/R will be available for review at:

Huntington Beach Central Library, 7111 Talbert, Huntington Beach, California

Garden Grove County Regional Library, 11200 Stanford, Garden Grove, California

Fountain Valley Branch Library, 17635 Los Alamos, Fountain Valley, California

Seal Beach Branch Library, 707 Electric Ave., Seal Beach, California

Fish and Wildlife Service, 2730 Loker Ave. West, Carlsbad, California

Corps of Engineers, Los Angeles District, 711 Wilshire Blvd., 14th floor, Los Angeles, California

FOR FURTHER INFORMATION CONTACT: Jack Fancher, Coastal Program Coordinator, Fish and Wildlife Service, 2730 Loker Ave. West, Carlsbad, California 92008. Phone (760) 431–9440 or Pam Castens, Corps of Engineers, P.O. Box 532711, Los Angeles, California 90053–2325. Phone (213) 452–3851.

SUPPLEMENTARY INFORMATION: This FEIS/R has been prepared and is being circulated in accordance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). The Fish and Wildlife Service and the Corps of Engineers are NEPA co-lead agencies, cooperating with six other State and Federal agencies on implementation of the proposed plan. This project involves the proposal to implement a comprehensive habitat restoration plan with a public access component for an approximately 1,300-acre area known as the Bolsa Chica Lowlands. The project site is in the western Orange County, California, next to the City of Huntington Beach, Pacific Coast Highway and Bolsa Chica State Beach.

Major components of this planning effort are: (1) Restoration of full tidal influence through new inlet and bridge construction and expansion of the wetland's tidal prism by dredging, (2) creation and enhancement of aquatic habitats and intertidal wetlands, (3) creation of nesting and feeding areas for threatened and endangered birds, (4) preservation of nontidal wetlands, and (5) phased removal of oil extraction facilities from the wetlands area. It is anticipated that tidal restoration would be accomplished primarily by the Fish and Wildlife Service and partners. The Final EIS/R analyzes six project alternatives including other inlet locations and flood channel alignments. The lead agencies indicate a preference for the downcoast or southerly inlet location and no flood channel realignment.

Dated: April 17, 2001.

Steve Thompson,

Acting Manager, California-Nevada Office, Fish and Wildlife Service.

[FR Doc. 01–10216 Filed 4–26–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Information Collection Under the Paperwork Reduction Act; Comment Request

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of reinstatement.

SUMMARY: This notice announces that the Information Collection Requests for the Bureau of Indian Affairs Higher Education Grant Program Annual Report Form, OMB No. 1076–0106, and the Bureau of Indian Affairs Higher Education Grant Program Application, OMB No. 1076–0101 require reinstatement. The proposed information collection requirements, with no appreciable changes, described below will be submitted to the Office of Management and Budget (OMB) for review as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 25) after the public has an opportunity to comment on these proposals.

DATES: Submit your comments and suggestions on or before June 26, 2001.

ADDRESSES: Written comments should be mailed or hand delivered to Garry R. Martin, Bureau of Indian Affairs, Office of Indian Education Programs, 1849 C Street NW, Room 3526-MIB, Washington, DC 20240–0001.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection may be obtained by contacting Garry R. Martin at 202–208–3478. Comments can be reviewed at the location listed in the **ADDRESSES** section between the hours of 8 am to 4:30 pm Monday through Friday.

SUPPLEMENTARY INFORMATION:

Abstract

The information collection is necessary to request applications for this program and to assess the need for this program as required by 25 CFR 40.

Request for Comments

Comments are invited on (a) whether these information collections are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the

agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including through the use of automated collection techniques or other forms of information technology.

Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless it displays a currently valid OMB control number. Each proposed information collection contains the following: Type of Review requested; e.g., new, revision, extension, reinstatement, existing; Title; Summary of collection; Description of the need for, and proposed use of, the information; respondents and frequency of collection; Reporting and/or Record keeping burden.

Type of Review: Reinstatement.

Title: Higher Education Grant Program Annual Report Form.

This is a compilation of data from tribes and tribal organizations that participate in the Bureau of Indian Affairs Higher Education Grant Program. The information is used to account for the funds appropriated for this program.

OMB approval number: 1076–0106.

Frequency: Annually.

Description of respondents: Tribes, Tribal Organizations.

Estimated completion time: 3 hours.

Number of Annual responses: 125.

Annual Burden hours: 375 hours.

Type of Review: Reinstatement.

Title: Higher Education Grant Program Application.

The information is used by the tribe or tribal organization to determine the eligibility of the respondents for this program.

OMB approval number: 1076–0101.

Frequency: Annually.

Description of respondents: Eligible American Indian and Alaska Native students.

Estimated completion time: 1 hour.

Number of Annual responses: 14,000.

Annual Burden hours: 14,000 total hours.

Dated: April 20, 2001.

James H. McDivitt,

Deputy Assistant Secretary—Indian Affairs (Management).

[FR Doc. 01–10458 Filed 4–26–01; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Emergency Closure

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Notice of Closure of Public Lands; Utah. Notice of a emergency closure to motorized vehicles and mountain bikes on a crucial ''lek'' (strutting and breeding ground) and adjacent habitat area for the greater sage grouse. This area is located west and north of Parowan Gap in Iron County, Utah.

SUMMARY: This notice closes to motorized vehicle and mountain bike use approximately 1,735 acres of public land administered by BLM land located in all or parts of sections 3, 4, 8, 9, 10, 17, 20, 21; T. 33 S., R.10 W; SLBM. All public lands including motorized vehicle routes within the area will be closed, except access to a wildlife guzzler located adjacent to the west boundary road in Section 8 will be allowed. The authority for this action is 43 CFR 8341.2.

DATES: This closure is seasonal from March 1st to May 15th each year will begin immediately and remain in effect pending amendment of the land use plan for the Cedar City Field Office area.

FOR FURTHER INFORMATION CONTACT: Steve Hedges, Bureau of Land Management, 176 East DL Sargent Drive, Cedar City, Utah 84720, telephone (435) 865–3035.

SUPPLEMENTARY INFORMATION: The subject area is important year long sage grouse habitat and contains a crucial lek or strutting ground, which is considered to be the center of spring breeding activity for resident sage grouse populations. This lek (strutting and breeding ground) has been monitored annually since 1974 by the Utah Division of Wildlife Resources (UDWR) and is one of the few remaining active leks in Iron County. The greater sage grouse is listed by Utah BLM and UDWR as a state sensitive species. BLM policy for sensitive species as stated in the 6840 Manual is that they should be managed to ensure that actions funded, authorized, or carried out by the BLM do not contribute to the need to list them as threatened or endangered species. UDWR classifies the sage grouse as a species of special concern with declining populations and limited distributions. As such, it is crucial to protect the lek sites of this species. The area is currently designated as open to OHV use as documented in the Off Road Vehicle Designation and Implementation Plan for Beaver River Resource Area completed in 1987. The OHV plan also prescribes that BLM monitor ongoing OHV activity and, if necessary, adjust the time, location, or quantity of use. The subject area has received considerable increase in OHV use, extending existing routes, and creating new routes. This activity is having an adverse impact on the sage grouse in that the breeding activities are being disrupted by vehicles driving through the lek during the time which the birds are on the lek. Therefore, BLM is temporarily closing to all vehicle use the area as described above.

Dated: April 9, 2001.

A.J. Meredith,

Field Office Manager.

[FR Doc. 01–10460 Filed 4–26–01; 8:45 am]

BILLING CODE 4310–$$–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–933–01–1220–00]

Notice of Implementation of Special Area Permit Fees in Utah

AGENCY: Bureau of Land Management, Utah State Office, Salt Lake City, Utah.

ACTION: Notice of implementation of special area permit fees on public lands administered by the Bureau of Land Management in Utah.

SUMMARY: Notice is hereby given that day use and overnight special area permit fees are being charged for all individual (private, non-commercial) users and for guests of commercial users at the areas listed below. Failure to pay fees may result in a fine of up to $100 added to the initial fee amount.

Paria Canyon-Vermillion Cliffs Wilderness Area: $5 per person/per day, $5 per dog/per day

Westwater Canyon—$7 per person/per trip

Desolation Canyon—$18 per person/per trip

San Juan River—Sand Island to Mexican Hat—$6 per person/per trip; Mexican Hat to Clay Hills—$12 per person/per trip; Sand Island to Clay Hills—$18 per person/per trip

Cedar Mesa—Overnight permit $8 per person/per trip, 7 day pass (day use) $5 per person, Single day (day use) pass $2/per person, Seasonal day use pass $20 per person

The implementation of special area permit fees is effective immediately for the areas listed as required on a year-round or seasonal basis under the above listed permit systems.

SUPPLEMENTARY INFORMATION: Commercial guides are exempt from paying the special area permit fees only when they are on official duty with their respective companies. Golden Eagle, Age, and Access Passports apply only to entrance fees and cannot be used to cover user fees such as those imposed by this notice. Failure to pay fees will result in a fine of up to $100. Non-compliance with registration requirements and/or other user regulations at the sites may result in fines up to $1,000 and/or imprisonment up to 12 months and possibly, additional civil action.

Additional Information

The purpose of this action is for Utah BLM to implement national policy set forth under title 43 CFR, Subpart 8372. Special area use permits may be required for individual (private, noncommercial) recreation use in special areas. Special areas are areas officially designated by statute or Secretarial order including: components of the National Trails System, the National Wild and Scenic Rivers System, the National Wilderness System; National Conservation Areas, Monuments and recreation areas; an area covered by joint agreement between the Bureau of Land Management and a State government as provided for in Title II of the Sikes Act (16 U.S.C. 670a *et seq.*); or any area where the authorized officer determines that the resources require special management and control measures for their protection and a permit system for individual use would achieve management objectives.

The areas listed above are also participating in the Recreation Fee Demonstration Program. In 1996, to address increasing visitor use and impact on public lands and declining federal budgets for recreation, Congress directed the U.S. Department of the Interior to implement the Recreation Fee Demonstration Program for three of its agencies, the BLM, the National Park Service, and the U.S. Fish and Wildlife Service. The intent of the program is to help spread some of the costs for managing these lands among those who use them. All of the fees collected at these sites are returned to the site for use in managing the area.

Authorities: The Omnibus Consolidated Rescissions and Appropriation Act of 1996 (Pub. L. 104–134, Sec. 315) provides the authority for BLM to carry out the Recreational Fee Demonstration Program by charging and collecting fees in Pilot Fee Sites. Under this authority, the agency has the authority to collect fees for admission to the area or for the use of outdoor recreation sites, facilities, visitor centers, equipment, and services.'' Additional authorities for collecting user fees, implementing special regulations for visitor conduct, and imposing fines for noncompliance with regulations include the Federal Land Policy and Management Act of 1976, Pub. L. 94–579 (43 U.S.C. 1701 *et. seq.*), the Land and Water Conservation Fund Act of 1965, Pub. L. 88–578 (16 U.S.C. 460 (1–6a) *et seq.*), and title 43 CFR, Subpart 8372.

Dated: March 14, 2001.

Linda S. Colville,

Acting State Director.

[FR Doc. 01–10459 Filed 4–26–01; 8:45 am]

BILLING CODE 4310–DQ–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–956–09–1420–00]

Arizona State Office; Notice of Filing of Plats of Survey

April 16, 2001.

1. The plats of survey of the following described land were officially filed in the Arizona State Office, Phoenix, Arizona on the dates indicated:

A plat representing the survey of the Sixth Guide Meridian East, (west boundary), the east and north boundaries, and the subdivisional lines, Township 35 North, Range 25 East, of the Gila and Salt River Meridian, Arizona, accepted January 30, 2001 and officially filed February 9, 2001.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

A plat representing the survey of the east and north boundaries, and the subdivisional lines, Township 35 North, Range 26 East, of the Gila and Salt River Meridian, Arizona, accepted February 20, 2001 and officially filed March 2, 2001.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

These plats will immediately become the basic records for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

2. All inquiries relating to these lands should be sent to the Arizona State Office, Bureau of Land Management, 222 N. Central Avenue, P.O. Box 1552, Phoenix, Arizona 85001–1552.

Kenny D. Ravnikar,

Chief Cadastral Surveyor of Arizona.

[FR Doc. 01–10479 Filed 4–26–01; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Quarterly Status Report of Water Service, Repayment, and Other Water-Related Contract Negotiations

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given of proposed contractual actions that are new, modified, discontinued, or completed since the last publication of this notice on March 5, 2001. The March 5, 2001, notice should be used as a reference point to identify changes. This notice is one of a variety of means used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities. Additional Bureau of Reclamation (Reclamation) announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation procedures do not apply to proposed contracts for sale of surplus or interim irrigation water for a term of 1 year or less. Either of the contracting parties may invite the public to observe contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act.

ADDRESSES: The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Sandra L. Simons, Manager, Water Contracts and Repayment Office, Bureau of Reclamation, PO Box 25007, Denver, Colorado 80225–0007; telephone 303–445–2902.

SUPPLEMENTARY INFORMATION: Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273) and 43 CFR 426.20 of the rules and regulations published in 52 FR 11954, Apr. 13, 1987, Reclamation will publish notice of the proposed or amendatory contract actions for any contract for the

delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Pursuant to the ''Final Revised Public Participation Procedures'' for water resource-related contract negotiations, published in 47 FR 7763, Feb. 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. Each proposed action is, or is expected to be, in some stage of the contract negotiation process in 2001. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary of the Interior, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the regional directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.

3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

4. Written comments on a proposed contract or contract action must be submitted to the appropriate regional officials at the locations and within the time limits set forth in the advance public notices.

5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate regional director or his designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate regional director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to: (I) The significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. As a minimum, the regional director shall furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Acronym Definitions Used Herein

BON—Basis of Negotiation
BCP—Boulder Canyon Project
Reclamation—Bureau of Reclamation
CAP—Central Arizona Project
CUP—Central Utah Project
CVP—Central Valley Project
CRSP—Colorado River Storage Project
D&MC—Drainage and Minor Construction
FR—Federal Register
IDD—Irrigation and Drainage District
ID—Irrigation District
M&I—Municipal and Industrial
NEPA—National Environmental Policy Act
O&M—Operation and Maintenance
P–SMBP—Pick-Sloan Missouri Basin Program
PPR—Present Perfected Right
RRA—Reclamation Reform Act
R&B—Rehabilitation and Betterment
SOD—Safety of Dams
SRPA—Small Reclamation Projects Act
WCUA—Water Conservation and Utilization Act
WD—Water District

Pacific Northwest Region: Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, Idaho 83706–1234, telephone 208–378–5346.

New contract action:

20. Twenty-two irrigation districts of the Storage Division, Yakima Project, Washington: Repayment agreements for the reimbursable cost of SOD modifications to Keechelus Dam.

Discontinued contract action:

19. Tualatin Valley ID, Tualatin Project, Oregon: Amendatory contract to allow for the addition of 419.5 acres and appropriate District obligation adjustments. District no longer want to pursue an amendatory contract.

Mid-Pacific Region: Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–978–5250.

New contract action:

48. Sierra Pacific Power Company, Town of Fernley, State of California, City of Reno, City of Sparks, Washoe County, State of Nevada, Truckee-Carson ID, and any other local interest or Native American Tribal Interest, who may have negotiated rights under Public Law 101–618; Nevada and California: Contract for the storage of non-Federal water in Truckee River reservoirs as authorized by Public Law 101–618 and the Preliminary Settlement Agreement. The contracts shall be consistent with the Truckee River Water Quality Settlement Agreement and the terms and conditions of the proposed Truckee River Operating Agreement.

Modified contract actions:

2. Contractors from the American River Division, Cross Valley Canal, Delta Division, Sacramento River Division, San Felipe Division, Shasta Division, Trinity River Division, and West San Joaquin Division, CVP, California: Early renewal of existing long-term contracts; long-term renewal of the interim renewal water service contracts expiring in 2002; water quantities for these contracts total in excess of 3.4M acre-feet. These contract actions will be accomplished through long-term renewal contracts pursuant to Public Law 102–575. Prior to completion of negotiation of long-term renewal contracts, existing interim renewal water service contracts may be renewed through successive interim renewal of contracts.

40. Clear Creek Community Services District, CVP, California: Contract to transfer title to the distribution system to the District.

42. Foresthill Public Utility District, CVP, California: Title transfer agreement for conveyance of CVP facilities. This agreement will allow transfer of title for Sugarpine Dam and appurtenant facilities from the CVP to Foresthill Public Utility District.

43. Carpinteria WD, Cachuma Project, California: Contract to transfer title to Carpinteria distribution system to the District. Title transfer subject to Congressional ratification.

44. Montecito WD, Cachuma Project, California: Contract to transfer title to Monticito distribution system to the District. Title transfer subject to Congressional ratification.

45. Delano-Earlimart, Exeter, Ivanhoe, Lindmore, Lindsay-Strathmore, Madera, Shafter Wasco, and Stone Corral IDs; South San Joaquin Municipal Utilities District; and Tea Pot Dome WD, Friant Unit, CVP, California: Contract to transfer title of 11 distribution systems to the respective districts. All title transfers subject to Congressional ratification.

Discontinued contract actions:

34. Banta-Carbona and The West Side IDs, CVP, California: Assignment of 5,000 acre-feet of each district's water service contract to the City of Tracy. The assignment will require approval of conversion of the districts' CVP irrigation water to M&I water. The

districts are not pursuing this action at this time.

Completed contract actions:

2. Contractors from the American River Division, Buchanan Unit, Cross Valley Canal, Delta Division, Friant Division, Hidden Unit, Sacramento River Division, San Felipe Division, Shasta Division, Trinity River Division, and West San Joaquin Division, CVP, California: Early renewal of existing long-term contracts; long-term renewal of the interim renewal water service contracts expiring in 2001; water quantities for these contracts total in excess of 5.6M acre-feet. These contract actions will be accomplished through long-term renewal contracts pursuant to Public Law 102–575. Prior to completion of negotiation of long-term renewal contracts, existing interim renewal water service contracts may be renewed through successive interim renewal of contracts. Twenty-seven long-term water service contracts with quantities totaling 2.2M acre-feet were awarded to contractors in the Buchanan Unit, Friant Division, and Hidden Unit in the months of January and February 2001, with expiration dates of February 28, 2026.

5. U.S. Fish and Wildlife Service, California Department of Fish and Game, Grasslands WD, CVP, California: Water service contracts to provide water supplies for refuges and private wetlands within the CVP pursuant to Public Law 102–575 and Federal Reclamation Laws; quantity to be contracted for is approximately 450,000 acre-feet. Contracts have been executed.

Lower Colorado Region: Bureau of Reclamation, PO Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8536.

New contract actions:

56. Gila River Indian Community, Arizona: Amend CAP distribution contract to incorporate the archeological repository named the Huhugam Heritage Center as part of the project works as defined in the contract.

57. Sonny Gowan, BCP, California: Request to lease up to 175 acre-feet of his PPR water to Moabi Regional Park.

58. Golden Shores Water Conservation District, BCP, Arizona: Amendment of water delivery contract to recognize that some private lands outside the District, but within its exterior boundaries, have been included within the District's boundaries.

59. Yuma County Water Users Association, Colorado River Front Work and Levee System, Arizona: Contract providing for operation, maintenance, and replacement of drainage facilities.

60. North Baja Pipeline, BCP, Arizona: Contract assignment of agricultural water from Jamar Produce Corporation to North Baja Pipeline.

61. Jessen Family Limited Partnership, BCP, Arizona: Partial contract assignment of agricultural water from Arlin Dulin to Jessen Family Limited Partnership.

Upper Colorado Region: Bureau of Reclamation, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1102, telephone 801–524–4419.

New contract actions:

16. Twining Water and Sanitation District, San Juan-Chama Project, New Mexico: Assignment of M&I water service contract for 15 acre-feet per year to the Village of Taos Ski Valley and conversion of contract from water service to a repayment contract.

17. Town of Taos, San Juan-Chama Project, New Mexico: Conversion of M&I water service contract for 400 acre-feet per year to a repayment contract.

18. Various contractors, San Juan-Chama Project, New Mexico: Three potential contracts among the United States, Middle Rio Grande Conservancy District, and the City of Albuquerque to implement terms of Agreed Order Resolving Plaintiff's Motion for Preliminary Injunction, dated August 2, 2000, and the Supplement dated October 5, 2000.

19. Mancos Water Conservancy District, Mancos Project, Colorado: Various carriage contracts with individual irrigators and the District to allow the carriage of up to 1,000 acre-feet of non-project irrigation water in project facilities under the authority of Public Law 106–549 for the Mancos Project.

20. San Juan Water Commission, New Mexico, Animas-La Plata Project, Colorado and New Mexico: Cost-sharing/repayment contract for up to 20,800 acre-feet per year of M&I water; contract terms to be consistent with the Colorado Ute Settlement Act Amendments of 2000 (Title III of Pub. L. 106–554).

21. State of Colorado, Animas-La Plata Project, Colorado and New Mexico: Cost-sharing/repayment contract for up to 10,460 acre-feet per year of M&I water; contract terms to be consistent with the Colorado Ute Settlement Act Amendments of 2000 (Title III of Pub. L. 106–554).

22. Animas-La Plata Water Conservancy District, Colorado, Animas-La Plata Project, Colorado and New Mexico: Cost-sharing/repayment contract for up to 5,200 acre-feet per year of M&I water; contract terms to be consistent with the Colorado Ute Settlement Act Amendments of 2000 (Title III of Pub. L. 106–554).

23. La Plata Conservancy District, New Mexico, Animas-La Plata Project, Colorado and New Mexico: Cost-sharing/repayment contract for up to 1,560 acre-feet per year of M&I water; contract terms to be consistent with the Colorado Ute Settlement Act Amendments of 2000 (Title III of Pub. L. 106–554).

Discontinued contract action:

4. The National Park Service, Colorado Water Conservation Board, Wayne N. Aspinall Unit, CRSP, Colorado: Contract to provide specific river flow patterns in the Gunnison River through the Black Canyon of the Gunnison National Monument.

Completed contract actions:

1. Individual irrigators, M&I, and miscellaneous water users, Initial Units, CRSP; Utah, Wyoming, Colorado, and New Mexico: Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 10 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

(e) Daggett County, Utah, Flaming Gorge Unit, CRSP, Utah: M&I water service contract covering payment for and delivery of 1,000 acre-feet of untreated water as required by Section 10(k)(2) of Public Law 105–326. This contract has been executed.

3. Carlsbad ID, Carlsbad Project, New Mexico: Contract to provide for repayment of the District's 15 percent share of proposed modifications to Avalon Dam under the SOD program. This contract has been executed.

6. Upper Gunnison River Water Conservancy District, Wayne N. Aspinall Unit, CRSP, Colorado: Substitute supply plan for the administration of the Gunnison River.

Great Plains Region: Bureau of Reclamation, PO Box 36900, Federal Building, 316 North 26th Street, Billings, Montana 59107–6900, telephone 406–247–7730.

New contract actions:

41. Milk River Project, Montana: City of Harlem water service contract expires July of 2002. Initiating negotiation for renewal of a water service contract for an annual supply of raw water for domestic use from the Milk River not to exceed 500 acre-feet. A 1-year interim contract may be issued to continue delivery of water from the Milk River below Fresno Reservoir until the necessary actions can be completed to renew the long-term contract.

42. Milk River Project, Montana: City of Chester water service contract expires January of 2002. Initiating negotiation

for renewal of a water service contract for an annual supply of raw water for domestic use from the Milk River not to exceed 500 acre-feet. A 1-year interim contract may be issued to continue delivery of water from the Milk River below Fresno Reservoir until the necessary actions can be completed to renew the long-term contract.

43. City of Dickinson, P–SMBP, Dickinson Unit, North Dakota: Negotiate a long-term water service contract with the City of Dickinson or Park Board, for minor amounts of water from Dickinson Dam.

Modified contract actions:

2. Green Mountain Reservoir, Colorado-Big Thompson Project, Colorado: Water service contracts for irrigation and M&I; contracts for sale of water from the marketable yield to water users within the Colorado River Basin of western Colorado.

9. Angostura ID, Angostura Unit, P–SMBP, South Dakota: Another interim 3-year contract was executed on June 9, 2000, to provide for a continuing water supply and allow adequate time for completion of the Environmental Impact Statement for long-term contract renewal. A BON for a long-term contract renewal has been approved by the Commissioner's Office.

10. Cities of Loveland and Berthoud, Colorado, Colorado-Big Thompson Project, Colorado: Long-term contracts for conveyance of non-project M&I water through Colorado-Big Thompson Project facilities.

24. City of Fort Collins, Colorado-Big Thompson Project, Colorado: Long-term contracts for conveyance and storage of non-project M&I water through Colorado-Big Thompson Project facilities.

25. Green Mountain Project, Colorado: Historic user pool surplus water for municipal recreation. This agreement is with the City of Grand Junction, City of Fruita, and the Town of Palisade.

38. Helena Valley Unit, P–SMBP, Montana: Initiating negotiations for renewal of Part A of the A/B contract with Helena Valley ID which expires in 2004.

Completed contract actions:

26. Keith Bower (Individual), P–SMBP, Boysen Unit, Wyoming: Contract for up to 500 acre-feet of irrigation water to service 144 acres.

27. Canyon Limited Liability (Individual), P–SMBP, Boysen Unit, Wyoming: Contract for up to 16 acre-feet of supplemental irrigation water to service 4 acres.

28. L.U. Sheep Company (Individual), P–SMBP, Boysen Unit, Wyoming: Contract for up to 60 acre-feet of irrigation water to service 180 acres.

29. Northern Colorado Water Conservancy District, Colorado-Big Thompson Project, Colorado: Acting by and through the Pleasant Valley Pipeline Project Water Activity Enterprise, beginning discussions and draft BON for a long-term contract for conveyance of non-project water through Colorado-Big Thompson Project facilities.

31. North Fork Valley Ditch (Individual), Shoshone Project, Buffalo Bill Dam, Wyoming: Exchange water service contract not to exceed 1,000 acre-feet of water to service 855 acres.

33. Denise J. Evans (Individual), Shoshone Project, Buffalo Bill Dam, Wyoming: Exchange water service contract not to exceed 100 acre-feet of water to service 48.5 acres.

Dated: April 17, 2001.

Elizabeth Cordova-Harrison,

Deputy Director, Office of Policy.

[FR Doc. 01–10483 Filed 4–24–01; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Coachella Canal Lining Project, Imperial and Riverside Counties, California

AGENCY: Bureau of Reclamation, Department of the Interior.

ACTION: Notice of Availability of a Final Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) for the proposed Coachella Canal Lining Project, Imperial and Riverside Counties, California: FES 01–15.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended; the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of NEPA; and the California Environmental Quality Act (CEQA), the Bureau of Reclamation (Reclamation) and the Coachella Valley Water District (CVWD) have issued a final EIS/EIR for the Coachella Canal Lining Project.

DATES: Reclamation will issue a Record of Decision no sooner than May 11, 2001.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for locations and addresses where copies of the document may be reviewed.

FOR FURTHER INFORMATION CONTACT: To request copies of the EIS/EIR or to obtain further information about the Coachella Canal Lining Project, please contact Mr. Don Young, Bureau of Reclamation, Yuma Area Office, 7301 Calle Agua Salada, Yuma, Arizona, 85366; telephone: (520) 343–8159; or Mr. Steve Robbins, Coachella Valley Water District, P.O. Box 1058, Highway 111 and Avenue 52, Coachella, California, 92236; telephone: (760) 398–2651.

SUPPLEMENTARY INFORMATION: The EIS/EIR evaluates several alternatives, including the no-action alternative, and also describes the existing environment and environmental consequences for the lining of 33.2 miles of the Coachella Canal between siphons 7 and 14 and siphons 15 and 32. Lining of the canal would conserve approximately 30,850 acre-feet annually of water presently being lost as seepage from the earthen reaches of the Coachella Canal. A specific quantity of conserved water would be assigned to the Department of the Interior to facilitate implementation, subject to approval, of the San Luis Rey Indian Water Rights Settlement Act (Public Law 100–675, November 17, 1988). Remaining quantities of conserved water would be distributed between mitigation needs and southern California, subject to approval, to meet present water demand and to assist the State in attaining the goals of California's Colorado River Water Use Plan. The EIS/EIR also includes comments received during the 60-day public review of the draft EIS/EIR and provides Reclamation's/Coachella Valley Water District's responses to those comments.

Offices/Libraries Where the Final EIS/EIR is Available for Public Review

- Bureau of Reclamation, Yuma Area Office, Central Files, Room 145, 7301 Calle Agua Salada, Yuma, Arizona; telephone: (520) 343–8147
- Coachella Valley Water District, Highway 111 and Avenue 52, Coachella, California, telephone: (760) 398–2651
- Bureau of Reclamation, Lower Colorado Regional Office, 400 Railroad Avenue, Boulder City, Nevada, telephone: (702) 293–8000
- Bureau of Reclamation, Reclamation Service Center Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver, Colorado, telephone: (303) 236–6963
- Bureau of Reclamation, Program Analysis Office, Room 7456, 1849 C Street NW., Washington, DC, telephone: (202) 208–4662
- California Department of Water Resources, 6900 Devils Canyon Road, San Bernardino, California; telephone: (909) 886–5028
- Yuma County Library, 350 South Third Avenue, Yuma, Arizona, telephone: (520) 782–1871

- Coachella Branch Library, 1538 7th Street, Coachella, California; telephone: (760) 398–5148
- Brawley Public Library, 400 Main Street, Brawley, California; telephone: (760) 344–1891
- El Centro Public Library, 539 W. State Street, El Centro, California; telephone: (760) 337–4565
- Imperial Public Library, 200 W. 9th Street, Imperial, California; telephone: (760) 355–1332
- Indio Branch Library, 200 Civic Center Mall, Indio, California; telephone: (760) 347–2383
- Palm Springs Library, 300 S. Sunrise Way, Palm Springs, California; telephone: (760) 322–7323
- San Diego Central Library, 820 E Street, San Diego, California; telephone: (619) 236–5800
- Los Angeles Public Library, 630 W. Fifth Street, Los Angeles, California 90071; telephone: (213) 228–7000

Dated: April 4, 2001.

LeGrand Neilson,

Deputy Regional Director.

[FR Doc. 01–10455 Filed 4–26–01; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation 332–430]

U.S.-Chile Free Trade Agreement: Advice Concerning the Probable Economic Effect

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

EFFECTIVE DATE: April 23, 2001.

SUMMARY: Following receipt of a request on April 17, 2001, from the United States Trade Representative (USTR), the Commission instituted investigation No. 332–430, U.S.-Chile Free Trade Agreement: Advice Concerning the Probable Economic Effect, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

FOR FURTHER INFORMATION CONTACT: Industry-specific information may be obtained from James Lukes, Project Leader (202–205–3426 or *lukes@usitc.gov*) or David Lundy, Chief of Industrial Minerals and Nonferrous Metals (202–205–3439 or *lundy@usitc.gov*), Office of Industries, U.S. International Trade Commission, Washington, DC 20436. For information on the legal aspects of this investigation, contact William Gearhart of the Office of the General Counsel (202–205–3091 or *gearhart@usitc.gov*). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202) 205–1810. General information concerning the Commission may also be obtained by accessing its Internet server *(http://www.usitc.gov).* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets/.usitc.gov/eol/public.*

BACKGROUND: As requested by USTR, the Commission will include the following in its report—

1. Advice (to the President) with respect to each item in chapters 1 through 97 of the Harmonized Tariff Schedule of the United States (HTS), as to the probable economic effect of providing duty-free treatment for imports of products of Chile on industries in the United States producing like or directly competitive articles and on consumers;

2. Advice (to the President) with respect to each product sector, of the probable economic effect on U.S. exports to Chile of the removal of Chilean import duties; and

3. A review of U.S. service transactions with Chile that (1) provides an overview of the nature and extent of such transactions; (2) highlights key U.S. service industries that export services to Chile or provide services through U.S.-owned affiliates; (3) identifies principal nontariff barriers that impede U.S. participation in these industries in the Chilean market; and (4) assesses the effects of such barriers on U.S. service providers.

As requested by the USTR, in preparing its advice with respect to the removal of U.S. duties on imports from Chile, the Commission will assume that any known U.S. nontariff barrier will not be applicable to such imports; and the Commission will note in its report any instance in which the continued application of a U.S. nontariff barrier would result in different advice with respect to the effect of the removal of the duty. Similarly, in preparing its advice with respect to the removal of Chilean duties on U.S. products, the Commission will assume that any known Chilean nontariff barriers will not be applicable to U.S. products; and will note any instance where the continued application of such a Chilean nontariff barrier would result in different advice.

The USTR requested the Commission to provide the advice in a confidential report by October 17, 2001. In his letter to the Commission, the USTR stated that the United States and Chile are engaged in negotiations to reach a comprehensive bilateral free trade agreement. The USTR stated that further advice from the Commission is needed to assist in the process of achieving an agreement.

PUBLIC HEARING: A public hearing in connection with the investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. on May 30, 2001. All persons shall have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436, no later than 5:15 p.m., May 22, 2001. Any prehearing briefs (original and 14 copies) should be filed not later than 5:15 p.m., May 24, 2001; the deadline for filing post-hearing briefs or statements is 5:15 p.m., June 13, 2001. To allow sufficient time for full consideration, the Commission encourages persons who appear at the public hearing to submit any prepared statements and accompanying material to the Secretary by 5:15 p.m., May 24, 2001. In the event that, as of the close of business on May 22, 2001, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202–205–1806) after May 22, 2001, to determine whether the hearing will be held.

WRITTEN SUBMISSIONS: In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements (original and 14 copies) concerning the matters to be addressed by the Commission in its report on this investigation. Commercial or financial information that a person desires the Commission to treat as confidential must be submitted in accordance with section 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6). The Commission's Rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. All written submissions, except for confidential business information, will be made available in the Office of the Secretary of the Commission for inspection by interested parties. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of

business on June 13, 2001. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

LIST OF SUBJECTS: Chile, tariffs, and imports.

By order of the Commission.
Issued: April 24, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–10527 Filed 4–26–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA–191N]

Dispensing and Purchasing Controlled Substances over the Internet

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Guidance.

SUMMARY: This notice is intended to provide guidance to prescribers, pharmacists, law enforcement authorities, regulatory authorities, and the public concerning the application of current laws and regulations as they relate to the use of the Internet for dispensing, purchasing, or importing controlled substances. This guidance document explains when controlled substances can be legally purchased from U.S.-based Internet sites. This notice clarifies that consumers must have valid prescriptions to obtain controlled substances legally and that consumers cannot legally purchase controlled substances from foreign supplier Internet sites and have them shipped to the U.S, unless the consumers are registered with DEA as controlled substances importers and are in compliance with all DEA requirements.

FOR FURTHER INFORMATION CONTACT: Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537. Telephone (202) 307–7297.

SUPPLEMENTARY INFORMATION:

Why is This Notice Necessary?

With the advent of Internet pharmacies, DEA registrants and the public have asked how these Internet pharmacies fit into the requirements that currently exist for the prescribing and dispensing of controlled substances. DEA is issuing this notice to provide guidance to prescribers, pharmacists, law enforcement authorities, regulatory authorities, and the public about the application of current laws and regulations to the use of the Internet for prescribing, dispensing, purchasing, or importing controlled substances.

This document is in the format of questions and answers. The first section provides the context for this notice. The next two sections address issues that apply to DEA registrants and consumers.

General Questions

What are Controlled Substances?

Most drugs that require a prescription from a doctor are not controlled substances. The Controlled Substances Act and its implementing regulations, however, assign certain substances to one of five ''schedules.'' These substances are placed in a schedule based on their potential for abuse, which may lead to physical or psychological dependency. Schedule I substances have no accepted medical use for treatment in the United States and are not available by prescription. Schedule II through V substances have accepted medical use and varying potentials for abuse and dependency. Practitioners (*e.g.,* doctors, dentists, veterinarians, physician assistants, advance practice nurses) who are licensed by a State and registered with DEA may prescribe these substances. Controlled substances include narcotics (pain relievers), stimulants, depressants, hallucinogens, and anabolic steroids. A complete list of controlled substances can be found in Title 21 of the Code of Federal Regulations (CFR) part 1308. Examples of controlled substances are shown below.

Schedule	Example of controlled substances
Schedule I	Heroin, marijuana, mescaline, methcathinone,
Schedule II	Amphetamine, codeine, fentanyl, Hydromorphone, meperidine, methadone, Methylphenidate (Ritalin), morphine, oxycodone, pentobarbital, phencyclidine (PCP), secobarbital
Schedule III	Anabolic steroids, phendimetrazine, and products that contain small quantities of certain schedule II controlled substances, such as codeine, in combination with noncontrolled ingredients, such as aspirin.
Schedule IV	Alprazolam (Xanax), chlordiazepoxide (Librium), diazepam (Valium), lorazepam (Ativan), phenobarbital, phentermine
Schedule V	Buprenorphine and many cough Preparations that contain a limited amount of codeine

What are the Basic Requirements for Prescribing, Dispensing, and Importing Controlled Substances?

Only practitioners acting in the usual course of their professional practice may prescribe controlled substances. These practitioners must be registered with DEA and licensed to prescribe controlled substances by the State(s) in which they operate. Pharmacies filling prescriptions for controlled substances must also be registered with DEA and licensed to dispense controlled substances by the State(s) in which they operate. A prescription not issued in the usual course of professional practice or not for legitimate and authorized research is not considered valid. Both the practitioner and the pharmacy have a responsibility to ensure that only legitimate prescriptions are written and filled.

Pharmacists must receive written and manually signed prescriptions for Schedule II substances. They may receive oral or faxed prescriptions for Schedules III–V substances provided they confirm the legitimacy of the prescription and the practitioner. Prescriptions for Schedule II substances may not be refilled. Prescriptions for Schedules III–V controlled substances may be refilled five times, but no prescription may be filled or refilled more than six months after the date on which the prescription was issued. Only those people who are registered with DEA as importers and who are in compliance with DEA requirements may have controlled substances shipped into the customs territory or jurisdiction of the U.S. from a foreign country.

DEA regulations covering prescriptions can be found in Title 21 of the Code of Federal Regulations, part 1306; rules on importation are found in 21 CFR 1312.

Why are Internet Sales an Issue?

The Internet is primarily a communications tool that can be used to facilitate any type of business. On-line pharmacies are currently providing access to a full range of pharmaceuticals, including prescription drugs and controlled substances. Many people view the Internet as changing the way in which business is conducted. For controlled substances, however, the Controlled Substances Act and DEA's regulations continue to determine when and how these substances may be obtained. Internet sales must be in accordance with these requirements.

DEA rules affect how controlled substances may be ordered from an Internet pharmacy and the conditions under which such orders are legal. DEA is currently working on a revision to its regulations that will define the conditions under which prescribers may electronically sign and transmit to any pharmacy (retail, mail order, or Internet) prescriptions for controlled substances. Until these revisions are complete, however, use of the Internet for dispensing controlled substances is governed by existing DEA rules, described above.

DEA is issuing this notice to answer questions that legitimate pharmacies and practitioners have about using the Internet as part of their business. DEA is also aware that some Internet sites are engaged in the illegal sale of controlled substances. Consumers may be illegally purchasing controlled substances from these Internet sites without realizing that they are committing a crime. This notice provides information for consumers to help them understand when they may legally purchase controlled substances.

DEA Registrant Questions About Internet Pharmacies

Must my Internet Pharmacy be Registered with DEA?

The actual physical location of the pharmacy which purchases, stores and dispenses controlled substances pursuant to prescription orders processed by the Internet site must be registered with DEA. The web site itself would not require a separate registration unless it is the same physical location, since the web site does not store or dispense controlled substances. For example, some Internet pharmacies maintain a central pharmacy warehouse site and offices where prescriptions are verified and substances shipped; this location must be registered with DEA as a retail pharmacy. Other Internet sites allow patients to pick up their prescriptions for controlled substances from a local pharmacy; these local pharmacies must be registered with DEA. In this case, the Internet ''pharmacy'' has no obligations under DEA regulations because the responsibility for assuring compliance with DEA regulations rests with the actual pharmacy where the controlled substances are dispensed.

Your pharmacy must have a license from the State in which the controlled substances are stored and dispensed and, in most instances, from any state in which you plan to conduct business with customers. You should also be aware that many States require licenses for the web site itself since these sites often provide services like patient counseling.

Does the Label on a Prescription I Fill Indicate the Internet Pharmacy or the Registered Location that Filled the Prescription?

The label must list the registered location that dispensed the controlled substance.

Does Being an Internet Pharmacy Change my Responsibilities Under DEA Regulations?

No, you are still authorized to sell controlled substances only when there is a valid prescription from a DEA-registered practitioner who issued the prescription in the usual course of his or her professional practice.

Is it Possible for my Internet Pharmacy to Fill Prescriptions for Schedule II Substances?

You may fill valid prescriptions for Schedule II substances if the patient or prescriber provides you with the signed original prescriptions prior to dispensing. Practically, it is unlikely that most patients will want to wait the time required for such a transaction.

Is it Possible for my Internet Pharmacy to Fill Prescriptions for Schedule III–V Substances?

You may receive an original signed prescription or a facsimile of the original signed prescription, or an oral prescription, where allowed, which you verify and immediately reduce to writing. You have the responsibility to ensure the legitimacy of the prescription and the prescriber. At this time, DEA does not permit a prescription received via the Internet to be filled. If you receive prescription information transmitted via the Internet, you must contact the prescriber via telephone and receive an oral prescription for the controlled substance, including the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use and the name, address and registration number of the practitioner (21 CFR 1306.05(a)). You must immediately reduce this oral prescription to writing (21 CFR 1306.21(a)).

Does DEA Intend to Allow Electronic Transmission of Prescriptions in the Future?

DEA is currently engaged in a project to determine the requirements for secure electronic transmission of all controlled substance prescriptions between the practitioner and the pharmacy. When completed, these requirements will automatically certify the authenticity of the prescriber, protect the content of the prescription from alteration, and bind the digital signature on the prescription to the actual prescriber and no one else. These requirements will be subject to rulemaking, and you will have an opportunity to comment on them before they are finalized. You can find more information on this project on the DEA web site at http://www.deadiversion.usdoj.gov/ecomm/index.html.

Can Patients Request a Refill of a Controlled Substance Prescription From my Pharmacy by Sending me an email Instead of Calling me on the Telephone?

Yes, the Internet can be used to facilitate communication between you and your patient when your patient is requesting a permissible refill of an existing Schedule III–V controlled substance prescription.

Some Internet Pharmacies have Doctors who Prescribe Substances Based on an on-line Questionnaire. Is this Legal?

Federal law requires that ''A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice'' (21 CFR 1306.04(a)). Every state separately imposes the same requirement under its laws. Under Federal and state law, for a doctor to be acting in the usual course of professional practice, there must be a bona fide doctor/patient relationship.

For purposes of state law, many state authorities, with the endorsement of medical societies, consider the existence of the following four elements as an indication that a legitimate doctor/patient relationship has been established:

- A patient has a medical complaint;
- A medical history has been taken;
- A physical examination has been performed; and

• Some logical connection exists between the medical complaint, the medical history, the physical examination, and the drug prescribed.

Completing a questionnaire that is then reviewed by a doctor hired by the Internet pharmacy could not be considered the basis for a doctor/patient relationship. A consumer can more easily provide false information in a questionnaire than in a face-to-face meeting with a doctor. It is illegal to receive a prescription for a controlled substance without the establishment of a legitimate doctor/patient relationship, and it is unlikely for such a relationship to be formed through Internet correspondence alone. However, as discussed later in this document, this circumstance is not intended to limit the ability of practitioners to engage in telemedicine. For purposes of this guidance document, telemedicine refers to the provision of health care using telecommunication networks to transmit and receive information including voice communications, images, and patient records.

Some sites recommend to the patient that they not take a new drug before they have a complete physical performed by a doctor. These sites then ask the patient to waive the requirement for a physical and to agree to have a physical before taking the drug they purchase via the Internet. An after-the-fact physical does not take the place of establishing a doctor/patient relationship. The physical exam should take place before the prescription is written. These types of activities by Internet pharmacies can subject the operators of the Internet site and any pharmacies or doctors who participate in the activity to criminal, civil, or administrative actions. For DEA registrants administrative action may include the loss of their DEA registration. Additionally, providing false material information to obtain controlled substances could be considered obtaining a controlled substance by fraud and deceit, which is subject to Federal and State penalties.

I am a Practitioner who is Considering Starting an Internet Practice. Can I use the Internet to Facilitate the Prescribing of Controlled Substances?

You may use the Internet to provide information and to communicate with the patient, but it cannot be the sole basis for authorizing prescriptions. If a doctor/patient relationship exists, you can use the Internet to communicate with patients. Where a doctor/patient relationship exists, you may use the Internet to receive requests for treatment. DEA cautions, however, that such requests for treatment should be logical based on your knowledge of the patient's medical history and the medical complaint. You may also use the Internet to receive requests for refills of prescriptions from patients.

I am a Physician. Does the need for a Physical Exam Mean that I Cannot Engage in Telemedicine and Prescribe Controlled Substances?

No, DEA does not intend to limit the ability of doctors to engage in telemedicine. If the patient cannot travel to your office, but you supervise an exam given by a nurse or other professional, you can then prescribe the needed medications based on the results, to the extent that State law allows. In this case, your decision on the appropriateness of the medication is based on facts (symptoms, blood pressure, etc.) that have been verified by a qualified third party and observed by you electronically.

I have Read in the Controlled Substances Act (CSA) that it is a Violation of the law to use a Communications Facility to Facilitate the Illegal sale of a Controlled Substance. Does this Apply to the use of the Internet to Obtain Pharmaceutical Controlled Substances?

Yes, Title 21, United States Code, section 843(b) defines a communication facility as ''any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures or sounds of all kinds and includes mail, telephone, wire, radio, and all other means of communication.'' Anyone who uses the Internet to facilitate the illegal sale of a controlled substance would be in violation of 21 U.S.C. 843(b), which is punishable by a term of imprisonment of not more than four years and a fine of not more than $30,000. This provision could apply to owners of Internet sites, prescribers, pharmacists, and patients.

Questions for Consumers

Are Internet Pharmacy Sites Legitimate?

Many Internet pharmacy sites are legitimate. These Internet pharmacy sites may vary in the services they provide, but they may fill a prescription for a controlled substance which was issued to you by an authorized practitioner for a legitimate medical purpose. They should confirm the legitimacy of the prescription for a Schedule III–V controlled substance before filling it by contacting the prescriber. They are not authorized to fill a prescription for a Schedule II controlled substance unless they have first received the original signed prescription.

Some Internet sites for pharmacies advertise local pharmacies and usually list the name, address, and telephone number of the local pharmacy closest to you. Many of these sites provide a great deal of information concerning specific diseases or medical conditions, and drug information. Many Internet sites operated by local pharmacies or mail order pharmacies serve as a communication link so that you can request refills of prescriptions, check the status of your prescription, or ask the pharmacist a question. These are appropriate uses of the Internet by pharmacies.

Some sites simply provide information about specific drugs and medical conditions. After obtaining some general information from you, this type of ''Internet Pharmacy'' will refer you to a specific local pharmacy or a mail order pharmacy to have the prescription that you obtained from your physician filled. These are appropriate uses of the Internet by pharmacies.

Are There Internet Pharmacy Sites That are Not Legitimate?

Some Internet pharmacy sites do not require that you have a prescription from your doctor. These ''Internet Pharmacies'' require the customer to complete a medical questionnaire. This type of site advises that the information will be reviewed by a doctor, and the drug will be prescribed and sent to you, if appropriate. The medical questionnaire often has most of the questions set so that if the default answers are not changed, the questions are answered in an appropriate manner to obtain the desired drug. Questionnaire sites often require that the customer waive certain rights. This type of pharmacy usually does not name the doctor who will be reviewing the medical questionnaire or provide any information about the qualifications of the doctor. These sites operate in a manner that is not consistent with state laws regarding standards of medical practice and may be engaging in illegal sales of controlled substances (see discussion above).

Some Internet Pharmacy sites are operating in a foreign country and often do not require any prescription before sending controlled substances to you. These sites often advise that there have been changes to the U.S. law that authorize the customer to import a controlled substance into the United States without benefit of a prescription. These types of sites may be engaging in

illegal sales of controlled substances (see discussion below).

Is it Legal to Buy Controlled Substances From Foreign Internet Sites and Have Them Shipped to the U.S.?

No, having controlled substances shipped to the U.S. is illegal unless you are registered with DEA as an importer and you are in compliance with 21 U.S.C. 952, 953, and 954 and 21 CFR part 1312. Some foreign Internet sites claim they can legally sell these controlled substances; other sites, knowing that such shipments are illegal, advise consumers of ways to avoid having the packages seized by U.S. Customs. The Controlled Substances Act prohibits any person from importing into the customs territory of the U.S. any controlled substance or List I chemical (21 U.S.C. 971 and 21 CFR part 1313) unless that person maintains a valid, current authorization to import such substances or chemicals (21 U.S.C. 957(a)). DEA regulations further state:

''No person shall import or cause to be imported any controlled substance * * * unless and until such person is properly registered under the Act (or exempt from registration) and the Administrator has issued him a permit to do so pursuant to § 1312.13. * * *'' (21 CFR 1312.11(a))

Illegal importation of controlled substances is a felony that may result in imprisonment and fines (21 U.S.C. 960).

The CSA Provides a Personal Use Exemption for Controlled Substances Purchased Abroad. Does the Exemption Apply to Controlled Substances Bought from a Foreign Internet Site?

The Controlled Substances Act and DEA regulations allow you a personal use exemption to bring a limited quantity of controlled substances into the U.S. for your use only when you bring the controlled substances across the U.S. border in your possession (21 U.S.C. 956, 21 CFR 1301.26). It does not apply to controlled substances being shipped into the U.S. Purchasing controlled substances on the Internet and having them shipped to you in the U.S. is not permitted by the personal use exemption. Such purchases and shipments would be considered ''imports'' of the controlled substance even if the substance is for your personal use. Unless you are registered as an importer and in compliance with the requirements, such shipments are illegal and subject to seizure.

Does it Make a Difference if I Have a Prescription from a U.S. Doctor for Controlled Substances That I Buy From a Foreign Internet Site?

No, the law remains the same. Unless you are registered with DEA as an importer and are in compliance with DEA's requirements, you may not have controlled substances shipped to you in the U.S. from another country.

What are the Things to Consider in Selecting an Internet Pharmacy?

An ''Internet Pharmacy'' site should provide a physical address for the pharmacy, in addition to the Internet address, and a telephone number for the pharmacy.

Some indicators that the ''Internet Pharmacy'' may not be legitimate and should not be used as a source for controlled substances are the following:

- The site is not a participant in any insurance plan and requires that all payments be made with a credit card.
- The site requires that you waive some rights before they send you the drugs.
- The site advises you about the law and why it is permissible for you to obtain pharmaceutical controlled substances from foreign countries via the Internet.
- The site does not ask the name, address, or phone number of your current physician.
- The site advises you to have the drugs sent to post office boxes or other locations to avoid detection by U.S. authorities.

I Have Seen a VIPPS Seal on Some Internet Pharmacy Sites. What Does This Mean?

The National Association of Boards of Pharmacy (NABP) has developed a voluntary program called the Verified Internet Pharmacy Practice Sites (VIPPS). The NABP has begun issuing a ''seal of approval'' to Internet pharmacies that meet standards regarding State licensing and DEA registration. To be VIPPS certified, a pharmacy must comply with the licensing and inspection requirements of their State and each State to which they dispense pharmaceuticals. In addition, pharmacies displaying the VIPPS seal have demonstrated to NABP compliance with VIPPS criteria including patient rights to privacy, authentication and security of prescription orders, adherence to a recognized quality assurance policy, and provision of meaningful consultation between patients and pharmacists. The NABP also provides information on whether a pharmacy is licensed and in good standing (see *http://www.nabp.net).*

Are the Rules Different for ''Life Style'' Drugs?

Some people have applied the phrase ''life style drugs'' to certain medications, such as Viagra, weight control medications, and tranquilizers. Many of the so-called life style drugs are not controlled substances. If a ''life style'' drug is a controlled substance, however, it is still subject to all regulations for controlled substances. You must obtain a prescription from a DEA registered prescriber and have it filled by a DEA registered pharmacy.

I Have a Complaint About an ''Internet Pharmacy'' Site on the Internet That Appears to be Illegally Selling Drugs. Where Should I Send the Complaint?

If the complaint involves a pharmaceutical controlled substance, contact the DEA, Office of Diversion Control, Drug Operations Section, Washington, DC 20537, telephone (202) 307–7194 or your local DEA office (for a list of contacts, see *http://www.dea.gov/agency/domestic.htm.*)

If the complaint involves any pharmaceutical drug other than a controlled substance, contact the U.S. Food and Drug Administration, HFC–230, 5600 Fishers Lane, Rockville, MD 20857, or file a report on the FDA's web site at *http://www.fda.gov/oc/buyonline/buyonlineform.htm.*

If the complaint involves a pharmacist or a physician, you may contact the State Board of Pharmacy or the State Board of Medicine where the doctor or pharmacist is located.

Additionally, you may wish to view other sites on the Internet that are for registering complaints such as the NABP (*http://www.nabp.net*).

Dated: March 19, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 01–10255 Filed 4–26–01; 8:45 am]

BILLING CODE 4410–09–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 determinaitons 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 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.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' are listed by Volume and States:

Volume IV

Michigan
MI010102 (APR. 27, 2001)
MI010103 (APR. 27, 2001)

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

Massachusetts
MA010001 (MAR. 02, 2001)
MA010002 (MAR. 02, 2001)
MA010005 (MAR. 02, 2001)
MA010006 (MAR. 02, 2001)
MA010007 (MAR. 02, 2001)
MA010008 (MAR. 02, 2001)
MA010010 (MAR. 02, 2001)
MA010013 (MAR. 02, 2001)
MA010015 (MAR. 02, 2001)
MA010017 (MAR. 02, 2001)
MA010018 (MAR. 02, 2001)
MA010019 (MAR. 02, 2001)
MA010020 (MAR. 02, 2001)
MA010021 (MAR. 02, 2001)

Volume II

Pennsylvania
PA010014 (MAR. 02, 2001)
PA010018 (MAR. 02, 2001)
PA010042 (MAR. 02, 2001)

Volume III

None

Volume IV

Michigan
MI010001 (MAR. 02, 2001)
MI010003 (MAR. 02, 2001)
MI010007 (MAR. 02, 2001)
MI010059 (MAR. 02, 2001)
MI010076 (MAR. 02, 2001)
MI010077 (MAR. 02, 2001)
MI010078 (MAR. 02, 2001)
MI010079 (MAR. 02, 2001)
MI010080 (MAR. 02, 2001)
MI010081 (MAR. 02, 2001)
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MI010083 (MAR. 02, 2001)
MI010084 (MAR. 02, 2001)
MI010085 (MAR. 02, 2001)
MI010086 (MAR. 02, 2001)
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Iowa
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IA010024 (MAR. 02, 2001)
IA010031 (MAR. 02, 2001)
IA010037 (MAR. 02, 2001)
IA010060 (MAR. 02, 2001)

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Alaska
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Oregon
OR010001 (MAR. 02, 2001)
Washington
WA010005 (MAR. 02, 2001)
WA010008 (MAR. 02, 2001)

Volume VII

Arizona
AZ010002 (MAR. 02, 2001)
AZ010003 (MAR. 02, 2001)
AZ010011 (MAR. 02, 2001)
AZ010017 (MAR. 02, 2001)
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)
CA010034 (MAR. 02, 2001)
CA010035 (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.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon.* They are also available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 19 day of April 2001.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 01–10212 Filed 4–26–01; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On January 31, 2001, and March 6, 2001 respectively, the National Science Foundation published notices in the **Federal Register** of a permit applications received. Permits were issued on April 12, 2001 to:

Bruce D. Sidell Permit No. 2001–026

H. William Detrich Permit No. 2001–027

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 01–10565 Filed 4–26–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological 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 Biological Sciences (1754).

Date/Time: May 17–18, 2001.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 320, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. James Rodman, Division of Environment Biology, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292-8491.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Partnerships for Enhancing Expertise in Taxonomy (PEET) 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: April 24, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–10559 Filed 4–26–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Chemical and Transport Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemical and Transport Systems (1190).

Date/Time: May 17, 2001; 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 530, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Chuan F. Chen, Program Director, Division of Chemical & Transport Systems, Room 525, National Science Foundation, 4201 Wilson Blvd. Arlington, VA 22230. (703) 292–8371.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate nominations for the FY 2001 Major Research Instrumentation (MRI) Panel of proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 24, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–10557 Filed 4–26–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Cyberinfrastructure; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Cyberinfrastructure (#10719).

Date/Time: May 14, 2001, 8:30 am–4:30 pm.

Place: National Science Foundation, 4201 Wilson Blvd., Room 1235, Arlington, VA.

Type of Meeting: Open.

Contact Person: Dr. Richard Hilderbrandt, Program Director, Division of Advanced Computational Infrastructure and Research, Suite 1122, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 (703) 306–1963.

Purpose of Meeting: The Advisory Committee will be strictly advisory and will prepare a report to the National Science Foundation concerning the broad topic of

advanced cyberinfrastructure and the existing Partnerships for Advanced Computational infrastructure.

Agenda: Tentative

8:30—12:00.

1. Introductions of members and staff.
2. Review and discussion of agenda.
3. Background on the formation of the panel.
4. Review and discussion of the formal charge.

12:00 1:00 Lunch

1:00—5:00

5. Information gathering requirements and how to conduct them.
6. Schedule and format of the Panel's operation.
7. Review of next steps and assignments for various members.
8. Open discussion.

Dated: April 24, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–10560 Filed 4–26–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Elementary, Secondary, and Informal Education; Notice of Meeting

Name: Special Emphasis Panel in Elementary, Secondary and Informal Education (59).

Date/Time: May 21 and May 22, 2001, 8:00 a.m. to 5:30 p.m.

Place: The Governor's House Hotel, 1615 Rhode Island Ave., NW, Washington, DC.

Type of Meeting: Closed.

Contact Person: Mr. John S. Bradley, Section Head, Division of Elementary, Secondary and Informal Education, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–8620.

Purpose of Meeting: To provide advice and recommendations concerning proposals for the Centers For Learning and Teaching Programs submitted to NSF for financial support.

Agenda: To review and evaluate 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: April 24, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–10558 Filed 4–26–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Experimental & Integrative Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Experimental & Integrative Activities (1193).

Date/Time: May 17, 2001; 8:00 a.m.–5:00 p.m.

Place: Room 380, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Tse-yun Feng, Minority Institutions Infrastructure (MII), Division of Experimental and Integrative Activities, Room 1160, National Science Foundation, 4201 Wilson Boulevard, VA 22230 Telephone: (703) 292–8980.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate CISE MII Program proposals submitted in response to the program announcement (NSF 96–15).

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: April 24, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–10561 Filed 4–26–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Information and Intelligent Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name: Special Emphasis Panel in Information and Intelligent Systems (1200).

Date/Time: May 22, 2001, 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, Room 1150, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Ephraim Glinert, Deputy Division Director, Division of Information and Intelligent Systems, Room 1115, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–8930.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Knowledge and Cognitive systems 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: April 24, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–10563 Filed 4–26–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Information and Intelligent System; Notice at Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name: Special Emphasis Panel in Information and Intelligent Systems (1200).

Date/Time: May 7–8, 2001, 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, Room 310, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Persons: Rphraim Gilnert, Deputy Division Director, Division of Information and Intelligent Systems, Room 1115, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–8930.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Robotics and Human Augmentation 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.

Reason for Late Notice: Conflicting schedules of members and the necessity to proceed with review of proposals.

Dated: April 24, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–10564 Filed 4–26–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Information and Intelligent Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name: Special Emphasis Panel in Information and Intelligent Systems (1200).

Date/Time: May 15–16, 2001, 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, Room 1150, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Ephraim Glinert, Deputy Division Director, Division of Information and Intelligent Systems, Room 1115, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–8930.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Human and Computer Interaction 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: April 24, 2001.

Susanne Bolton,

Committee Management Office.

[FR Doc. 01–10562 Filed 4–26–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–412]

Pennsylvania Power Company, Ohio Edison Company, FirstEnergy Nuclear Operating Company, Beaver Valley Power Station, Unit No. 2 (BVPS–2); Exemption

1.0 Background

The FirstEnergy Nuclear Operating Company (FENOC, *et al.,* the licensee) is the holder of Facility Operating License No. NPF–73 which authorizes operation of BVPS–2. The license provides, among other 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 pressurized water reactor located in Shippingport, Pennsylvania.

2.0 Purpose

Title 10 of the Code of Federal Regulations (10 CFR), Part 50, Section 50.71, ''Maintenance of Records, Making of Reports,'' paragraph (e)(4) states, in part, ''Subsequent revisions must be filed annually or 6 months after each refueling outage provided the interval between successive updates does not exceed 24 months. The revisions must reflect all changes up to a maximum of 6 months prior to the date of filing.'' The most recent outage for BVPS–2 was completed on October 25, 2000, and the latest revision to the BVPS–2 Final Safety Analysis Report (FSAR) was filed on April 30, 1999. The licensee would be required to submit the next revision to the BVPS–2 FSAR by April 25, 2001, and that revision would be required to reflect all changes up to a maximum of 6 months prior to the date of filing. The need for the proposed exemption is based on taking advantage of the efficiencies of the NRC's recently commissioned electronic information exchange (EIE) process which allows licensees to voluntarily submit documents to the NRC over the internet or on a CD–ROM. The NRC issued Regulatory Issue Summary (RIS) 2001–05, ''Guidance on Submitting Documents to the NRC by Electronic Information Exchange or on CD–ROM,'' on January 25, 2001 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML003768343).

3.0 Discussion

Section 50.12(a) of 10 CFR, ''Specific exemption,'' states that * * * ''The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of this part, which are (1) Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. (2) The Commission will not consider granting an exemption unless special circumstances are present.''

Section 50.12(a)(2)(v) of 10 CFR states that special circumstances are present when ''The exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation. * * *'' The NRC staff finds that the exemption provides temporary relief from the regulatory requirements of 10 CFR 50.71(e)(4) by extending the filing deadline from April 25, 2001, to August 23, 2001 (the requirement to reflect all changes up to a maximum of 6 months prior to the date of filing is revised to reflect all changes through, at least, October 25, 2000). In addition, prior to the issuance of RIS 2001–05 on January 25, 2001 (ADAMS Accession No. ML003768343), the licensee was preparing to issue the numerous hard copies of the FSAR revision in accordance with 10 CFR 50.71(e)(4) and 50.4, ''Written Communications.'' An additional 120 days reflects the estimated time required for production of an electronic version in lieu of a hardcopy. With the issuance of RIS 2001–05 on January 25, 2001, the NRC informed licensees that they may submit documents to the NRC over the internet by the EIE process or on a CD–ROM if they follow certain procedures. The guidance is applicable to the submission of FSAR revisions. It also waives requirements that multiple copies of documents be submitted to the NRC. The licensee requested this exemption to take advantage of the efficiencies of this new process. Due to the efforts the licensee has indicated it has undertaken with regard to the preparation of the FSAR revision and to the participation in the recently commissioned EIE process, the NRC staff finds that the licensee has made good faith efforts to comply with the regulation.

Therefore, the staff concludes that granting an exemption under the special circumstances of 10 CFR 50.12(a)(2)(v) is appropriate and that the requirement for filing the next revision to the BVPS–2 FSAR may be extended to no later than August 23, 2001. This revision should include all changes through, at least, October 25, 2000.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Also, special circumstances are present. Therefore, the Commission hereby grants FENOC an exemption from the requirements of 10 CFR 50.71(e)(4) for BVPS–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 20489).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 23rd day of April 2001.

For the Nuclear Regulatory Commission.

John Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–10495 Filed 4–26–01; 8:45 am]

BILLING CODE 7590–01–P

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

TIMES AND DATES: 10 a.m., Monday, May 7, 2001; 8:30 a.m., Tuesday, May 8, 2001; and 9:30 a.m., Tuesday, May 8, 2001.

PLACE: Washington, DC., at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., in the Benjamin Franklin Room.

STATUS: May 7 (Closed); May 8–8:30 a.m. (Open) 9:30 a.m. (Closed).

MATTERS TO BE CONSIDERED:

Monday, May 7–10:00 a.m. (Closed).

1. Financial Performance.
2. Fiscal Year 2001 EVA Variable Pay Program.
3. FedEx Alliance.
4. Postal Rate Commission Opinion and Recommended Decision on Further Reconsideration in Docket No. R2000–1, Omnibus Rate Case.
5. Rate Case Briefing.
6. Personnel Matters.
7. Compensation Issues.

Tuesday, May 8–8:30 a.m. (Open)

1. Minutes of the Previous Meetings, April 2–3, and April 13, 2001.
2. Remarks of the Postmaster General/ Chief Executive Officer.
3. Audit and Finance Committee Charter.
4. Fiscal Year 2002 Appropriation Request.
5. Borrowing Resolution.
6. Capital Investment.
a. Letter Recognition Enhancement Program.
7. Tentative Agenda for the June 4–5, 2001, meeting in Washington, DC.

Tuesday, May 8–9:30 a.m. (Closed)

1. Continuation of Monday's Closed Agenda.
2. Strategic Planning/Postal Reform.

CONTACT PERSON FOR MORE INFORMATION: David G. Hunter, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

David G. Hunter,

Secretary.

[FR Doc. 01–10678 Filed 4–25–01; 2:17 am]

BILLING CODE 7710–12–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3332) (Amendment # 1)]

Commonwealth of Massachusetts

In accordance with notices received from the Federal Emergency Management Agency, dated April 16, 2001 and April 19, 2001, the above-numbered Declaration is hereby amended to include Bristol, Plymouth, Suffolk and Worcester Counties in the Commonwealth of Massachusetts as disaster areas caused by severe storms beginning on March 5, 2001. In addition, the Declaration is hereby amended to establish the incident period for this disaster as beginning on March 5, 2001 and continuing through April 16, 2001.

In addition, applications for economic injury loans from small businesses located in Barnstable, Franklin, Hampden and Hampshire Counties in the Commonwealth of Massachusetts; Windham and Tolland Counties in the State of Connecticut; Cheshire County in the State of New Hampshire; and Bristol and Newport Counties in the State of Rhode Island 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 Connecticut is 9L5000.

All other information remains the same, i.e., the deadline for filing applications for physical damage is June 9, 2001 and for economic injury the deadline is January 9, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 20, 2001.

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 01–10498 Filed 4–26–01; 8:45 am]

BILLING CODE 8025–01–P

TENNESSEE VALLEY AUTHORITY

Addition of Electric Generation Peaking Capacity at Greenfield Sites, Mississippi

AGENCY: Tennessee Valley Authority.

ACTION: Issuance of Record of Decision.

SUMMARY: This notice is provided in accordance with the Council on Environmental Quality's regulations (40 CFR parts 1500 to 1508) and TVA's procedures implementing the National Environmental Policy Act. TVA has decided to adopt the preferred alternative identified in its *Final Environmental Impact Statement for the Addition of Electric Generation Peaking Capacity at Greenfield Sites, Mississippi*.

The Final Environmental Impact Statement (FEIS) was made available to the public in March 2001. A Notice of Availability (NOA) of the Final EIS was published by the Environmental Protection Agency in the **Federal Register** on March 16, 2001. Under the preferred alternative, TVA has decided to construct a natural gas-fired simple cycle combustion turbine (CT) plant with up to 340 Megawatts (MW) of new peaking capacity at a site in Kemper County Mississippi as early as May 2002.

FOR FURTHER INFORMATION CONTACT: Bruce L. Yeager, Senior Specialist, National Environmental Policy Act, Environmental Policy and Planning, Tennessee Valley Authority, 400 West Summit Hill Drive, mail stop WT 8C, Knoxville, Tennessee 37902–1499; telephone (865) 632–8051 or e-mail blyeager@tva.gov.

SUPPLEMENTAL INFORMATION:

Background

In December 1995, TVA completed and published *Energy Vision 2020—Integrated Resource Plan/ Programmatic Environmental Impact Statement. Energy Vision 2020* projected demands for electricity in the TVA power service area through 2020 and evaluated and recommended ways of meeting the projected increases. *Energy Vision 2020* evaluated an array of power supply technologies, both supply-side and demand-side. A portfolio of options drawn from several effective strategies was chosen as TVA's preferred alternative. In this preferred alternative, three supply-side options were selected to meet peak capacity needs:

- Addition of CTs to TVA's generation system,
- Purchase of market peaking capacity, and
- Call alternatives on peaking capacity.

The short-term action plan of *Energy Vision 2020* identified a need for 3,000 MWs of baseload and peaking additions through the year 2002. Since *Energy Vision 2020* was completed in 1995, TVA has continued to evaluate and select the best resource alternatives based on the latest proposals and TVA's forecast of power needs. TVA's projections show expected peak demands growing at 2.4% from 2000 to 2005 and beyond. The net capacity

resources needed to meet the growth in demand increases 2,000 MWs by 2002, and 3,400 by year 2004. The addition of the combustion turbines proposed in this EIS is needed by TVA to meet the peaking capacity requirements from both a reliability and cost standpoint.

Tiering from the *Energy Vision 2020* EIS, this FEIS for *Addition of Electric Generation Peaking Capacity at Greenfield Sites, Mississippi,* presents a site-specific analysis of the impacts expected to result from the addition of new CTs to TVA's power system for meeting electricity needs during periods of high demand (peaking). In addition to peaking capacity requirements on the TVA system as a whole, increased demands on the TVA transmission system are creating a need for new transmission lines and/or other transmission system upgrades in the western end of the TVA system. Installation of the necessary new generating capacity in an area most beneficial to the transmission system would enable TVA to delay some transmission system improvements, thereby reducing costs and avoiding environmental impacts.

Errata

On page 3 of the Executive Summary for the FEIS, under the heading ''No Action Alternative,'' reference is made to ''anticipated demands by May 2001.'' This should read, ''anticipated demands by May 2002.''

Table 4–1 of the FEIS erroneously states the diameter of stack number 4 to be 435 meters. It should read 4.5 meters.

Alternatives Considered

The No Action alternative would result in TVA not constructing a combustion turbine generating plant at either of the alternative sites in Kemper County, Mississippi. Under this alternative, TVA could still add additional turbine units at its Lagoon Creek Combustion Turbine Plant (in addition to the units under construction) to build out that facility in accordance with its completed NEPA review and construction air permit. This approach, however, would not achieve the needed transmission system benefits offered by the Kemper County sites. TVA also could either undertake no new activities to meet anticipated demands by May 2002 for peaking power, or could rely exclusively on options from the *Energy Vision 2020* portfolio that do not involve construction and operation of new TVA fossil capacity. However, there is an unacceptable risk that relying on those approaches alone would not allow TVA to meet future customer demands for low-cost, reliable power.

Feasible action alternatives for meeting the stated purpose and need include the entire portfolio of actions recommended in *Energy Vision 2020*. These actions include various supply-side actions, customer service alternatives, and environmental control alternatives. TVA is currently using all of these *Energy Vision 2020* recommended options, and managing their use in a way which provides optimum flexibility at the lowest cost. However TVA's generation (or avoidance of demand) is not sufficient to meet future peaking demands. The only action alternatives considered reasonable for detailed assessment in this EIS were the proposed construction and operation of combustion turbines at one of two sites in Kemper County, Mississippi.

An extensive screening was performed of possible site, plant, power line, pipeline, and other project alternatives, using a number of technical, economic, and environmental criteria. The candidate sites were selected based primarily upon the following criteria: power transmission (system support, connection cost, and system losses); natural gas supply (pipeline availability, capacity and delivered fuel cost), air quality impacts (likelihood of the area being able to incorporate additional emissions); and water supply (surface or groundwater availability). At the conclusion of this effort, two alternatives sites were selected for detailed evaluation in the EIS. The EIS assessed the impacts of one plant configuration. Both sites are situated north of Highway 16 between DeKalb and Scooba near the Tennessee Gas Company natural gas pipeline.

Potential routes for a new 161-kV transmission line from the DeKalb Substation to the sites, a water supply pipeline, backup power, and a natural gas pipeline for connecting with the Tennessee Gas pipeline (needed for the Hamilton Branch Site) were evaluated for potential impacts. In addition, one 28.3-mile section of the existing 161-kV transmission line from the DeKalb Substation to the Philadelphia Substation and one 44.4-mile section of the existing 161-kV transmission line from DeKalb Substation to the Weyerhaeuser Substation would require uprating to carry the increased load. Infrastructure requirements for the site alternatives are very similar, except that the Hamilton Branch Site would require a short natural gas pipeline segment to connect with the Tennessee Gas pipeline.

Decision

TVA has decided to implement the preferred alternative which is to construct a natural gas-fired simple cycle combustion turbine plant with up to 340 Megawatts (MW) of new capacity at the Sucarnoochee Creek site in Kemper County, Mississippi. TVA will also build the associated transmission lines connecting to the TVA power distribution system, a power line for the facility construction and emergency power source, a connection to the Town of Dekalb water supply, a natural gas connection to the on-site Tennessee Gas Company supply line, and upgrade existing transmission lines from the Philadelphia substation to the Dekalb substation and from the Dekalb substation to the Weyerhaeuser substation to accommodate the increased loads.

Environmentally Preferred Alternative

As discussed below under Environmental Consequences and Commitments, the environmentally preferred and TVA's preferred alternative is to construct and operate a combustion turbine electric generating plant at the Sucarnoochee Creek Site in Kemper County, Mississippi.

Environmental Consequences and Commitments

No significant adverse environmental impacts were identified in the FEIS. As a simple-cycle combustion turbine, there are minimal water supply requirements and minimal wastewater discharges. For both the Sucarnoochee Creek and Hamilton Branch sites no wetlands would be impacted by site development, because all wetlands are outside the plant construction zone footprint. However, the ancillary transmission, water supply and gas pipeline corridors could affect up to 2.35 acres of wetlands for the Sucarnoochee Creek site and up to 7.27 acres of wetlands for the Hamilton Branch site.

Except for five environmental criteria, the impacts of constructing and operating the proposed 340 MW peaking plant and its associated structures (e.g., transmission lines and pipelines) would be indistinguishable at the two alternative sites. The Hamilton Branch site has no historical properties present; slightly lower potential impacts on the nearest noise receptors; and no acres of prime farmland that would be permanently removed from production (as compared to 35 acres for the Sucarnoochee Creek site). There are two historic properties at the Sucarnoochee site (impacts to these sites would be

avoided or mitigated as described below). The Hamilton Branch site could result in construction of substantial portions of the project within the 100-year floodplain, whereas, at the Sucarnoochee Creek site, no construction would take place within the 100- or 500-year floodplain. Because the Sucarnoochee Creek site can be developed without construction within the 100-year floodplain, it is clearly the preferred site from a floodplains/flood risk standpoint. Additionally, the Sucarnoochee Creek site affects about half as many currently forested acres as the Hamilton Branch site (65 acres) does. In the final analysis, these differences marginally support the Sucarnoochee Creek site as being the environmentally preferred alternative.

Best Management Practices (BMPs) will be used to reduce erosion and runoff during construction, including site activities, construction of construction/emergency power line connections, natural gas pipeline connections, and water supply pipelines. These standard construction and best management practices (BMPs), including such measures as using temporary berms, strawbales or silt fences and reseeding and revegetating areas of soil disturbance, would be followed in project construction and operation to avoid or minimize potential environmental impacts to surface waters, aquatic ecology, terrestrial ecology, threatened or endangered species, land use/soils, floodplains, and transportation.

Planned mitigation measures are assumed to be implemented as part of the actions proposed and provide the basis for the identification of environmental impacts. In other words, these additional measures are integrated into the action and will be conducted as part of the project. These measures are generally of two types:

• Components incorporated during project design and construction that would be part of operational activities of the plant, and

• Programs and environmental controls initiated to meet regulatory standards.

In addition to BMPs discussed above, these measures which will be implemented, are identified under the following specific resource headings.

Air Resources

• Open construction areas and unpaved roads will be sprinkled with water to reduce fugitive dust emissions.

• When firing with natural gas, the plant will use best available control technology such as dry low NO_X burners (DLN) to control NO_X emissions. When firing with oil, water injection will be used as a NO_X control measure.

• The plant will use best available control technology to minimize releases of other criteria air pollutants.

• When firing with oil, low sulfur fuel oil will be used.

Surface Water Resources

• Retention pond(s) will be used to manage/release site runoff.

• Construction of retention/settling pond(s) will be completed as early in the construction phase as feasibly possible.

• Oil/water separator(s) will be used to collect oil from oil using/storage areas.

• Areas disturbed by the initial phases of construction, such as equipment laydown areas and construction temporary parking, will be revegetated before beginning the second phase of construction, if applicable.

Groundwater Resources.

• If neighboring wells are adversely affected by aquifer drawdowns, TVA will modify the well to lower the pump intake, install a new well or provide a connection to public water supplies, if available.

Floodplains and Flood Risk

• If a site with a floodplain is selected, all flood damageable facilities and equipment will be elevated above or floodproofed to the 100-year flood elevation to ensure compliance with EO 11988.

• Transmission line right of ways will be revegetated to reduce erosion.

Aquatic Ecology

• Monitoring of aquatic life impacts will be conducted during periods of wet stream blasting.

Wetlands

• Existing roads, right or ways, and higher elevations, will be used when feasible, for movement of construction vehicles along proposed linear feature, such as pipelines.

Transportation

• Cobb Road, from its point of intersection with Highway 16 to the plant entrance(s), will be widened, straightened and covered with additional base material. This will be tarred during construction to reduce dust generation and then paved with asphalt after completion of construction activities.

• Trucks will be required to meet all safety standards and road load limits.

• Heavy haulers will be required to assess all bridge crossings for potential capacity upgrades.

• When working near roadways during transmission construction, pipeline construction and road crossings, workers will adhere to guidelines in *Manual on Uniform Traffic Control Devices.*

Land Use/Soils

• Topsoil will be segregated and replaced in pipeline trenches to preserve fertility.

Visual Resources

• Exterior lighting will be turned off when not needed.

• All high-traffic on site roads will be paved to prevent dust generation.

• Along Cobb Road and the site perimeter, existing vegetation will be preserved and protected to the extent practicable.

Cultural Resources

• The historic properties identified on-site will be avoided by the project.

• Phase I/II archeological surveys of preferred 161–kV transmission, water supply and construction/emergency line routes have been conducted and no historic properties were found. Should historic properties be identified during construction, they will be avoided or subjected to a Phase II survey.

• Phase I/II archeological surveys will be conducted along existing transmission lines that will be upgraded in connection with the project.

• Mitigation of adverse effects will be conducted according to stipulations developed in consultation with the Mississippi State Historic Preservation Officer and of any MOAs prepared for the project.

Environmental Noise

• If blasting is conducted during construction of pipeline(s), blasting mats will be used to reduce and muffle noise created by the explosions.

Safety and Health

• Safety features used during construction and operation of pipelines will include 100% X-rays on natural gas pipe welds, x-ray records maintained in accordance with USDOT requirements, and at each end of the pipeline, shut-off valves, which close in the event of an abnormal operating condition, will be installed.

Seismology

• The earth quake hazard to ordinary buildings at the proposed project site will be adequately addressed through adherence to the seismic provisions of the Uniform Building Code.

As discussed in the FEIS, TVA considered additional elective measures for implementation at either of the candidate sites. TVA considered these measures with regard to their necessity for avoidance or reduction of environmental impacts, cost effectiveness and long term benefit to TVA, its customers and the people of Kemper County, and has concluded that these elective measures are not needed. The other best management practices and mitigations to which the agency has committed above are adequate to control the potential for impacts. These elective measures TVA originally considered for surface water and visual resources included use of diversionary berms and/or graveled roadways to additionally reduce erosion from the construction site; implementation of ''night sky'' lighting techniques and limitation of exterior lighting; use of flat colors in the light to medium cool-gray range on large visible plant equipment; paving of roads to prevent dust generation; planting of evergreen vegetation where needed to complete visual screening along Cobb Road and site perimeter; and adjustment of the plant footprint and construction parking locations to maximize visual screening by existing tree cover.

Dated: April 16, 2001.

Joseph R. Bynum,

Executive Vice President, Fossil Power Group.

[FR Doc. 01–10538 Filed 4–26–01; 8:45 am]

BILLING CODE 8120–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determinations Under the African Growth and Opportunity Act

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The United States Trade Representative has determined that Lesotho has adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents in connection with shipments of textile and apparel articles and has implemented and follows, or is making substantial progress toward implementing and following, the customs procedures required by the African Growth and Opportunity Act. Therefore, imports of eligible products from Lesotho qualify for the enhanced trade benefits provided under the AGOA.

EFFECTIVE DATE: April 23, 2001.

FOR FURTHER INFORMATION CONTACT: Bethany Schwartz, Director for Africa Trade Policy, Office of the United States Trade Representative, (202) 395–9514.

SUPPLEMENTARY INFORMATION: The African Growth and Opportunity Act (Title I of the Trade and Development Act of 2000, Pub. L. 106–200) (AGOA) provides preferential tariff treatment for imports of certain textile and apparel products of beneficiary sub-Saharan African countries. The textile and apparel trade benefits under the AGOA are available to imports of eligible products from countries that the President designates as ''beneficiary sub-Saharan African countries,'' provided that these countries (1) have adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents, and (2) have implemented and follow, or are making substantial progress toward implementing and following, certain customs procedures that assist the Customs Service in verifying the origin of the products.

In Proclamation 7350 of October 2, 2000, the President designated 34 countries, including Lesotho, as ''beneficiary sub-Saharan African countries.'' Proclamation 7350 delegated to the United States Trade Representative (USTR) the authority to determine whether these countries have met the two requirements described above. The President directed the USTR to announce any such determinations in the **Federal Register** and to implement them through modifications of the Harmonized Tariff Schedule of the United States (HTS). Based on actions that Lesotho has taken, I have determined that Lesotho has satisfied these two requirements.

Accordingly, pursuant to the authority vested in the USTR by Proclamation 7350, U.S. note 7(a) to subchapter II of chapter 98 of the HTS and U.S. note 1 to subchapter XIX of chapter 98 of the HTS are each modified by inserting ''Lesotho'' in alphabetical sequence in the list of countries. The foregoing modifications to the HTS are effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after the effective date of this notice. Importers claiming preferential tariff treatment under the AGOA for entries of textile and apparel articles should ensure that those entries meet the applicable visa requirements. *See Visa Requirements Under the African Growth and Opportunity Act,* 66 FR 7837 (2001).

Robert B. Zoellick,

United States Trade Representative.

[FR Doc. 01–10518 Filed 4–26–01; 8:45 am]

BILLING CODE 3190–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Sector Advisory Committee on Small and Minority Business (ISAC–14)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of meeting.

SUMMARY: The Industry Sector Advisory Committee on Small and Minority Business (ISAC–14) will hold a meeting on May 9, 2001, from 3 p.m. to 4:30 p.m. The meeting will be opened to the public from 3 p.m. to 4:30 p.m.

DATES: The meeting is scheduled for May 9, 2001, unless otherwise notified.

ADDRESSES: The meeting will be held at the USA Trade Center/Ronald Reagan Building, Training Room B located at 14th and Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Millie Sjoberg and Pam Wilbur (202) 482–4792, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230 (principal contact), or myself on (202) 395–6120.

SUPPLEMENTARY INFORMATION: During the meeting the agenda topics to be addressed will be the trip to the OECD Montreal Meeting in June and the vote on the transition papers.

Christina Sevilla,

Acting Assistant United States Trade Representative for Intergovernmental Affairs and Public Liaison.

[FR Doc. 01–10532 Filed 4–26–01; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Holt County, Missouri and Richardson County, Nebraska

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed bridge project between Holt County, Missouri, and Richardson County, Nebraska.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Kosola, Realty Officer, Federal Highway Administration, Federal Building, Room 220, 100 Centennial Mall North, Lincoln, Nebraska 68508, Telephone: (402) 437–5521. Mr. Arthur Yonkey, Project Development Engineer, Nebraska Department of Roads, P.O. Box 94759, Lincoln, Nebraska 68509, Telephone: (402) 479–4795. Ms. Renate A. Wilkinson, Transportation Planning Manager, Missouri Department of Transportation, Northwest District, 3602 North Belt Highway, P.O. Box 287, St. Joseph, Missouri 64502, Telephone: (816) 387–2434.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Nebraska Department of Roads, and the Missouri Department of Transportation, will prepare an Environmental Impact Statement (EIS) for a proposal to construct a bridge over the Missouri River. The proposed project would connect Holt County, Missouri and Richardson County, Nebraska, in the vicinity of Rulo, Nebraska.

Alternatives under consideration include: (1) taking no action; (2) replacing the US–159 Bridge on the existing alignment; and (3) providing a new crossing downstream from the existing alignment.

The Rulo Bridge (Highway US–159 Bridge) has been listed on the *National Register of Historic Places.* The existing bridge is composed of 10 steel, riveted, Warren deck truss approaches (5 on each end of the bridge), and 3 steel, 8-panel, riveted Pennsylvania through trusses.

An agency scoping meeting is planned for May 1, 2001 and a public scoping/information meeting is planned. A Draft EIS will be prepared and a public hearing will be held. Public notice will be given of the public scoping/information meeting and public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or the Nebraska Department of Roads at the address provided.

(Catalog of Federal Domestic Assistance Project 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program.)

Issued on April 20, 2001.

Edward Kosola,

Realty Officer, Nebraska Division, Federal Highway Administration, Lincoln, Nebraska.

[FR Doc. 01–10468 Filed 4–26–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: King County, Washington

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice Of Intent.

SUMMARY: The FHWA is issuing this notice of intent to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in King County, Washington northeast of the city of North Bend.

FOR FURTHER INFORMATION CONTACT: Victoria Peters, Design Operations Engineer, Federal Highway Administration, 610 East Fifth Street, Vancouver, Washington 98661, telephone (360) 696–7700.

SUPPLEMENTARY INFORMATION: The FHWA, in partnership with the U.S. Forest Service, Washington Department of Transportation and King County, Washington, will prepare an environmental impact statement (EIS) on a proposal to improve Washington Forest Highway 29 locally known as the Middle Fork Snoqualmie River Road or Lake Dorothy Road. Forest Highway 29 begins at Interstate 90 (M.P. 34) and terminates at the Middle Fork—Taylor River Trailhead. The entire Forest Highway route is 12.1 miles. The proposed project will improve the uppermost 10.74 miles.

The Middle Fork Snoqualmie River Road is the gateway to 109,000 acres of National Forest land and a primary access point for the Alpine Lake Wilderness. The road is located in the eastern half of King County, less than an hour drive from the population in the Seattle area. There is high recreational usage along this route which must accommodate a diverse mix of users including bicyclists, pedestrians, cars, recreational vehicles, timber haulers and trucks.

The existing road is paved for the first 1.3 miles with the remaining portion being gravel. Roadway widths vary from 15 to 28 feet and are not safe to accommodate the mix and volume of traffic. In addition to narrowness, the road surface ruts and potholes badly during winter months causing unsafe and erratic driving conditions. The present road surface is nearly unbladable for maintenance because of the absence of cushion and graded aggregate. The road also is deficient in drainage causing silt laden runoff to empty directly into surface waters. The overall purpose of the proposed project is to improve the physical conditions and safety features of the Middle Fork Snoqualmie River Road for the existing and projected traffic demand, while minimizing adverse impacts to sensitive environmental resources.

Project objectives will be based on the needs developed during the scoping process. All improvements must be consistent with the applicable guidelines from the Mt. Baker-Snoqualmie Forest Plan, the Middle Fork Snoqualmie Access/Travel Plan, King County plans and ordinances, Washington state regulations and federal regulations.

Alternatives under consideration include (1) taking no action; (2) improving the existing two lane road to meet the appropriate Washington state design criteria; (3) improving the existing two lane road to meet the appropriate American Association of State Highway and Transportation Officials (AASHTO) design criteria; (4) other alternatives that maybe developed during the NEPA process.

Notices describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. Based in part on data collected and comments received, FHWA has determined that it will prepare an EIS on the proposed project. Comments previously received will be utilized during the EIS process. Additional interagency and public scoping activities will be conducted. The time and place of the public scoping activities will be provided in the local news media and by notice to individuals and agencies that have expressed interest in the proposal. The draft EIS will be available for public and agency review and comment. Schedules for these activities will be distributed when available this summer.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Previous comments received by FHWA have identified a number of issues such as impacts to private landowners, water quality, wetlands and wildlife, as well as slope stability, tree removal and parking along the roadway. Comments or questions concerning this proposed

action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Ronald W. Carmichael,

Division Engineer, Federal Highway Administration.

[FR Doc. 01–10539 Filed 4–26–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 519 (Sub–No. 2)]

Notice of National Grain Car Council Matters

AGENCY: Surface Transportation Board.

ACTION: Notice of renewal and reestablishment of National Grain Car Council and notice of meeting.

SUMMARY: Notice is hereby given of the renewal and reestablishment of the National Grain Car Council (NGCC). Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C., App. 2), notice also is hereby given of a meeting of the NGCC.

DATES: The meeting will be held on May 4, 2001, beginning at 10 a.m., EDT.

ADDRESSES: The meeting will be held in The Brick Room (First Floor) at 1925 K Street, NW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: Eric S. Davis, (202) 565–1510. (TDD for the hearing impaired: 1–800–877–8339.)

SUPPLEMENTARY INFORMATION: The NGCC arose from a proceeding instituted by the Surface Transportation Board's (Board) predecessor agency, the Interstate Commerce Commission (ICC), in *National Grain Car Supply—Conference of Interested Parties,* Ex Parte No. 519. The NGCC was formed as a working group to facilitate private-sector solutions and recommendations to the ICC (and now the Board) on matters affecting grain transportation.

The purpose of this meeting is to continue discussions of private-sector solutions to problems related to the availability of railroad cars for distribution and transportation of grain. In particular, rail carrier members will report on their preparedness to transport the Fall grain harvest.

The meeting, which is open to the public, will be conducted pursuant to the NGCC's charter and Board procedures. Further communications about this meeting may be announced through the Board's website at *http://www.stb.dot.gov.*

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: April 24, 2001.

By the Board, Linda J. Morgan, Chairman.

Vernon A. Williams,

Secretary.

[FR Doc. 01–10613 Filed 4–26–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub-No. 587X)]

CSX Transportation, Inc.—Abandonment Exemption—in Clark County, IN

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon a .20-mile line of railroad between milepost B–40.60 and milepost B–40.80 at Charlestown, in Clark County, IN. The line traverses United States Postal Service Zip Code 47111.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic moving over the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment and discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on May 29, 2001, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by May 7, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by May 17, 2001, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Natalie S. Rosenberg, Counsel, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

CSXT has filed an environmental report which addresses the abandonment's effects, if any, on the environmental and historic resources. SEA will issue an environmental assessment (EA) by May 4, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned its line. If consummation has not been effected by CSXT's filing of a notice of consummation by April 27, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

Board decisions and notices are available on our website at ''www.stb.dot.gov.''

Decided: April 18, 2001.

Vernon A. Williams,

Secretary.

[FR Doc. 01–10169 Filed 4–26–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of New York Metro Citizen Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the New York Metro Citizen Advocacy Panel will be held in Brooklyn, New York.

DATES: The meeting will be held Friday, June 8, 2001.

FOR FURTHER INFORMATION CONTACT: Eileen Cain at 1–888–912–1227 or 718–488–3555.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Friday, June 8, 2001, 6 p.m. to 9:20 p.m. at the Internal Revenue Service Brooklyn Building located at 625 Fulton Street, Brooklyn, NY 11201. For more information or to confirm attendance, notification of intent to attend the meeting must be made with Eileen Cain. Mrs. Cain can be reached at 1–888–912–1227 or 718–488–3555.

The public is invited to make oral comments from 8:30 p.m. to 9:20 p.m. on Friday, June 8, 2001.

Individual comments will be limited to 5 minutes. If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 718–488–3555, or write Eileen Cain, CAP Office, P.O. Box R, Brooklyn, NY 11201. The Agenda will include the following: various IRS issues. Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: April 24, 2001.

John J. Mannion,

Director, Program Planning Quality.

[FR Doc. 01–10547 Filed 4–26–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of New York Metro Citizen Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the New York Metro Citizen Advocacy Panel will be held in Brooklyn, New York.

DATES: The meeting will be held Thursday, June 28, 2001.

FOR FURTHER INFORMATION CONTACT: Eileen Cain at 1–888–912–1227 or 718–488–3555.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Thursday, June 28, 2001 6:00 p.m. to 9:20 p.m. at the Internal Revenue Service Brooklyn Building located at 625 Fulton Street, Brooklyn, NY 11201. For more information or to confirm attendance, notification of intent to attend the meeting must be made with Eileen Cain. Mrs. Cain can be reached at 1–888–912–1227 or 718–488–3555. The public is invited to make oral comments from 8:30 p.m. to 9:20 p.m. on Thursday, June 28, 2001. Individual comments will be limited to 5 minutes. If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 718–488–3555, or write Eileen Cain, CAP Office, P.O. Box R, Brooklyn, NY, 11201. The Agenda will include the following: various IRS issues. Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: April 24, 2001.

John J. Mannion,

Director, Program Planning and Quality.

[FR Doc. 01–10548 Filed 4–26–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on the Electronic Operations Package.

DATES: Submit written comments on or before June 26, 2001.

ADDRESSES:

Mail: Send comments to Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0095.

Delivery: Hand deliver comments to the Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention: Information Collection Comments, Chief Counsel's Office, 1550–0095.

Facsimiles: Send facsimile transmissions to FAX Number (202) 906–6518, Attention 1550–0095.

E-Mail: Send e-mails to ''infocollection.comments@ots.treas.gov'', Attention 1550–0095, and include your name and telephone number.

Public Inspection: Interested persons may inspect comments at the Public Reference Room, 1700 G Street, NW., from 10 a.m. until 4 p.m. on Tuesdays and Thursdays or obtain comments and/or an index of comments by facsimile by telephoning the Public Reference Room at (202) 906–5900 from 9 a.m. until 5 p.m. on business days. Comments and the related index will also be posted on the OTS Internet Site at ''www.ots.treas.gov''.

FOR FURTHER INFORMATION CONTACT: Nadine Washington, Office of Examination Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906–6706.

SUPPLEMENTARY INFORMATION:

Title: Electronic Operations.

OMB Number: 1550–0095.

Form Number: Not applicable.

Abstract: OTS requires a savings association to notify OTS before it establishes a transactional web site. This information is needed to evaluate a thrift's risks in the use of information technology so that any safety and soundness concerns may be addressed.

Current Actions: OTS proposes to renew this information collection with revision.

Type of Review: Renewal.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 229.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 458 hours.

Request for Comments: The OTS will summarize comments submitted in response to this notice or will include these comments in its request for OMB approval. All comments will become a matter of public record. The OTS invites comment on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or starting costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 19, 2001.

Deborah Dakin,

Deputy Chief Counsel, Regulations and Legislation.

[FR Doc. 01–10367 Filed 4–26–01; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on the Application to Issue Mutual Capital Certificates Package.

DATES: Submit written comments on or before June 26, 2001.

ADDRESSES:

Mail: Send comments to Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0050.

Delivery: Hand deliver comments to the Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention: Information Collection Comments, Chief Counsel's Office, 1550–0050.

Facsimiles: Send facsimile transmissions to FAX Number (202) 906–6518, Attention 1550–0050.

E-Mail: Send e-mails to ''infocollection. comments@ots.treas.gov'', Attention 1550–0050, and include your name and telephone number.

Public Inspection: Interested persons may inspect comments at the Public Reference Room, 1700 G St. NW., from 10 a.m. until 4 p.m. on Tuesdays and Thursdays or obtain comments and/or an index of comments by facsimile by telephoning the Public Reference Room at (202) 906–5900 from 9 a.m. until 5 p.m. on business days. Comments and the related index will also be posted on the OTS Internet Site at ''www.ots.treas.gov''.

FOR FURTHER INFORMATION CONTACT: Nadine Washington, Office of Examination Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906–6706.

SUPPLEMENTARY INFORMATION:

Title: Application to Issue Mutual Capital Certificates.

OMB Number: 1550–0050.

Form Number: Not applicable.

Abstract: OTS regulations require that any issued mutual capital certificates obtain OTS approval.

Current Actions: OTS proposes to renew this information collection (with/without) revision.

Type of Review: Renewal.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 1.

Estimated Time Per Respondent: 6 hours.

Estimated Total Annual Burden Hours: 6 hours.

Request for Comments: The OTS will summarize comments submitted in response to this notice or will include these comments in its request for OMB approval. All comments will become a matter of public record. The OTS invites comment on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or starting costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 19, 2001.

Deborah Dakin,

Deputy Chief Counsel, Regulations and Legislation.

[FR Doc. 01–10369 Filed 4–26–01; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on the Request to Amend Association's Charter Package.

DATES: Submit written comments on or before June 26, 2001.

ADDRESSES:

Mail: Send comments to Information Collection Comments, Chiefs Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 15500–0018.

Delivery: Hand deliver comments to the Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. at 4 p.m. on business days, Attention: Information Collection Comments, Chief Counsel's Office, 1550–0018.

Facsimiles: Send facsimile transmissions to FAX Number (202) 906–6518, Attention 1550–0018.

E–Mail: Send e-mails to ''infocollection. comments@ots.treas.gov'', Attention 1550–0018, and include your name and telephone number.

Public Inspection: Interested persons may inspect comments at the Public Reference Room, 1700 G St. NW., from 10 a.m. until 4 p.m. on Tuesday and Thursdays, or obtain comments and/or an index of comments by facsimile by telephoning the Public Reference Room at (202) 906–5900 from 9 a.m. until 5 p.m. on business days. Comments and the related index will also be posted on the OTS Internet Site at ''www.ots.trea.gov;''.

FOR FURTHER INFORMATION CONTACT: Nadine Washington, Office of Examination Policy, Office of Thrift

Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906–6706.

SUPPLEMENTARY INFORMATION:

Title: Request to Amend Association's Charter.

OMB Number: 1550–0018.

Form Number: Not applicable.

Abstract: OTS regulations require Federally-chartered savings associations to obtain agency approval of any change in its charter that is not pre-approved by regulation.

Current Actions: OTS proposes to renew this information collection with revision.

Type of Review: Renewal.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 3.

Estimated Time Per Respondent: 20 hours.

Estimated Total Annual Burden Hours: 60 hours.

Request for Comments: The OTS will summarize comments submitted in response to this notice or will include these comments in its request for OMB approval. All comments will became a matter of public record. The OTS invites comments on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility: (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques of other forms of information technology; and (e) estimates of capital of starting costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 19, 2001.

Deborah Dakin,

Deputy Chief Counsel, Regulations and Legislation.

[FR Doc. 01–10370 Filed 4–26–01; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on the Application Processing Fees Packages.

DATES: Submit written comments on or before June 26, 2001.

ADDRESSES:

Mail: Send comments to Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0053.

Delivery: Hand deliver comments to the Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention: Information Collection Comments, Chief Counsel's Office, 1550–0053.

Facsimiles: Send facsimile transmissions to FAX Number (202) 906–6518, Attention 1550–0053.

E-Mail: Send e-mails to ''infocollection.comments@ots.treas.gov'', Attention 1550–0053, and include your name and telephone number.

Public Inspection: Interested persons may inspect comments at the Public Reference Room, 1700 G St. NW., from 10 a.m. until 4 p.m. on Tuesdays and Thursdays or obtain comments and/or an index of comments by facsimile by telephoning the Public Reference Room at (202) 906–5900 from 9 a.m. until 5 p.m. on business days. Comments and the related index will also be posted on the OTS Internet Site at ''www.ots.treas.gov.''

FOR FURTHER INFORMATION CONTACT: Nadine Washington, Office of Examination Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906–6706.

SUPPLEMENTARY INFORMATION:

Title: Application Processing Fees.

OMB Number: 1550–0053.

Form Number: Not applicable.

Abstract: Fees must accompany certain applications, notices, filings and requests before they will be accepted for processing. OTS requires information regarding the purpose of the fee that can only be provided by the institution.

Current Actions: OTS proposes to renew this information collection with revision.

Type of Review: Renewal.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 2,555.

Estimated Time Per Respondent: .036 average hours.

Estimated Total Annual Burden Hours: 92 hours.

Request for Comments: The OTS will summarize comments submitted in response to this notice or will include these comments in its request for OMB approval. All comments will become a matter of public record. The OTS invites comments on: (a) Whether the collection of information in necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or starting costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 19, 2001.

Deborah Dakin,

Deputy Chief Counsel, Regulations and Legislation.

[FR Doc. 01–10371 Filed 4–26–01; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on the Identification Requirements for Filings Package.

DATES: Submit written comments on or before June 26, 2001.

ADDRESSES:

Mail: Send comments to Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0056.

Delivery: Hand deliver comments to the Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention:

Information Collection Comments, Chief Counsel's Office, 1550–0056.

Facsimiles: Send facsimile transmissions to FAX Number (202) 906–6518, Attention 1550–0056.

E-Mail: Send e-mails to ''info collection.comments@ots.treas.gov'', Attention 1550–0056, and include your name and telephone number.

Public Inspection: Interested persons may inspect comments at the Public Reference Room, 1700 G St. NW., from 10 a.m. until 4 p.m. on Tuesdays and Thursdays or obtain comments and/or an index of comments by facsimile by telephoning the Public Reference Room at (202) 906–5900 from 9 a.m. until 5 p.m. on business days. Comments and the related index will also be posted on the OTS Internet Site at ''www.ots.treas.gov''.

FOR FURTHER INFORMATION CONTACT: Nadine Washington, Office of Examination Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906–6706.

SUPPLEMENTARY INFORMATION:

Title: Identification Requirements for Filings.

OMB Number: 1550–0056.

Form Number: Not applicable.

Abstract: OTS filing procedures require that three copies be filed with the appropriate Regional Office. Certain applications require more than three copies because the application raises a significant issue of law or policy or because other agencies have statutory oversight over the application.

Current Actions: OTS proposes to renew this information collection with revision.

Type of Review: Renewal.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 2,555.

Estimated Time Per Respondent: .17 average hours.

Estimated Total Annual Burden Hours: 434 hours.

Request for Comments: The OTS will summarize comments submitted in response to this notice or will include these comments in its request for OMB approval. All comments will become a matter of public record. The OTS invites comment on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or starting costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 19, 2001.

Deborah Dakin,

Deputy Chief Counsel, Regulations and Legislation.

[FR Doc. 01–10372 Filed 4–26–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on the Management Official Interlocks Package.

DATES: Submit written comments on or before June 26, 2001.

ADDRESSES:

Mail: Send comments to Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0051.

Delivery: Hand deliver comments to the Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention: Information Collection Comments, Chief Counsel's Office, 1550–0051.

Facsimiles: Send facsimile transmissions to FAX Number (202) 906–6518, Attention 1550–0051.

E-Mail: Send e-mails to ''info collection.comments @ots.treas.gov'', Attention 1550–0051, and include your name and telephone number.

Public Inspection: Interested persons may inspect comments at the Public Reference Room, 1700 G St. NW., from 10 a.m. until 4 p.m. on Tuesdays and Thursdays or obtain comments and/or an index of comments by facsimile by telephoning the Public Reference Room at (202) 906–5900 from 9 a.m. until 5 p.m. on business days. Comments and the related index will also be posted on the OTS Internet Site at ''www.ots.treas.gov''.

FOR FURTHER INFORMATION CONTACT: Nadine Washington, Office of Examination Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906–6706.

SUPPLEMENTARY INFORMATION:

Title: Management Official Interlocks.

OMB Number: 1550–0051.

Form Number: Not applicable.

Abstract: OTS requires information to evaluate the merits of interlocks exemptions.

Current Actions: OTS proposes to renew this information collection with revision.

Type of Review: Renewal.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 1.

Estimated Time Per Respondent: 32 hours.

Estimated Total Annual Burden Hours: 32 hours.

Request for Comments: The OTS will summarize comments submitted in response to this notice or will include these comments in its request for OMB approval. All comments will become a matter of public record. The OTS invites comment on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or starting costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 19, 2001.

Deborah Dakin,

Deputy Chief Counsel, Regulations and Legislation.

[FR Doc. 01–10373 Filed 4–26–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

Fund Availability Under the VA Homeless Providers Grant and Per Diem Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs is announcing the availability of

funds for applications for assistance under the grant component of VA's Homeless Providers Grant and Per Diem Program. This Notice contains information concerning the program, application process, and amount of funding available.

DATES: An original completed and collated grant application (plus four completed collated copies) for assistance under the VA's Homeless Providers Grant and Per Diem Program must be received in Mental Health Strategic Health Care Group, Washington, DC, by 4:00 PM Eastern Time on June 20, 2001. Applications may not be sent by facsimile (FAX). In the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their material to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

For a Copy of the Application Package: Download directly from VA's Grant and Per Diem Program web page at: *http://www.va.gov/homeless/page.cfm?pg=3* or call the Grant and Per Diem Program at (toll-free) 1–877–332–0334. For a document relating to the VA Homeless Providers Grant and Per Diem Program, see the final rule codified at 38 CFR Part 17.700.

Submission of Application: An original completed and collated grant application (plus four copies) must be submitted to the following address: Mental Health Strategic Health Care Group (116E), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Applications must be received in the Mental Health Strategic Health Care Group by the application deadline.

FOR FURTHER INFORMATION CONTACT: Roger Casey, VA Homeless Providers Grant and Per Diem Program, Mental Health Strategic Health Care Group (116E), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420; (toll-free) 1–877–332–0334.

SUPPLEMENTARY INFORMATION: This Notice announces the availability of funds for assistance under VA's Homeless Providers Grant and Per Diem Program for eligible entities to: (1) Expand existing projects; or (2) develop new programs or new components of existing projects. This program is authorized by Public Law 102–590, the Homeless Veterans Comprehensive Service Programs Act of 1992, as amended. Funding applied for under this Notice may be used for: (1) Remodeling or alteration of existing buildings; (2) acquisition of buildings, acquisition and rehabilitation of buildings; (3) new construction; and (4) acquisition of vans for outreach to and/or transportation for homeless veterans. Applicants may apply for more than one type of assistance.

Grant applicants awarded a grant will not be required to complete a separate application for per diem assistance, provided that those applicants seeking per diem for partial operating costs of the project created with the grant, indicate this request on their application. VA will review those portions of the grant application that pertain to per diem and, subject to the availability of funds and meeting eligibility criteria, per diem will be awarded.

Grant applicants may not receive assistance to replace funds provided by any State or local government to assist homeless persons. A proposal for an existing project that seeks to shift its focus by changing the population being served or the precise mix of services being offered is not eligible for consideration. No more than 25 percent of services available in projects funded through this grant program may be provided to clients who are not receiving those services as veterans.

Authority: VA's Homeless Providers Grant and Per Diem Program is authorized by sections 3 and 4 of Public Law 102–590, the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) and has been extended through Fiscal Year 2003 by Public Law 106–117. The program is implemented by the final rule codified at 38 CFR Part 17.700. The final rule was published in the **Federal Register** on June 1, 1994, and February 27, 1995, and revised February 11, 1997. The regulations can be found in their entirety in 38 CFR, Volume 1, Sec. 17.700 through 17.731, revised July 1, 1997. Funds made available under this Notice are subject to the requirements of those regulations.

Allocation: Approximately $10 million is available for the grant component of this program.

Application Requirements: The specific grant application requirements will be specified in the application package. The package includes all required forms and certifications. Conditional selections will be made based on criteria described in the application. Applicants who are conditionally selected will be notified of the additional information needed to confirm or clarify information provided in the application. Applicants will then have approximately one month to submit such information.

If an applicant is unable to meet any conditions for grant award within the specified time frame, VA reserves the right to not award funds and to use the funds available for other grant and per diem applicants.

Dated: April 20, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 01–10456 Filed 4–26–01; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Friday,
April 27, 2001

Part II

Department of Energy

Western Area Power Administration

Central Valley Project and California-Oregon Transmission Project—Rate Order No. WAPA–95; Notice

DEPARTMENT OF ENERGY

Western Area Power Administration

Central Valley Project and California-Oregon Transmission Project—Rate Order No. WAPA–95

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of rate order.

SUMMARY: Western Area Power Administration's Administrator has confirmed and approved Rate Order No. WAPA–95 and Rate Schedules CV–F10, CV–FT4, CV–NFT4, CV–TPT5, CV–NWT2, CV–RFS2, CV–EID2, CV–SPR2, CV–SUR2, CV–PSS2, CV–SCS1, COTP–FT2, and COTP–NFT2. These rate schedules place into effect provisional rates for the Central Valley Project (CVP) firm power and transmission services, ancillary services, power scheduling service, and scheduling coordinator service, and the California-Oregon Transmission Project (COTP) transmission services of the Western Area Power Administration (Western). The provisional rates will be in effect for an interim period until the Federal Energy Regulatory Commission (FERC) confirms, approves, and places them into effect on a final basis or until they are replaced by other rates. The provisional rates will provide sufficient revenue to pay all annual costs, including interest expense, and repay required investment in the allowable period.

DATES: The provisional rates will be effective the first day of the first full billing period beginning on or after April 1, 2001, until FERC confirms, approves, and places them into effect on a final basis. These rates will stay in effect through December 31, 2004, or until other rates replace them.

FOR FURTHER INFORMATION CONTACT: Ms. Debbie Dietz, Rates Manager, Western Area Power Administration, Sierra Nevada Customer Service Region, 114 Parkshore Drive, Folsom, CA 95630–4710, (916) 353–4453, e-mail ddietz@wapa.gov.

SUPPLEMENTARY INFORMATION: The Deputy Secretary of Energy approved the existing Rate Schedules CV–F9 for CVP commercial firm power, CV–FT3, CV–NFT3, CV–TPT4, and CV–NWT1 for CVP transmission services, CV–RFS1, CV–EID1, CV–SPR1, CV–SUR1 for CVP ancillary services, CV–PSS1 for power scheduling service, and COTP–FT1 and COTP–NFT1 for COTP transmission services on September 19, 1997 (Rate Order No. WAPA–77, 62 FR 50924, September 29, 1997). FERC confirmed and approved the rate schedules on January 8, 1998, under FERC Docket No. EF97–5011–000 (82 FERC ¶62,006). The existing rate schedules became effective October 1, 1997, for the period ending September 30, 2002.

Rate Schedule CV–F10 supersedes Rate Schedule CV–F9. Under Rate Schedule CV–F9, the composite rate on April 1, 2001, is 18.56 mills per kilowatthour (mills/kWh). The provisional rates for CVP firm power in Rate Schedule CV–F10 will result in an overall composite rate of 20.08 mills/kWh on April 1, 2001. This results in an increase of about 8 percent when compared with the existing CVP commercial firm power rates under Rate Schedule CV–F9.

Western also developed provisional rates for CVP firm power with the transmission revenue requirement removed from the CVP firm power revenue requirement. These rates are also in Rate Schedule CV–F10. These rates will apply if Western joins the California Independent System Operator (CAISO) or a Regional Transmission Organization (RTO) and if the CAISO or RTO uses Western's transmission revenue requirement to develop a regional transmission rate. The provisional rates for CVP firm power with the transmission revenue requirement removed in Rate Schedule CV–F10 will result in an overall composite rate of 18.51 mills/kWh on April 1, 2001. This results in a decrease of less than 1 percent when compared with the existing CVP commercial firm power rates under Rate Schedule CV–F9. In addition, both sets of CVP firm power provisional rates include any charges or credits associated with the creation, termination, or modification to any tariff, contract, or schedule approved or accepted by FERC, under which Western take service will be passed through to the appropriate customers.

Rate Schedules CV–FT4, CV–NFT4, CV–TPT5, and CV–NWT2 replace Rate Schedules CV–FT3, CV–NFT3, CV–TPT4, and CV–NWT1, respectively. Provisional formula rates developed for CVP transmission services are consistent with FERC Order No. 888. Under Rate Schedules CV–FT3 and CV–NFT3, the CVP transmission services rates on April 1, 2001, are $0.51/kWmonth for firm service and 1.00 mill/kWh for nonfirm service. On April 1, 2001, the provisional formula rate in Rate Schedule CV–FT4 results in an estimated rate of $.70/kWmonth for firm CVP transmission service, a 37-percent increase when compared with the existing rate. Based on an Open Access Transmission Tariff Service Agreement to provide transmission service in the future, on October 1, 2001, the provisional formula rate in Rate Schedule CV–FT4 results in an estimated rate of $.56/kWmonth for CVP firm transmission service. On April 1, 2001, the provisional formula rate in Rate Schedule CV–NFT4 results in a rate of 1.00 mill/kWh for CVP nonfirm transmission service, which is the same rate as the existing rate. If the rates resulting from the proposed formula rate are higher than other transmission rates in California, firm or nonfirm transmission service for 1 year or less may be sold at lower rates. The provisional rate for transmission of CVP power by others in Rate Schedule CV–TPT5 is a pass through cost and results in no change from the existing Rate Schedule CV–TPT4 on April 1, 2001.

The provisional formula rate for network integration transmission service in Rate Schedule CV–NWT2 will be the same as the existing formula rate for network integration transmission service under Rate Schedule CV–NWT1.

The existing transmission rates include costs for scheduling, system control and dispatch service and reactive supply and voltage control service. The transmission provisional formula rates include the costs of these services.

The provisional rates in Rate Schedule CV–RFS2, effective April 1, 2001, for monthly regulation and frequency response service will result in a 69-percent increase for the same service when compared to the existing monthly rate under Rate Schedule CV–RFS1. The provisional rates for regulation and frequency response service are: monthly—$2.496/kWmonth, weekly—$.574/kWweek, and daily—$.082/kWday. The weekly and daily rates are derived from the monthly rate.

The provisional formula rate for energy imbalance service under Rate Schedule CV–EID2 will be the same as the existing formula rate for energy imbalance service under Rate Schedule CV–EID1.

The provisional rates in Rate Schedule CV–SPR2, effective April 1, 2001, for monthly spinning reserve service will result in a 118-percent increase for the same service when compared to the existing monthly rate under Rate Schedule CV–SPR1. The provisional rates for spinning reserve service are: monthly—$2.946/kWmonth, weekly—$.672/kWweek, daily—$.096/kWday, and hourly—$.0040/kWh. The weekly, daily, and hourly rates are derived from the monthly rate.

The provisional rates in Rate Schedule CV–SUR2, effective April 1, 2001, for monthly supplemental reserve

service will result in a 96-percent increase for the same service when compared to the existing monthly rate under Rate Schedule CV–SUR1. The provisional rates for supplemental reserve service are: monthly—$2.491/kWmonth, weekly—$.574/kWweek, daily—$.082/kWday, and hourly—$.0034/kWh. The weekly, daily, and hourly rates are derived from the monthly rates.

The provisional rate for power scheduling service in Rate Schedule CV–PSS2 is $76.65 per hour. This results in a 1-percent increase compared to the existing rate in Rate Schedule CV–PSS1 of $75.80 per hour on April 1, 2001.

Scheduling coordinator service is a new service. The provisional rate for scheduling coordinator service is $76.65 per hour and is designed to recover only the cost incurred for providing the service.

Rate Schedules COTP–FT2 and COTP–NFT2 replace Rate Schedules COTP–FT1 and COTP–NFT1. Provisional formula rates developed for COTP firm and nonfirm transmission services are consistent with FERC Order No. 888. The estimated rates from the provisional formula rate in Rate Schedule COTP–FT2 for firm transmission service for Western's share of the COTP will result in a 30-percent decrease in the summer, a 16-percent decrease in the winter, and a 25-percent decrease in the spring compared to the existing rate of $1.34/kWmonth in Rate Schedule COTP–FT1 on April 1, 2001. The estimated rates from the provisional formula rate for COTP firm transmission service beginning in April 2001 are: summer—$.94/kWmonth, winter—$1.12/kWmonth, and spring—$1.00/kWmonth. The estimated rates from the provisional formula rate in Rate Schedule COTP–NFT2 for COTP nonfirm transmission service will result in a 11-percent decrease in the summer, a 6-percent increase in the winter, and a 6-percent decrease in the spring compared to the existing rate in Rate Schedule COTP–NFT1 of 1.45 mills/kWh on April 1, 2001. The estimated rates from the provisional formula rate for COTP nonfirm transmission service beginning April 2001 are: summer—1.29 mills/kWh, winter—1.54 mills/kWh, and spring—1.37 mills/kWh.

Provisional Rates for CVP Firm Power

On December 13, 2000, Western provided updates to the proposed CVP firm power rates. There were no updates to any of the other rates proposed by Western.

The CVP firm power rates include Project Dependable Capacity support purchase costs and pass through of FERC-accepted or -approved costs or credits. Western also updated the Revenue Adjustment Clause (RAC). The limit for the RAC credit and surcharge is $20 million, $10 million for the October to December 2004 period, plus any purchase or exchange power contract adjustments.

Western developed two sets of provisional firm power rates. One set of rates includes the transmission revenue requirement, and the other set of rates removes the transmission revenue requirement. Both sets are designed to recover an annual revenue requirement that includes investment repayment, interest, purchase power costs, operation and maintenance (O&M) expense, and FERC-accepted or -approved charges or credits. Western used a cost-of-service study to divide the projected annual revenue requirement for firm power between capacity and energy. Based on this study, the capacity revenue requirement includes: (1) 100 percent of capacity purchase costs; (2) 50 percent of the investment repayment; (3) 50 percent of the interest expense; (4) 50 percent of the O&M expense allocated to power; and (5) 100 percent of CVP and COTP transmission expense. Projected CVP and COTP transmission revenue and 50 percent of projected CVP project use revenue reduce the annual costs that make up the capacity revenue requirement. The energy revenue requirement includes: (1) 100 percent of energy purchase costs; (2) 50 percent of the investment repayment; (3) 50 percent of the interest expense; and (4) 50 percent of the O&M expense allocated to power. Projected surplus power revenue and 50 percent of projected CVP project use revenue reduce the annual costs that make up the energy revenue requirement.

For the provisional power rates with the transmission revenue requirement removed, Western used a cost-of-service study to divide the projected annual revenue requirement for firm power between capacity and energy. Based on this study, the capacity revenue requirement includes: (1) 100 percent of capacity purchase costs; (2) 50 percent of the investment repayment; (3) 50 percent of the interest expense; and (4) 50 percent of the O&M expense allocated to power. Fifty percent of the projected CVP project use revenue reduces the annual costs that make up the capacity revenue requirement. The energy revenue requirement includes: (1) 100 percent of energy purchase costs; (2) 50 percent of the investment repayment; (3) 50 percent of the interest expense; and (4) 50 percent of the O&M expense allocated to power. Projected surplus power revenue and 50 percent of the projected CVP project use revenue reduce the annual costs that make up the energy revenue requirement. Additionally, under both sets of CVP firm power rates, Western will also pass through to each appropriate customer any charges or credits associated with the creation, termination, or modification to any tariff, contract, or schedule accepted or approved by FERC under which Western takes service.

Rate Schedule CV–F9 and Rate Schedule CV–F10 include adjustment clauses for power factors, low voltage losses, and revenue.

Power Factor Adjustment

The power factor adjustment is a low power factor (LPF) charge that applies when the customer does not maintain a calculated 95 percent or greater power factor.

Low Voltage Loss Adjustment

The low voltage loss adjustment applies to the billed amounts for low voltage CVP firm power deliveries on the Pacific Gas and Electric Company (PG&E) system.

Revenue Adjustment

The RAC provides for a comparison between the projected net revenues in the rate adjustment power repayment study (PRS) to the actual net revenues. If the actual net revenue is more than the projected net revenue, CVP firm power customers receive a credit. If actual net revenue is less than the projected net revenue, CVP firm power customers may pay a surcharge, if needed, to make a minimum investment payment. The limit for the RAC credit or surcharge is $20 million, $10 million for the October to December 2004 period, plus any purchase or exchange power contract adjustments during the fiscal year (FY) for which the RAC is being calculated. The RAC is calculated annually and the associated distribution of the RAC credit or surcharge occurs during a 9-month period on power bills issued January through September. For customers whose RAC credits cannot be fully credited through nine equal monthly amounts, Western has the option to increase the RAC credit during August and September. The first RAC calculation under the provisional rates will be based on the net revenue for FY 2001, including revenues and expenses for October 2000 to March 2001, which is outside of the rate adjustment period. A RAC will be calculated for October through December 2004. The RAC credit or surcharge for October through

December 2004 is applied to the April to September 2005 bills.

Provisional Formula Rates for CVP Transmission Services

A revenue requirement that recovers: (1) the costs for facilities that support the transfer capability of the CVP transmission system (excluding generation facilities and radial lines); (2) the nonfacilities costs allocated to transmission; and (3) any transmission-related costs incurred by Western due to electric industry restructuring or other changes in the industry is the basis for the provisional formula rates in Rate Schedules CV–FT4 and CV–NFT4 for CVP firm and nonfirm transmission services. Western will revise as of April 30 of each year the rates from the provisional formula rates based on updated data. In addition to the annual update on April 30 of each year, Western will also revise the rates if there is a change in the numerator or denominator that results in a firm transmission rate change of at least $.05/kWmonth. The provisional formula rates include Western's cost for scheduling, system control and dispatch service and reactive supply and voltage control service needed to support the transmission service. The provisional formula rates apply to existing CVP firm transmission service and future point-to-point transmission service. If the rates from the provisional formula rates are higher than other transmission rates in California, firm or nonfirm transmission service for 1 year or less may be sold at lower rates.

Provisional Rate for Transmission of CVP Power by Others

Western will pass on to the appropriate customer any transmission service costs it incurs for delivering CVP power over a third party's transmission system. The provisional rate in Rate Schedule CV–TPT5 will be adjusted automatically as third party transmission costs are adjusted.

Provisional Formula Rate for Network Integration Transmission Service

If Western offers network integration transmission service, it will be consistent with FERC Order No. 888. The provisional formula rate for network integration transmission service is the product of the network customer's load ratio share times 1/12 of the annual network transmission revenue requirement. The load ratio share is the network customer's hourly load coincident with Western's monthly CVP transmission system peak, minus the coincident peak for all firm CVP point-to-point transmission service, plus the reserved capacity of all firm point-to-point transmission service customers. A revenue requirement that recovers: (1) the costs for facilities that support the transfer capability of the CVP transmission system (excluding generation facilities and radial lines); (2) the nonfacilities costs allocated to transmission; and (3) any transmission-related costs incurred by Western due to electric industry restructuring or other changes in the industry is the basis for the provisional formula rate for network integration transmission service. The provisional formula rate includes Western's cost for scheduling, system control and dispatch service and reactive supply and voltage control service needed to support the transmission service.

Provisional Rates for Ancillary Services

Western will offer six ancillary services consistent with FERC Order No. 888. Two of the ancillary services—scheduling, system control and dispatch service and reactive supply and voltage control service—are included with the sale of CVP and/or COTP transmission services. The appropriate transmission services rates include the costs for these two ancillary services. Subject to availability, Western will offer regulation and frequency response, energy imbalance, spinning reserve, and supplemental reserve services. Except for the two ancillary services provided with the sale of CVP and/or COTP transmission services, the basis for availability and type of ancillary services is excess resources at the time the service is requested.

Provisional Rate for Power Scheduling Service

The power scheduling service schedules resources to meet load and reserve requirements. The provisional rate for power scheduling service is designed to recover only the cost to supply the service.

Provisional Rate for Scheduling Coordinator Service

Scheduling coordinator service is a new service. It includes scheduling, real-time dispatching, and financial settlements with the CAISO and/or power exchanges. The provisional rate for scheduling coordinator service is designed to recover only the cost to supply the service.

Provisional Formula Rates for COTP Transmission Services

A revenue requirement that recovers: (1) Western's share of costs for facilities that support the transfer capability of the COTP; (2) Western's share of the nonfacilities costs allocated to transmission; and (3) any transmission-related costs that Western incurs due to electric industry restructuring or other changes in the industry is the basis for the provisional formula rates in Rate Schedules COTP–FT2 and COTP–NFT2 for COTP firm and nonfirm transmission services. The rates from the provisional formula rate will be updated each season to coincide with the changes in the California-Oregon Intertie transfer capability. The provisional formula rates include Western's cost for scheduling, system control and dispatch service and reactive supply and voltage control needed to support the transmission service. The provisional formula rates apply to existing COTP firm and nonfirm transmission service and future point-to-point transmission service. If the rates from the provisional formula rate are higher than other transmission rates in California, firm or nonfirm transmission service for 1 year or less may be sold at lower rates.

Procedural Requirements

The provisional rates for CVP firm power and transmission services, ancillary services, power scheduling service, scheduling coordinator service, and COTP transmission services are developed under the Department of Energy Organization Act (42 U.S.C. 7101–7352.), through which the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and other acts that specifically apply to the project involved, were transferred to and vested in the Secretary of Energy.

By Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993 (58 FR 59716), the Secretary of Energy delegated (1) the authority to develop long-term power and transmission rates on a nonexclusive basis to Western's Administrator; and (2) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to FERC. In Delegation Order No. 0204–172, effective November 24, 1999, the Secretary of Energy delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary. On April 10, 2001, by Amendment No. 4 to Delegation Order No. 0204–108, the Secretary of Energy delegated to Western's Administrator the authority to confirm, approve, and place into effect

on an interim basis the rates in the Central Valley Project and California-Oregon Transmission Project-Rate Order No. WAPA–95.

Western followed the DOE procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions (10 CFR part 903) to develop these provisional rates.

Rate Order No. WAPA–95, confirming, approving, and placing the proposed CVP firm power and transmission services, ancillary services, power scheduling service, and scheduling coordinator service rates, and the COTP transmission services rates into effect on an interim basis, is issued. New Rate Schedules CV–F10, CV–FT4, CV–NFT4, CV–TPT5, CV–NWT2, CV–RFS2, CV–EID2, CV–SPR2, CV–SUR2, CV–PSS2, CV–SCS1, COTP–FT2, and COTP–NFT2 will be submitted promptly to FERC for confirmation and approval on a final basis.

Dated: April 13, 2001.

Michael S. Hacskaylo,

Administrator.

Order Confirming, Approving, and Placing the Central Valley Project Firm Power, Transmission Services, Ancillary Services, Power Scheduling Service, and Scheduling Coordiantor Service Rates, and the California-Oregon Transmission Project Transmission Services Rates Into Effect on an Interim Basis

These rates are developed under the Department of Energy Organization Act (42 U.S.C. 7101–7352), through which the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and other acts that specifically apply to the project involved, were transferred to and vested in the Secretary of Energy (Secretary).

By Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993 (58 FR 59716), the Secretary delegated (1) the authority to develop long-term power and transmission rates on a nonexclusive basis to Western's Administrator; and (2) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the FERC. In Delegation Order No. 0204–172, effective November 24, 1999, the Secretary delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary. On April 10, 2001, by Amendment No. 4 to Delegation Order No. 0204–108, the Secretary of Energy delegated to Western's Administrator the authority to confirm, approve, and place into effect on an interim basis the rates in the Central Valley Project and California-Oregon Transmission Project-Rate Order No. WAPA–95. Existing DOE procedures for public participation in power and transmission rate adjustments are found in 10 CFR part 903. Procedures for approval of Power Marketing Administration rates are found in 18 CFR part 300.

Acronyms and Definitions

As used in this rate order, the following acronyms and definitions apply:

Administrator	The Administrator of the Western Area Power Administration.
Ancillary Services	Those services necessary to support the transfer of electricity while maintaining reliable operation of the transmission system following good utility practice. Federal Energy Regulatory Commission Order No. 888, Docket Nos. RM95–8–000 and RM94–7–001, issued April 24, 1996, generally describe ancillary services.
CAISO	The California Independent System Operator Corporation. A state chartered, nonprofit corporation that controls the transmission facilities of all participating transmission owners and dispatches certain generating units and loads.
COI	The California-Oregon Intertie. It is three 500-kilovolt lines linking California and Oregon making up the California-Oregon Transmission Project and Pacific Alternating Current Intertie transmission lines. The Western Systems Coordinating Council establishes the seasonal transfer capability for the California-Oregon Intertie.
COTP	The California-Oregon Transmission Project. A 500-kilovolt transmission project in which Western has part ownership.
CRD	Contract rate of delivery. The maximum amount of capacity made available to a preference customer for a period specified under a contract.
CVP	The Central Valley Project. A multipurpose Federal water development project extending from the Cascade Range in northern California to the plains along the Kern River south of the city of Bakersfield.
Capacity	The electric capability of a generator, transformer, transmission circuit or other equipment. It is expressed in kilowatts.
Capacity Rate	The rate that states the charge for capacity. It is expressed in dollars per kilowatt and applied to each kilowatt delivered to each customer.
Composite Rate	The rate for firm power. The annual revenue requirement for firm power divided by the total annual energy sales. It is expressed in mills per kilowatthour and used for comparison purposes.
Contract 2947A	Contract No. 14–06–200–2947A, as amended. The Western Area Power Administration's contract with the Pacific Gas and Electric, Southern California Edison, and San Diego Gas and Electric companies for extra high voltage transmission and exchange service.
Contract 2948A	Contract No. 14–06–200–2948A, as amended. The Pacific Gas and Electric Company's contract with the Western Area Power Administration for the sale, interchange, and transmission of power.
Corps	United States Army Corp of Engineers.
Customer	An entity with a contract and receiving service from the Western Area Power Administration's Sierra Nevada Customer Service Region.
DLL	Designated load level. The simultaneous load level at which the Western Area Power Administration buys capacity from the Pacific Gas and Electric Company at the lower of two capacity rates under Contract No. 14–06–200–2948A.
DOE Order RA6120.2	An order dealing with power marketing administration financial reporting and repayment criteria.
EA2	Energy Bank Account No. 2 between the Western Area Power Administration and the Pacific Gas and Electric Company under Contract No. 14–06–200–2948A.

Energy	Measured in terms of the work it is capable of doing over a period of time. It is expressed in kilowatthours.
Energy Rate	The rate that states the charge for energy. It is expressed in mills per kilowatthour and applied to each kilowatthour delivered to each customer.
FY	Fiscal year. October 1 to September 30.
Firm	A type of product and/or service available at the time requested by the customer.
First Preference Customer	An entity qualified to use preference power within a county of origin (Trinity, Calaveras, and Tuolumne) as specified under the Trinity River Division Act of August 12, 1955 (69 Stat. 719), and the Flood Control Act of 1962 (76 Stat. 1180).
kV	Kilovolt. The electrical unit of measure of electric potential that equals one thousand volts.
kvar	Kilovolt-ampere reactive. The electrical unit of measurement for reactive power in a circuit that equals one thousand volt-amperes.
kW	Kilowatt. The electrical unit of capacity that equals one thousand watts.
kWh	Kilowatthour. The electrical unit of energy that equals one thousand watts in one hour.
kWmonth	Kilowattmonth. The electrical unit of the monthly amount of capacity.
Load Factor	The ratio of average load in kilowatts supplied during a specified period to the peak or maximum load in kilowatts occurring in that period.
MW	Megawatt. The electrical unit of capacity that equals one million watts or one thousand kilowatts.
Mill	A monetary denomination of the United States that equals one tenth of a cent or one thousandth of a dollar.
Mills/kWh	Mills per kilowatthour. The unit of charge for energy.
NEPA	National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).
Net Revenue	Revenue remaining after paying all annual expenses.
Nonfirm	A type of product and/or service that may not be available at the time requested by the customer.
Northwest	Northwest United States, including Oregon and Washington.
PDC	Project Dependable Capacity. A negotiated amount of capacity and associated energy available from the CVP under contract 2948A.
Power	Capacity and energy.
Power Factor	The ratio of real to apparent power at any given point and time in an electrical circuit. Generally it is expressed as a percentage ratio.
Preference	The requirements of Reclamation law which state that preference in the sale of Federal power shall be given to municipalities and other public corporations or agencies and also to cooperatives and other nonprofit organizations financed in whole or in part by loans made under the Rural Electrification Act of 1936 (Reclamation Project Act of 1939, section 9(c), 43 U.S.C. 485h(c)).
Project Use	Power used to operate Central Valley Project facilities, pursuant to Reclamation law.
Provisional Rates	Rates the Deputy Secretary of Energy has confirmed, approved, and placed in effect on an interim basis.
Rate Brochure	A November 17, 2000, document prepared for public distribution that explains the rationale and development of the rates in this rate order.
Reclamation	United States Department of the Interior, Bureau of Reclamation.
Reclamation Law	A series of Federal laws. Viewed as a whole, these laws create the originating framework in which the Western Area Power Administration markets power.
Secretary	Secretary of the United States Department of Energy.
Sierra Nevada Region	The Sierra Nevada Customer Service Region of the Western Area Power Administration.
Western	United States Department of Energy, Western Area Power Administration.
Withdrawable	Power that may be withdrawn under certain conditions.

Effective Date

The provisional rates will take effect on the first day of the first full billing period beginning on or after April 1, 2001, and will be in effect pending FERC's approval of them or substitute final rates. The approved rates will stay in effect through December 31, 2004, or until superseded.

Public Notice and Comment

Western followed 10 CFR part 903, Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions, in developing these rates. The steps Western took to involve interested parties in the rate development process are:

1. The proposed rate adjustment started on August 25, 2000, with a letter to all CVP preference customers and interested parties announcing an informal rate workshop on August 31, 2000. Two additional informal rate meetings were held on September 20, 2000, and October 5, 2000, in Folsom, California, to discuss Western's proposed rates. Western explained the rationale for the rate adjustment, presented rate designs and methodologies, and answered questions.

2. A **Federal Register** notice published on November 8, 2000 (65 FR 66989), officially announced the proposed rates for the CVP and COTP, started the public consultation and comment period, and announced the public information and public comment forums.

3. On November 13, 2000, Western's Sierra Nevada Customer Service Region sent a letter to all CVP preference customers and interested parties announcing the times and locations for two public forums.

4. On November 17, 2000, 1 p.m., Western held a public information forum in Folsom, California. Western gave detailed explanations of the proposed rates for the CVP and COTP, supplied a list of issues that could change the proposed rates, answered questions, and gave notice that it would supply additional information at the public comment forum. A rate brochure and handout were made available.

5. On December 13, 2000, 1 p.m., Western held a public comment forum in Folsom, California. Western presented updated proposed rates for CVP firm power, gave a detailed explanation of the updates to the proposed rates, answered questions, and distributed information about the updated rates. Western then gave the public an opportunity to comment for the record. Two representatives made oral comments.

6. Western received four comment letters during the consultation and comment period, which ended December 29, 2000. Western considered all comments received during the comment period.

Project Description

Initially authorized by Congress in 1935, CVP is a large water and power system that covers about one-third of the state of California. Legislation set the purposes of CVP in priority as: (1) Improvement of navigation; (2) river regulation; (3) flood control; (4) irrigation; and (5) power. The CVP Improvement Act of 1992 added fish and wildlife as a priority between irrigation and power.

The CVP is within the Central Valley and Trinity River basins of California. It includes 18 dams and reservoirs with a total storage capacity of 13 million acre-feet. The system includes 615 miles of canals, 5 pumping facilities, 10 powerplants with a maximum operating capability of about 2,021 MW, about 946 circuit-miles of high voltage transmission lines, 15 substations, and 16 communication sites. Reclamation operates the water control and delivery system and all of the powerplants except the San Luis Unit, which the State of California operates for Reclamation.

The Emergency Relief Appropriations Act of 1935 authorized Reclamation to build the CVP, including Shasta and Keswick Dams on the Sacramento River. The initial authorization included powerplants at Shasta and Keswick Dams along with high voltage transmission lines to transmit power from Shasta and Keswick Powerplants to the Tracy Pumping Plant and to integrate Federal hydropower into other electric systems.

Additional CVP facilities were authorized by Congress through a series of laws. The American River Division was authorized in 1944 and includes the Folsom Dam and Powerplant and the Nimbus Dam and Powerplant on the American River. The Trinity Dam and Powerplant, Judge Francis Carr Powerplant, and Spring Creek Powerplant were authorized as part of the Trinity River Divison in 1955. The San Luis Unit was authorized in 1960 and includes the B. F. Sisk San Luis Dam and San Luis Reservoir, O'Neill and Dos Amigos Pumping Plants, and William R. Gianelli Pump-Generator. In 1962, Congress authorized for integration into CVP New Melones, which is a Corps project.

In 1964, Congress authorized the 500-kV Intertie. Western has a 400 MW entitlement of transmission capacity on the Intertie. On July 31, 1967, Reclamation (Western's predecessor), PG&E, the Southern California Edison Company, and the San Diego Gas & Electric Company entered into Contract 2947A to coordinate the operation of the Intertie to transmit electric power between the Northwest and the Pacific Southwest.

In marketing Federal hydroelectric power generated from the CVP, Western currently has 80 preference and 34 project use customers serving an estimated 2 million people.

In 1967, PG&E and Reclamation (Western's predecessor) executed Contract 2948A, allowing for the sale, interchange, and transmission of electric capacity and energy between Western and PG&E. Contract 2948A also includes provisions for integrating power generated from the CVP with Western's 400 MW of entitlement on the Intertie. The contract also states PG&E will support a maximum simultaneous demand of 1,152 MW for preference customers through 2004. If CVP power cannot meet obligations to preference customers, Contract 2948A gives Western the right to purchase capacity and energy from PG&E to meet those requirements. Any energy in excess of project use loads and Western's obligations to preference customers can be sold to PG&E through an energy banking provision in the contract. The energy made available under this banking arrangement allows Western to supplement CVP generation to meet preference customer load.

Power generated from the CVP is first dedicated to project use. The remaining power is allocated to various preference customers in California. Types of preference customers include: (1) Irrigation and water districts; (2) public utility districts; (3) municipalities; (4) Federal agencies; (5) State agencies; and (6) rural electric cooperatives.

Each preference customer's CRD includes firm long-term power allocations, and may include withdrawable allocations that are currently allocated to, but unused by, another customer. For this rate adjustment, it is assumed that all customer withdrawable CRDs can be withdrawn in the event the maximum simultaneous demand of 1,152 MW in Contract 2948A is exceeded.

Western's preference customer maximum simultaneous demand of 1,152 MW excludes project use loads. The maximum simultaneous demand is the sum of each preference customer's demand for CVP power at a coincidental moment, adjusted to the load center at the Tracy Switchyard. Despite the simultaneous demand limit, Western has contractual obligations to serve about 1,502 MW of firm CRD to its preference customers. This level of CRD can be served because of the diversity in customers' loads.

The COTP is a 342-mile, 500-kV transmission project that electrically interconnects the Northwest to California with the third alternating current intertie. Operational since March 1993, COTP interconnects with the transmission systems of the Northwest at Captain Jack Substation and with the Pacific Southwest by its connection near the Tesla Substation to the existing Intertie. Project owners include Western and several non-Federal participants.

Power Repayment Study

Western prepares a power repayment study (PRS) each FY to decide if revenues will be sufficient to pay, within the prescribed time periods, all costs assigned to the CVP power function. Repayment criteria are based on law, policies including DOE Order RA6120.2, and authorizing legislation. The CVP rate adjustment PRS reflects an increase in customer load, purchase power costs, Reclamation O&M costs, and CVP and COTP transmission and CVP project use revenues. It also reflects the suspension in Western's Northwest purchase power contracts. The PRS shows enough revenue to pay all annual costs, including interest expense, and repays investment in the allowable period.

Transmission Cost-of-Service Study

The CVP and COTP firm and nonfirm transmission provisional formula rates consist of two components. Component 1 recovers the cost of the CVP transmission system and COTP. Component 2 is any transmission-related costs incurred by Western due to electric industry restructuring or other industry changes. A cost-of-service study determines component 1. The CVP transmission system and COTP have separate cost-of-service studies that are used for the firm and nonfirm provisional formula rates. The studies identify the costs associated with facilities that support the transfer capability of the CVP transmission system and COTP, excluding generation facilities and radial lines.

There are two primary reasons for the increase in transmission costs in the CVP cost-of-service study. One reason is facilities that support the transfer capability of the CVP transmission system (excluding generation facilities and radial lines) are included as transmission. The second reason is the increase in transmission O&M expenses. O&M not directly charged to a facility is charged to transmission based on a ratio of transmission plant to total plant.

The transmission costs from the COTP cost-of-service study have not changed

significantly. However, the termination of a contractual obligation to provide standby transmission service increased the amount of capacity available for sale. The amount of COTP capacity used in component 1 of the formula rate will change with the seasonal transfer capability of the COI.

Existing and Provisional Rates

CVP Firm Power

The provisional rates for CVP firm power are designed to recover an annual revenue requirement that includes the investment repayment, interest, purchase power costs, O&M expenses, and any charges or credits associated with the creation, termination, or modification to any tariff, contract, or schedule approved or accepted by FERC under which Western takes service.

Western also developed provisional rates for CVP firm power with the transmission revenue requirement removed. These rates would apply if Western joins the CAISO or an RTO and if the CAISO or RTO uses the transmission revenue requirement to develop a regional transmission rate. Western has not made a decision on joining the CAISO or RTO. The decision to join the CAISO or an RTO is not part of this rate adjustment process. These rates are also designed to recover an annual revenue requirement that includes investment repayment, interest, purchase power, O&M expense, and any charges or credits associated with the creation, termination, or modification to any tariff, contract, or schedule accepted or approved by FERC.

A comparison of the existing rates and both sets of provisional rates for CVP firm power are in the next two tables.

COMPARISON OF EXISTING AND PROVISIONAL RATES, CVP FIRN POWER WITH THE TRANSMISSION REVENUE REQUIREMENT INCLUDED

Rate Period	Existing Rates (Effective 04/01/01 to 09/30/01)	Provisional Rates	Percent Change
Composite Rate (mills/kWh):			
04/01/01 to 09/30/01	18.56	20.08	8
10/01/01 to 09/30/02		23.83	28
10/01/02 to 09/30/03		24.63	33
10/01/03 to 09/30/04		24.73	33
10/01/04 to 12/31/04		30.83	66
Capacity Rate ($/kWmonth):			
04/01/01 to 09/30/01	3.81	3.44	(10)
10/01/01 to 09/30/02		3.73	(2)
10/01/02 to 09/30/03		3.89	2
10/01/03 to 09/30/04		3.86	1
10/01/04 to 12/31/04		3.80	
Energy Rate (mills/kWh):			
04/01/01 to 09/30/01	10.51	14.01	33
10/01/01 to 09/30/02		17.68	68
10/01/02 to 09/30/03		18.22	73
10/01/03 to 09/30/04		18.38	75
10/01/04 to 12/31/04		24.97	138

Note: In addition to the provisional firm power rates above, any charges or credits associated with the creation, termination, or modification to any tariff, contract, or schedule accepted by FERC will be passed through to the appropriate customer(s).

COMPARISON OF EXISTING AND PROVISIONAL RATES, CVP FIRM POWER WITH THE TRANSMISSION REVENUE REQUIREMENT REMOVED

Rate Period	Existing Rates (Effective 04/01/01 to 09/30/01)	Provisional Rates	Percent Change
Composite Rate (mills/kWh):			
04/01/01 to 09/30/01	18.56	18.51	
10/01/01 to 09/30/02		22.48	21
10/01/02 to 09/30/03		23.26	25
10/01/03 to 09/30/04		23.41	26
10/01/04 to 12/31/04		29.47	59
Capacity Rate ($/kWmonth):			
04/01/01 to 09/30/01	3.81	2.55	(33)
10/01/01 to 09/30/02		2.91	(24)
10/01/02 to 09/30/03		3.08	(19)
10/01/03 to 09/30/04		3.05	(20)
10/01/04 to 12/31/04		2.92	(23)
Energy Rate (mills/kWh):			
04/01/01 to 09/30/01	10.51	14.01	33
10/01/01 to 09/30/02		17.68	68
10/01/02 to 09/30/03		18.18	73
10/01/03 to 09/30/04		18.38	75
10/01/04 to 12/31/04		24.97	138

Note: Customers are required to buy transmission at an additional cost under these rates. In addition to the provisional firm power rates above, any charges or credits associated with the creation, termination, or modification to any tariff, contract, or schedule accepted by FERC will be passed through to the appropriate customer(s).

CVP Transmission Services and Transmission of CVP Power by Others

The provisional formula rate for CVP firm transmission includes two components.

$$\text{Component 1} = \frac{\text{transmission revenue requirement}}{\text{CVP capacity} + \text{total transmission capacity under long-term contracts}}$$

Component 1 =transmission revenue requirement CVP capacity + total transmission capacity under long-term contracts

Component 1 is the ratio of Western's transmission revenue requirement (less revenue credits) to the sum of the maximum operating capacity under normal operating conditions of the northern CVP powerplants (CVP capacity) and the total transmission capacity under long-term contract between Western and other parties. The Northern CVP powerplants are Judge Francis Carr, Folsom, Keswick, Nimbus, Shasta, Spring Creek, and Trinity. Western will revise the rate from component 1 of the provisional formula rate based on updated data as of April 30 of each year. Western will also revise the rate from component 1 if there is a change in the numerator or denominator that results in a rate change of at least $.05/kWmonth.

Component 2 is for any transmission-related costs incurred by Western due to electric industry restructuring or other industry changes. The costs in component 2, as well as any changes to these costs, will be passed on to each appropriate transmission customer.

The provisional formula rates for CVP transmission services are based on a revenue requirement that recovers: (1) The costs of facilities that support the transfer capability of the CVP transmission system (excluding generation facilities and radial lines); (2) the nonfacilities costs allocated to transmission; and (3) any transmission-related costs incurred by Western due to electric industry restructuring or other changes in the industry. The provisional formula rate includes Western's cost for scheduling, system control and dispatch service and reactive supply and voltage control service needed to support the transmission service. The provisional formula rates apply to existing CVP firm and nonfirm transmission services and future point-to-point transmission services. If the rates from the provisional formula rates are higher than other transmission rates in California, then firm or nonfirm transmission service for 1 year or less may be sold at lower rates. The provisional rate for transmission of CVP power by others is a pass through cost, which is the same as the existing rate. This table compares the existing and the estimated rates from the provisional formula rates for CVP transmission services and for transmission of CVP power by others.

COMPARISON OF EXISTING AND PROVISIONAL FORMULA RATES CVP FIRM AND NONFIRM TRANSMISSION RATE SCHEDULES

Rate period	Existing rates (effective 04/01/01 to 09/30/01)	Estimated rates from the provisional formula rates	Percent rates change
Firm ($/kWmonth):			
04/01/01 to 09/30/01	0.51	0.70	37
10/01/01 to 04/30/02	.....	0.56	10
Nonfirm (mills/kWh):			
04/01/01 to 04/30/02	1.00	1.00	.....

COMPARISON OF EXISTING AND PROVISIONAL FORMULA RATES TRANSMISSION OF CVP POWER BY OTHERS RATE SCHEDULE

Rate period	Existing rate (effective 04/01/01 to 09/30/01)	Provisional rate	Percent change
04/01/01 to 12/31/04	Pass through Cost	Pass through Cost	Not Applicable.

Network Integration Transmission Service

If Western offers network integration transmission service, it will be made available consistent with FERC Order No. 888. The provisional formula rate for network integration transmission service includes two components. Component 1 is the product of the network customer's load ratio share, times 1/12 of the annual network transmission revenue requirement. The load ratio share is the network customer's hourly load coincident with Western's monthly CVP transmission system peak, minus the coincident peak for all firm CVP point-to-point transmission service, plus the reserved capacity of all firm point-to-point transmission service customers. Component 2 is any transmission-related costs incurred by Western due to electric industry restructuring or other industry changes. The costs in component 2, as well as any changes to these costs, will be passed through to each appropriate transmission customer as part of the network integration transmission revenue requirement. The provisional formula rate for network integration transmission service is based on a revenue requirement that recovers: (1) the cost for facilities that support the

transfer capability of the CVP transmission system (excluding generation facilities and radial lines); (2) the nonfacilities costs allocated to transmission; and (3) any transmission-related costs incurred by Western due to electric industry restructuring or other industry changes. The provisional formula rate includes Western's cost for scheduling, system control and dispatch service and reactive supply and voltage control service needed to support the transmission service.

Ancillary Services

Western will offer six ancillary services consistent with FERC Order No. 888. Two of the ancillary services will be supplied with the sale of CVP and/or COTP transmission services. These are scheduling, system control and dispatch, and reactive supply and voltage control services. The remaining four ancillary services are regulation and frequency response, energy imbalance, spinning reserve, and supplemental reserve. Availability and type of ancillary service will be based on excess resources at the time the service is requested, except for the two ancillary services supplied in conjunction with the sale of CVP and/or COTP transmission services. The appropriate transmission services rates include costs for scheduling, system control and dispatch service and reactive supply and voltage control service. The major factor for the increase in the spinning reserve, supplemental reserve, and regulation and frequency response services rates is the increase in Reclamation power O&M expenses. This table compares the existing and the provisional rates.

COMPARISON OF EXISTING AND PROVISIONAL ANCILLARY SERVICES RATES CVP ANCILLARY SERVICE RATE SCHEDULES

Ancillary service type	Existing rates	Provisional rates	Percent change
Scheduling, System Control and Dispatch Service.	Appropriate transmission rates include Western's cost.	Appropriate transmission rates include Western's cost.	NA
Reactive Supply and Voltage Control Service.	Appropriate transmission rates include Western's cost.	Appropriate transmission rates include Western's cost.	NA
Regulation and Frequency Response Service.	Monthly: $1.48/kWmonth	Monthly: $2.496/kWmonth	69
	Weekly: $.336/kWweek	Weekly: $0.574/kWweek	71
	Daily: $.048/kWday	Daily: $0.082/kWday	71
Energy Imbalance Service	*Within Limits of Deviation Band:* Accumulated deviations are to be corrected or eliminated within 30 days. Any net deviations that are are to accumulated at the end of the month (positive or negative) are to be exchanged with like hours of energy or charged at the composite rate then in effect for CVP firm power.	*Within Limits of Deviation Band:* Accumulated deviations are to be corrected or eliminated within 30 days. Any net deviations that are are to accumulated at the end of the month (positive or negative) are to be exchanged with like hours of energy or charged at the composite rate then in effect for CVP firm power.	NA
	Outside Limits of Deviation Band: Positive Deviations—The greater of no charge, or any additional cost incurred. Negative Deviations—during on-peak hours is the greater of 3 times the composite rate then in effect for CVP firm power or any additional cost incurred. During off-peak hours is the greater of the composite rate then in effect for CVP firm power or any additional cost incurred.	*Outside Limits of Deviation Band:* Positive Deviations—The greater of no charge, or any additional cost incurred. Negative Deviations—during on-peak hours is the greater of 3 times the composite rate then in effect for CVP firm power or any additional cost incurred. During off-peak hours is the greater of the composite rate then in effect for CVP firm power or any additional cost incurred.	
Spinning Reserve Service	Monthly: $1.35/kWmonth	Monthly: $2.946/kWmonth	118
	Weekly: $.3024/kWweek	Weekly: $0.672/kWweek	121
	Daily: $.0432/kWdayHourly: $.0018/kWh	Daily: $0.096/kWday	122
		Hourly: $0.0040/kWh	122
Supplemental Reserve Service	Monthly: $1.27/kWmonth	Monthly: $2.491/kWmonth	96
	Weekly: $.2856/kWweek	Weekly: $0.574/kWweek	100
	Daily: $.0408/kWday	Daily: $0.082/kWday	100
	Hourly: $.0017/kWh	Hourly: $0.0034/kWh	100

Power Scheduling Service

Western supplies power scheduling service for the scheduling of resources to meet load and reserve requirements. The provisional rate of $76.65 per hour will apply to the estimated time for each customer's service. The rate is designed to recover only the cost incurred for supplying the service.

Scheduling Coordinator Service

Scheduling coordinator service is a new service for scheduling, real-time dispatching, and financial settlements with the CAISO and/or power exchanges. The provisional rate of $76.65 per hour will apply to the estimated time for each customer's service. The rate is designed to recover only the cost incurred for supplying the service.

Provisional Formula Rates for COTP Transmission Services

The provisional formula rate for COTP transmission includes two components.

$$\text{Component 1} = \frac{\text{transmission revenue requirement}}{\text{Western's share of COTP seasonal capacity}}$$

Component 1 is the ratio of the transmission revenue requirement (less revenue credits) to Western's share of COTP seasonal capacity. Western will update the rate from component 1 at least 15 days before the start of each season. Seasonal definitions for summer, winter, and spring are June through October, November through March, and April through May, respectively.

Component 2 is any transmission-related costs incurred by Western due to electric industry restructuring or other industry changes. The costs in component 2, as well as any changes to these costs, will be passed on to each appropriate transmission customer.

The provisional rates for COTP transmission service are based on a revenue requirement that recovers: (1) Western's share of costs for facilities that support the transfer capability of the COTP; (2) Western's share of the nonfacilities costs allocated to transmission; and (3) any transmission-related costs incurred by Western due to electric industry restructuring or other changes in the industry. The provisional formula rates include Western's cost for scheduling, system control and dispatch service and reactive supply and voltage control service needed to support the transmission service. The provisional formula rates apply to existing COTP firm and nonfirm transmission services and future point-to-point transmission services. If the estimated rates from the provisional formula rates are higher than other transmission rates in California, firm or nonfirm transmission service for 1 year or less may be sold at lower rates. No generation resources or loads are directly connected to the COTP, so network integration transmission service is not offered for the COTP.

This table compares the existing and estimated rates from the provisional formula rates for transmission services for Western's share of the COTP.

COMPARISON OF EXISTING AND PROVISIONAL FORMULA RATES, COTP TRANSMISSION RATE SCHEDULES

Rate Period	Existing Rates	Estimated Rates from Provisional Formula Rates	Percent change
Firm Transmission Rate ($/kWmonth):			
04/01/01 to 03/31/02	1.34	Summer—.94	(30)
		Winter—1.12	(16)
		Spring—1.00	(25)
Nonfirm Transmission Rate (mills/kWh):			
04/01/01 to 03/31/02	1.45	Summer—1.29	(11)
		Winter—1.54	6
		Spring—1.37	(6)

Certification of Rates

Western's Administrator certified that the provisional rates for CVP firm power, CVP transmission services, transmission of CVP power by others, network integration transmission service, ancillary services, power scheduling service, scheduling coordinator service, and COTP transmission services are the lowest possible rates consistent with sound business principles. The provisional rates were developed under administrative policies and applicable laws.

Discussion

CVP Firm Power

According to Reclamation law, Western must establish power rates sufficient to recover operation, maintenance, and purchase power expenses, and repay the Federal Government's investment. Rates must also recover interest expenses on the unpaid balance of facilities' investments, replacements and additions, and certain nonpower costs in excess of the irrigation users' ability to repay.

A FERC order issued January 8, 1998, confirmed and approved the existing CVP commercial firm power rates for October 1, 1997, through September 30, 2002. Under Rate Schedule CV–F9 for FY 2001, the composite rate is 18.56 mills/kWh, the base energy rate is 10.51 mills/kWh, and the capacity rate is $3.81/kWmonth. The provisional rates for CVP firm power result in an overall composite rate increase of about 8 percent on April 1, 2001. On a composite rate basis, the provisional rates increase during the rate case period compared to the existing rates due primarily to increased purchased power costs. To use CVP power resources to their maximum benefit, Western supports CVP generation with capacity and energy purchases mainly from PG&E. The provisional rates increase after April to September 2001 due to the depletion of EA2 in September 2001. The increases in FY 2002 and FY 2003 are due to increases in prices for short-term purchases and power from PG&E. In FY 2004, these increases are offset by decreases in O&M and other expenses. The significant increase in rates during October through December 2004 recovers short-term power purchase costs for PDC support due to lower CVP generation during those months. Western will also pass through to each appropriate customer any charges or credits associated with the creation, termination, or modification to any tariff, contract, or schedule accepted or approved by FERC.

The provisional rates for CVP firm power with the transmission revenue requirement removed in Rate Schedule CV–F10 will result in an overall composite rate of 18.51 mills/kWh on April 1, 2001. This results in a change of less than 1 percent when compared with the existing rates under Rate Schedule CV–F9.

The cost of the CVP power generation is split equally between the capacity and energy revenue requirements. The amount of capacity and energy available from the CVP hydroelectric system varies widely because of hydrologic conditions. These conditions can also impact the value of the capacity and energy. Due to this variability, an equal split between the capacity and energy revenue requirements is used to recover the CVP power generation cost, which reflects its actual costs associated with providing power to all CVP customers.

The existing rates under Rate Schedule CV–F9 reflect a 5-year average split of 46 percent to capacity and 54 percent to energy. Both sets of provisional rates are based on allocating the total annual CVP revenue requirement split between capacity and energy in this way:

1. For the rates that include the transmission revenue requirement, the capacity revenue requirement includes 100 percent of capacity purchase costs, 100 percent of CVP and COTP

transmission expense, and 50 percent of the annual CVP investment repayment, interest expense, and power O&M expense allocated to power. Projected CVP and COTP transmission revenue and 50 percent of projected CVP project use revenue reduce the annual costs that make up the capacity revenue requirement. The capacity revenue requirement for the rates that have the transmission revenue requirement removed is the same, except the CVP and COTP transmission expense and revenue are excluded from the calculation.

2. The energy revenue requirement includes 100 percent of energy purchase costs and 50 percent of the annual CVP investment repayment, interest expense, and power O&M expense allocated to power. Projected surplus power revenue and 50 percent of projected CVP project use revenue reduce annual costs that make up the energy revenue requirement.

3. Western will pass through to each appropriate customer any charges or credits associated with the creation, termination, or modification to any tariff, contract, or schedule accepted or approved by FERC under which Western takes service.

The resulting percentage splits for the provisional rates with the transmission revenue requirement included vary from 19 percent allocated to capacity during October 1, 2004, through December 31, 2004, to 30 percent allocated to capacity in FY 2001, primarily due to changes in purchase power costs each year. The average split for the rate period is 25 percent to capacity and 75 percent to energy. This table is the annual percentage splits between the capacity and energy revenue requirements.

ENERGY/CAPACITY SPLITS WITH THE TRANSMISSION REVENUE REQUIREMENT INCLUDED

Effective period	Capacity (percent)	Energy (percent)
04/01/01–9/30/01	30	70
10/01/01–9/30/02	26	74
10/01/02–9/30/03	26	74
10/01/03–9/30/04	26	74
10/01/04–12/31/04	19	81
Average for the 5 periods	25	75

The resulting percentage splits for the provisional rates with the transmission revenue requirement removed vary from 15 percent allocated to capacity during October 1, 2004, through December 31, 2004, to 24 percent allocated to capacity in FY 2001, primarily due to changes in purchase power costs each year. The average split for the rate period is 21 percent to capacity and 79 percent to energy. This table is the annual percentage splits between the capacity and energy revenue requirements.

ENERGY/CAPACITY SPLITS WITH THE TRANSMISSION REVENUE REQUIREMENT REMOVED

Effective period	Capacity (percent)	Energy (percent)
04/01/01–9/30/01	24	76
10/01/01–9/30/02	21	79
10/01/02–9/30/03	22	78
10/01/03–9/30/04	21	79
10/1/04–12/31/04	15	85
Average for the 5 periods	21	79

Power Factor Adjustment

The power factor adjustment under existing Rate Schedule CV–F9 will continue and is included in the provisional rates for CVP firm power. The low power factor charge (LPF charge) will continue to encourage preference customers to monitor and maintain power factors at 95 percent or greater. Western will continue the existing LPF charge under Rate Schedule CV–F10, which includes a rate of $2.50/kvar for additional kvar required to raise the customer's power factor to 95 percent. The $2.50/kvar rate is the estimated cost of Western purchasing and installing equipment to increase a customer's power factor plus an additional charge to encourage customers to monitor poor power factors. The LPF charge will be applied when the customer does not maintain a calculated 95 percent or greater power factor.

The customer's computed power factor used to decide if a charge will be assessed is the arithmetic mean of the customer's measured monthly average power factor and the measured monthly on-peak power factor, rounded to the nearest whole percent with 0.5 percent or greater rounded to the next higher percent. As recorded at the customer's point of delivery, the measured on-peak power factor is equal to the power factor measured during a customer's maximum peak demand for each month. If multiple occurrences of the same peak demand occur, the lowest associated power factor will be used. The measured average power factor will be the average power factor for the billing month. Those customers with multiple meter points will be charged for the ''totalizer'' of the multiple meter points. The monthly on-peak and average power factors are those recorded for CVP power only.

Low Voltage Loss Adjustment

The low voltage adjustment under existing Rate Schedule CV–F9 will continue and is included in the provisional rates for CVP firm power. A loss adjustment factor of 1.035 will be applied to the billed amounts for low voltage CVP power deliveries on PG&E's system under Contract 2948A.

Revenue Adjustment Clause

The RAC provides for a comparison between the projected net revenues in the rate adjustment PRS to the actual net revenues. If the actual net revenue is more than the projected net revenue, CVP preference customers receive a credit. If actual net revenue is less than the projected net revenue, CVP preference customers may pay a surcharge, if needed, to make a minimum investment payment. The limit for the annual RAC credit or surcharge is $20 million, plus any purchase or exchange power contract adjustments during the FY for which the RAC is being calculated. The RAC is calculated annually and the associated distribution of the RAC credit or surcharge occurs during a 9-month period on power bills issued January through September. For customers whose RAC credits cannot be fully credited through nine equal monthly amounts, Western has the option to increase the RAC credit during August and September. The FY 2001 RAC calculation will be based on the net revenue for FY 2001, including revenues and expenses for October 2000 to March 2001, which is outside of the rate adjustment period. A RAC will be calculated for October through December 2004. The maximum RAC credit or surcharge for October through December 2004 is $10 million plus any purchase or exchange power contract adjustments applied to the April to September 2005 bills.

CVP Transmission Services and Transmission of CVP Power by Others

Provisional formula rates developed for CVP firm and nonfirm transmission services are consistent with FERC Order No. 888. The estimated rate from the provisional formula rate for firm CVP transmission service on April 1, 2001, is $0.70/kWmonth, a 37-percent increase from the existing rate of $0.51/kWmonth under Rate Schedule CV–FT3. Based on an Open Access Transmission Tariff service agreement to supply CVP transmission service in the future, on October 1, 2001, the estimated rate from the provisional formula rate in Rate Schedule CV–FT4 will be $.56/kWmonth. The estimated rate resulting from the formula rate for CVP nonfirm transmission service will be 1.00 mills/kWh, which is the same as the existing rate under Rate Schedule CV–NFT3. There are two primary reasons for the increase in CVP firm transmission rates. The first reason is including in the transmission revenue requirement the costs associated with facilities that support the transfer capability of the CVP transmission system (excluding generation facilities and radial lines). The second reason is the increase in transmission O&M expenses. O&M not directly charged to a facility is charged to transmission based on a ratio of transmission plant to total plant.

Western will pass on to the CVP customer transmission service costs Western incurs in the delivery of CVP power over a third party's transmission system. Annual transmission pass through revenues and expenses are included in the PRS to account for all charges, even though the net effect is zero. Transmission pass through revenues and expenses are estimated using existing customer load forecasts and project use requirements and applicable transmission service rates. Transmission pass through revenues and expenses primarily consist of payments to PG&E for transmission services to preference and project use loads and payments to the Sacramento Municipal Utility District for transmission service to preference customers.

Network Integration Transmission Service

If Western offers network integration transmission service, it will be consistent with FERC Order No. 888. Due to existing contractual arrangements, Western may not be able to supply network integration transmission service; however, a formula rate is included in case Western offers the service.

Ancillary Services

Western allocates most of its power resources to preference entities under long-term commitments; therefore, availability and type of ancillary service will be based on excess resources at the time the service is requested, except for the two ancillary services supplied with the sale of CVP and/or COTP transmission services. The appropriate transmission services rates include costs for scheduling, system control and dispatch and reactive supply and voltage control services.

The provisional rates for ancillary services are designed to recover the costs for these services. The primary reason for the 69-percent increase in the monthly regulation and frequency response service rate, 118-percent increase in the monthly spinning reserve rate, and 96-percent increase in the monthly supplemental reserve service rate is the increase in the Reclamation O&M expenses. Standards and practices used in the electric utility industry are the basis for the provisional rate for energy imbalance service. Western used a detailed cost-of-service study for developing the provisional rates for regulation and frequency response, spinning reserve, and supplemental reserve services. These rates are based on the costs of CVP facilities used in supplying the service. The CVP facilities used to supply regulation and frequency response, spinning reserve, and supplemental reserve services are the Shasta, Folsom, Trinity, New Melones, Spring Creek, and Judge F. Carr Powerplants. The Nimbus and Keswick Powerplants are not available because of river run conditions. There are no governors at the O'Neill Powerplant and the W. R. Gianelli pump-generator, which makes them unavailable for supplying the services.

Power Scheduling Service

Western supplies power scheduling service for scheduling resources to meet load and reserve requirements. The provisional rate for power scheduling service is designed to recover only the cost incurred by Western for supplying the service. This results in a 1-percent increase compared to the existing rate in Rate Schedule CV–PSS1 of $75.80 per hour on April 1, 2001. The provisional rate includes two cost components. The first is the FY 2000 hourly cost for dispatcher and/or scheduler resources, escalated for the rate adjustment period to calculate an average hourly cost. The second is an hourly cost for equipment necessary to supply the service.

Scheduling Coordinator Service

Scheduling coordinator service is a new service offered by Western that allows for scheduling, real-time dispatching, and financial settlements with the CAISO and/or power exchanges. The rate is designed to recover only the cost incurred for supplying the service. The provisional rate includes two cost components. The first is the FY 2000 hourly cost for scheduling, dispatching, settlements, supervisory control and data acquisition, and other resources, escalated for the rate adjustment period to calculate an average hourly cost. The second is an hourly cost for equipment necessary to supply the service.

COTP Transmission Services

Provisional formula rates developed for COTP firm and nonfirm transmission services are consistent with FERC Order No. 888. The estimated rates from the provisional formula rate for firm transmission service for Western's share of the COTP will result in a 30-percent decrease in the summer, a 16-percent decrease in the winter, and a 25-percent

decrease in the spring compared to the existing rate of $1.34/kWmonth on April 1, 2001. The estimated rates from the provisional formula rate for COTP firm transmission service for April 1, 2001, through March 31, 2002, are: summer—$.94/kWmonth, winter—$1.12/kWmonth, and spring—$1.00/kWmonth. The estimated rates from the provisional formula rate for nonfirm COTP transmission service will result in an 11-percent decrease in the summer, a 6-percent increase in the winter, and a 6-percent decrease in the spring compared to the existing rate of 1.45 mills/kWh on April 1, 2001. The estimated rates from the provisional formula rates for COTP nonfirm transmission service for April 1, 2001, through March 31, 2002, are: summer—1.29 mills/kWh, winter—1.54 mills/kWh, and spring—1.37 mills/kWh. In the previous rate case, Western developed COTP rates based on the entire transfer capability of the COI, which is 4,800 MW. However, due to the variability of the COI transfer capability, which impacts Western's share of the COTP capacity available for sale, Western developed formula rates for COTP transmission services. The primary factor for the decrease in the firm and nonfirm COTP rates is the termination of a contractual obligation to provide standby transmission service which increases the capacity available for sale.

Statement of Revenue and Related Expenses

The following table gives a summary of revenues and expenses for the existing 5-year rate period and the provisional rate period.

CVP COST EVALUATION RATE PERIOD

[Revenues and Expenses, in thousands of dollars]

	Existing rates FY 1998–FY 2002	Provisional rates April 1, 2001—December 2004	Difference
Total revenues	824,651	928,925	104,274
Revenue distribution:			
O&M	216,776	187,600	(29,176)
Purchase power	390,689	609,623	218,934
Transmission	80,335	57,229	(23,106)
Interest	54,536	21,486	(33,050)
Other	9,073	13,568	4,495
Investment repayment	73,242	39,419	(33,823)

Note: The revenues and expenses for the existing rates are for 5 years. Those for the provisional rates are for 3 years and 9 months.

The following table provides a summary of the average annual revenues and expenses for the existing and provisional rate periods.

CVP COMPARISON OF COST EVALUATION RATE PERIOD

[Average Annual Revenues and Expenses, in thousands of dollars]

	Existing rates average annual	Provisional rates average annual	Difference
Total Revenues	164,930	247,713	82,783
Revenue distribution:			
O&M	43,355	50,027	6,672
Purchase power	78,138	162,566	84,428
Transmission	16,067	15,261	(806)
Interest	10,907	5,730	(5,177)
Other	1,815	3,618	1,803
Investment repayment	14,648	10,512	(4,136)

Basis for Rate Development

The existing rates for CVP commercial firm power, CVP transmission services, transmission of CVP power by others, network transmission service, ancillary services, and power scheduling service in Rate Schedules CV–F9, CV–FT3, CV–NFT3, CV–TPT4, CV–NWT1, CV–RFS1, CV–EID1, CV–SPR1, CV–SUR1, and CV–PSS1, expire September 30, 2002. Scheduling coordinator service is a new service offered by Western. The rate adjustment contains rates that replace the existing rates and adds a rate for the new service. The adjusted rates reflect increases in customers' CVP power purchases, purchase power costs, and Reclamation O&M costs. The adjusted rates also reflect the pass through of FERC-accepted or -approved costs or credits, and changes in transmission rate methodology. The provisional rates will provide sufficient revenue to pay all annual costs, including interest expense and FERC-accepted or -approved costs or credits, and repayment of required investment in the allowable period. The provisional rates are scheduled to go in effect on April 1, 2001, and remain in effect through December 31, 2004.

The provisions for power factor adjustment, low voltage loss adjustment, and revenue adjustment are part of the provisional rates for CVP firm power. The provisions and methodologies for power factor adjustment and low voltage loss adjustment are not being modified and will remain as specified in Rate Schedule CV–F9. The methodology for revenue adjustment has been modified to reflect the expanded limit for the RAC credit or surcharge of $20 million, $10 million for October to December 2004, plus any purchase power or exchange contract adjustments during the FY for which the RAC is being calculated.

Update to the Proposed Rates

During the public process, changes were made to the proposed rates for CVP firm power. On November 17, 2000, during the public information forum, Western told all interested parties of its intent to update the proposed CVP firm power rates. Western presented these updates to the proposed rates at the December 13, 2000, public comment forum. The updates are detailed below.

Firm Power

1. Western added purchase power costs required to support PDC. Western expects PDC support purchases to occur in the rate case period due to recent purchases made for that purpose.
2. Western has suspended its Northwest purchase power contracts. As a result, Western will be buying more capacity from PG&E at the DLL and will also be buying more energy from PG&E. The contract suspensions also cause EA2 to be depleted in September 2001.
3. Western will also pass any charges or credits associated with the creation, termination, or modification to any tariff, contract, or schedule accepted or approved by FERC.
4. Western updated PG&E rates for capacity and energy based on current agreements. Western also increased the capacity purchased under the DLL.
5. Western also made adjustments to data in the firm power rate design model to reconcile that data to the data in the PRS and CVP transmission rate cost-of-service study.
6. In the RAC limit, Western included exchange energy contract language.

After the public process was complete it was necessary to change the CVP power repayment study as was contemplated during the December 13, 2000, public comment forum. This change is due to purchase power costs for PDC support for October 2000 through March 2001. As a result of this change, there is less net revenue and slightly higher interest expense for the rate adjustment period, but all costs are recovered and repayment criteria met within the allowable timer limits. No changes were made to composite power rates. The energy and capacity rates changed slightly due to the change in net revenue and interest expense.

Comments

During the public consultation and comment period, Western received 5 written comments from 4 customers on the rate adjustment. In addition, two customer representatives commented during the December 13, 2000, public comment forum. All comments received by the end of the public consultation and comment period, December 29, 2000, were reviewed and considered in this rate order.

Written comments were received from the following sources: City of Redding (California), Trinity County Public Utility District (California), City of Roseville (California), Sacramento Municipal Utility District (California)

Comments received addressed the CVP energy rates, forecasted market rates, RAC limits, simplification of CVP firm power rate structure, pass through of FERC-approved charges or credits, power rates with the transmission revenue requirement removed, CAISO pass through costs, and CVP transmission rates. The following summarizes comments received and Western's responses to those comments. Specific comments are used for clarification where necessary.

CVP Power Rates

Comment: Allowing adjustment without limitation to CVP energy rates leaves the customer with no ability to predict its Western costs. The rates should be developed using contractual conditions as they exist today. Under that premise, Western's major wholesale power costs are predictable enough that unlimited changes to the energy rate are unnecessary. If at some point in the future a significant change occurs to Western's cost structure, Western should implement another rate case.

Response: The comment addresses a rate proposal that was discussed during the informal process and was not part of the proposed or updated proposed rates for CVP firm power.

Comment: The forecasted market rates for Western's long-term Northwest contracts are too high.

Response: The suspension of the Northwest contracts for the rate adjustment period was included in the updates to the proposed rates. This comment is not relevant to the updated proposed rates.

Comment: The annual RAC limit of $20 million ($10 million for October through December 2004) plus any adjustment to Western's purchased power contract expenses is not appropriate. This RAC limit provides no assurance of maximum cost to customers and no guidance to Western on a reasonable range of operating cost variance. Western should develop a hedging strategy for PDC support purchases to keep Western within a RAC limit of $20 million.

Response: Western is willing to work with the customers on developing a hedging strategy for PDC support purchases. As part of the updates to the proposed rates, Western added language to the RAC limit to allow for exchanges of power in addition to purchases of power, which should aid in limiting Western's exposure to market prices for PDC support. Due to the many factors outside of Western's control that can contribute to the need for PDC support purchases, Western feels it is prudent to retain the updated proposed RAC limit. These factors include changes in project water deliveries due to environmental requirements, project use pumping, and unscheduled maintenance outages. Maintaining the updated proposed RAC limit ensures timely repayment of project expenses and capital investment.

Comment: A rate schedule without tiered capacity or energy rates or the Annual Energy Rate Alignment (AERA) is appreciated. There is no legitimate purpose for Western to apply an AERA once EA2 is depleted.

Response: Western simplified the rate structure because the benefit of using the tiered rates and AERA is negligible, given the condition of the electric power industry.

Pass Through of FERC-Approved Charges and Credits

Comment: The pass through of FERC-approved charges or credits is unacceptable. The pass through results in an unlimited right to change CVP power rates and makes it impossible to predict Western power costs. If there is a material change in the expected overall purchase power costs to Western, Western should initiate another rate case. If the cumulative effect of all FERC pass through costs increases Western's composite rates by more than 10 percent, Western should complete a new rate case within 6 months.

Response: Western feels it is necessary to include the pass through of FERC-approved charges or credits in the updated proposed rates because of Western's exposure to changes in FERC-approved charges or credits under its existing contracts that support Western's power marketing program. In the recent past, there has been an increase in Western costs that were approved by FERC subject to refund. Western needs to recover FERC-approved charges or refund credits from its customers in a timely manner to ensure appropriate repayment of project expenses and capital investment. Additionally, adopting this comment could impact our ability to finance our purchase power program. Western understands customers' concerns about the inability to predict Western's costs and will make every effort to notify the

customers of pending changes to Western's costs due to FERC actions. FERC-approved charges or credits can go into effect within 60 days. Western cannot complete a rate case in that time. When FERC makes a final determination on costs paid by Western under its existing contracts, Western will evaluate the need for another rate case.

CAISO/Electric Utility Restructuring

Comment: It is premature for Western to set rate policy that speculates on Western's joining the CAISO or an RTO, or the pass through of costs that may exist after Western joins an CAISO or an RTO.

Response: Western's decision to join the CAISO or an RTO is not part of this rate process. However, Western believes it is prudent to develop rates that would accommodate Western's joining the CAISO or an RTO, particularly in light of FERC Order No. 2000. The pass through of CAISO- or RTO-related costs can occur independent of Western's decision to join or not to join the CAISO or an RTO. For example, in June 2000 FERC approved, subject to refund, payment of Reliability Service costs that are CAISO-related costs, by Western customers.

CVP Transmission Service Rates

Comment: The rate increase up to $.70/kW-month and then down to $.56/kW-month is not appropriate and creates rate shock for the transmission customers. There has been no real change in the transmission service or addition to transmission facilities to justify the rate increase. The rate increase results from the reclassification of a significant portion of existing CVP facilities from the generation category to the transmission category. Western should limit the increase to 10 percent, which is supported by FERC precedent. Western should levelize the rate impact.

Response: Western reviewed the function of CVP facilities as part of the development of the transmission rate. Facilities that support the transfer capability of the transmission system were included in the transmission revenue requirement. Facilities that did not, such as generation tie lines and radial lines, were not included in the transmission revenue requirement. As a result of this review, there were only a few substations for which transmission costs were adjusted. The annual cost component for capital investment changed by less than $500,000 from the current transmission rates to the proposed transmission rates. The main reason for the increase in the CVP transmission rates is the increase in transmission O&M expenses. The transmission O&M expenses consist of O&M expenses directly charged to transmission facilities and non-direct charged O&M expenses. The non-direct charged O&M is allocated based on a ratio of transmission plant to total plant. This treatment of O&M expenses is consistent with utility industry standards and accepted by FERC. Increasing the rate by 10 percent or levelizing the rate is not consistent with a formula rate and would not meet the comparability standard set by FERC. A levelized rate would result in Western charging transmission customers less than what it charges itself for transmission service. Western believes the CVP transmission rate design meets the spirit and intent of FERC Order No. 888.

Environmental Compliance

In compliance with the NEPA of 1969, 42 U.S.C. 4321, *et seq.*; Council on Environmental Quality Regulations, 40 CFR parts 1500–1508; and DOE NEPA Regulations, 10 CFR part 1021, Western determined this action is categorically excluded from the preparation of an environmental assessment or an environmental impact statement.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866. This notice is not required to be cleared by the Office of Management and Budget.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a final rule is likely to have a significant economic impact on a substantial number of small entities and there is a legal requirement to issue a general notice of proposed rulemaking. Western has determined this action does not require a regulatory flexibility analysis since it is a rulemaking of particular applicability involving rates or services applicable to public property.

Small Business Regulatory Enforcement Fairness Act

Western determined this rule is exempt from congressional notification requirements under 5 U.S.C. 801 because the action is a rulemaking of particular applicability relating to rates or services and involves matters of procedure.

Availability of Information

Information about this rate adjustment, including PRS, comments, letters, memorandums, and other supporting material made or kept by Western used to develop the provisional rates, is available for public review. This information is in the Power Marketing Manager's office, Sierra Nevada Customer Service Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, California.

Submission to the Federal Energy Regulatory Commission

The provisional rates herein confirmed, approved, and placed into effect, together with supporting documents, will be submitted to FERC for confirmation and final approval.

Order

In view of the foregoing and under the authority delegated to me by the Secretary of Energy, I confirm and approve on an interim basis, effective April 1, 2001, Rate Schedules CV–F10, CV–FT4, CV–NFT4, CV–TPT5, CV–NWT2, CV–RFS2, CV–EID2, CV–SPR2, CV–SUR2, CV–PSS2, CV–SCS1, COTP–FT2, and COTP–NFT2 for the Central Valley Project and for the California-Oregon Transmission Project, for the Western Area Power Administration. On April 10, 2001, by Amendment No. 4 to Delegation Order No. 0204–108, the Secretary of Energy delegated to Western's Administrator the authority to confirm, approve, and place into effect on an interim basis the rates in the Central Valley Project and California-Oregon Transmission Project-Rate Order No. WAPA–95. The rate schedules will remain in effect on an interim basis, pending FERC confirmation and approval of them or substitute rates on a final basis through December 31, 2004.

Dated: April 13, 2001.

Michael S. Hacskaylo,
Administrator.

Rate Schedule CV–F10

(Supersedes Schedule CV–F9)

Central Valley Project

Schedule of Rates for Firm Power

Effective

The first day of the first full billing period beginning on or after April 1, 2001, through December 31, 2004.

Available

Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable

To the firm power customers for general power service.

Character and Conditions of Service

Alternating current, 60 hertz, three-phase, delivered and metered at the voltages and points established by contract.

Monthly Rates With Transmission Revenue Requirement Included

Period	Capacity	Energy
04/01/01–09/30/01	$3.44/kWmonth	14.01 mills/kWh.
10/01/01–09/30/02	$3.73/kWmonth	17.68 mills/kWh.
10/01/02–09/30/03	$3.89/kWmonth	18.22 mills/kWh.
10/01/03–09/30/04	$3.86/kWmonth	18.38 mills/kWh.
10/01/04–12/31/04	$3.80/kWmonth	24.97 mills/kWh.

The table below contains rates with the transmission revenue requirement removed from the firm power revenue requirement. These rates would apply if Western joins the California Independent System Operator (CAISO) or Regional Transmission Organization (RTO) and if the CAISO or RTO uses the transmission revenue requirement to develop a regional transmission rate.

Monthly Rates With Transmission Revenue Requirement Removed

Period	Capacity	Energy
04/01/01–09/30/01	$2.55/kWmonth	14.01 mills/kWh.
10/01/01–09/30/02	$2.91/kWmonth	17.68 mills/kWh.
10/01/02–09/30/03	$3.08/kWmonth	18.18 mills/kWh.
10/01/03–09/30/04	$3.05/kWmonth	18.38 mills/kWh.
10/01/04–12/31/04	$2.92/kWmonth	24.97 mills/kWh.

Pass Through of FERC–Accepted or –Approved Charges or Credits

Any charges or credits associated with the creation, termination, or modification to any tariff, contract, or schedule accepted or approved by FERC, under which Western takes service, will be passed on to each appropriate customer. These FERC-accepted or -approved charges or credits are applicable to both sets of capacity and energy rates described above.

When possible, Western will pass through directly to the appropriate customer the FERC-accepted or -approved charges or credits in the same manner Western is charged or credited. If the FERC-accepted or -approved charges or credits cannot be passed through directly to the appropriate power customer, the charges or credits will be passed through using the CVP firm power rate design methodology. The rate design consists of the following allocation of costs. The capacity revenue requirement includes 100 percent of capacity purchase costs, 100 percent of CVP and COTP transmission expense, and 50 percent of the annual investment repayment, interest expense, and O&M expense allocated to power. These annual costs are reduced by the projected CVP and COTP transmission revenues and 50 percent of the projected CVP project use revenue to determine the capacity revenue requirement. The capacity revenue requirement for the rates that have the transmission revenue requirement removed is the same, except the CVP and COTP transmission expense and revenue are excluded from the calculation. The energy revenue requirement for both sets of proposed rates includes 100 percent of energy purchase costs and 50 percent of the annual investment repayment, interest expense, and O&M expense allocated to power. These annual costs are reduced by 50 percent of the projected project use revenues and the projected revenue from surplus power sales to determine the energy revenue requirement.

Billing

Demand: The rates listed above for capacity will be the charge per kilowatt (kW) of billing demand. The billing demand is the highest 30-minute integrated demand measured or scheduled during the month up to, but not in excess of, the delivery obligation under the power sales contract.

Adjustments

Billing for Unauthorized Overruns

For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual obligation for capacity and/or energy, the overrun will be billed at 10 times the applicable rates above.

For Revenue Adjustment

The following method will be used for the revenue adjustment clause (RAC) calculation:

1. If the actual net revenue is greater than the projected net revenue for the RAC calculation period, a revenue credit will be allocated during the RAC adjustment period. The credit will equal the difference between the actual net revenue and projected net revenue, represented by the following formula:

If ANR > PNR then C = ANR − PNR

Where:
ANR = Actual Net Revenue
PNR = Projected Net Revenue
C = Credit

2. If actual net revenue is less than the projected net revenue for the RAC calculation period, a revenue surcharge will be allocated during the RAC adjustment period.

2.1 If the actual net revenue is negative, the surcharge will be equal to the minimum investment payment plus the annual deficit, represented by the following formula:

If ANR < PNR and < 0 then S = MIP + AD

Where:
ANR = Actual Net Revenue
PNR = Projected Net Revenue
MIP = Minimum Investment Payment
AD = Annual Deficit
S = Surcharge

2.2 If the actual net revenue is positive, the surcharge will equal the minimum investment payment less the actual net revenue, represented by the following formula:

If ANR < PNR and > 0 then S = MIP − ANR (if ANR > MIP, S = 0)

Where:
ANR = Actual Net Revenue
PNR = Projected Net Revenue
MIP = Minimum Investment Payment
S = Surcharge

If the actual net revenue is greater than the minimum investment payment, there is no surcharge.

3. The maximum RAC credit or surcharge is $20 million, $10 million for October through December 2004, plus the amount of purchase or exchange power contract adjustments used in recording associated expense.

4. The RAC credit or surcharge will be allocated to each CVP firm power customer based on the proportion of the customer's billed obligation to Western for CVP firm capacity and energy to the total billed obligation for all CVP firm power customers for CVP firm capacity and energy for the RAC calculation period.

5. For purposes of the RAC computation, the following terms are defined:

5.1 Actual Net Revenue—The recorded net revenue.

5.2 Annual Deficit—The amount of recorded annual expenses, including interest, exceeding recorded annual revenues.

5.3 Minimum Investment Payment—The lesser of 1 percent of the recorded unpaid investment balance at the end of the FY prior to the RAC calculation period, or the projected net revenue.

5.4 Projected Net Revenue—The annual net revenue available for investment repayment projected in the rate adjustment power repayment study (PRS) during the FY that RAC is being calculated (see Table 1).

5.5 RAC Adjustment Period—The period January 1 through September 30, following the RAC calculation period when credits or surcharges will be applied to the power bills. For customers whose RAC credits cannot be fully credited through nine equal monthly amounts, Western may increase the RAC credit on the August and September power bills. For October 1 through December 31, 2004, see item 6 below.

5.6 RAC Calculation Period—The last recorded FY (October 1 through September 30). For October 1 through December 31, 2004, see item 6 below.

5.7 Recorded Net Revenue—The annual net revenue available for repayment recorded in the PRS for the FY the RAC is being calculated.

5.8 RAC will be calculated for FY 2001, even though the October 2000 to March 2001 portion of the FY is outside the rate case period. The revenues and expenses for FY 2001 will be used to determine the RAC for FY 2001.

6. A RAC will be calculated for October through December 2004. It will be allocated to each CVP firm power customer consistent with the procedure in item 4 above. The resulting RAC credit or surcharge will be applied to power bills issued from April to September 2005, if the customer has a power contract with Western during 2005. If the customer does not, Western will issue a bill or check for the October to December 2004 RAC surcharge or credit in April 2005.

TABLE 1.—PROJECTED NET REVENUE AVAILABLE FOR INVESTMENT REPAYMENT FOR REVENUE ADJUSTMENT CLAUSE

Period	Projected net revenue
October 1, 2000–September 30, 2001	$4,923,466
October 1, 2001–September 30, 2002	11,887,939
October 1, 2002–September 30, 2003	10,426,583
October 1, 2003–September 30, 2004	12,905,190
October 1, 2004–December 31, 2004	1,737,596

For Transformer Losses

If delivery is made at transmission voltage but metered on the low voltage side of the substation, the meter readings will be increased to compensate for transformer losses as stated in the contract.

For Power Factor Adjustment

The customer must maintain a power factor at all points of measurement between 95 percent lagging and 95 percent leading. The low power factor (LPF) charge will be applied when the customer does not maintain a 95 percent or greater power factor. The charge for additional kilovolt ampere reactive (kvar) required to raise the customer's power factor to 95 percent will be calculated by multiplying the customer's monthly maximum peak demand by the LPF charge for the customer's calculated power factor in Table 2. The kvar rate in the LPF charge is $2.50 per kvar.

TABLE 2.—LOW POWER FACTOR CHARGE

Calculated power factor	LPF Charge ($/kW)
0.95	$0.00
0.94	0.09
0.93	0.17
0.92	0.24
0.91	0.32
0.90	0.39
0.89	0.46
0.88	0.53
0.87	0.60
0.86	0.66
0.85	0.73
0.84	0.79
0.83	0.86
0.82	0.92
0.81	0.99
0.80	1.05
0.79	1.12
0.78	1.18
0.77	1.25
0.76	1.32
0.75 and below	1.38

The rules and limitations of the LPF charge are as follows:

1. The calculated power factor used to determine if a charge will be assessed is the arithmetic mean of the customer's measured monthly average power factor and their measured monthly on-peak power factor, rounded to the nearest whole percent with 0.5 percent or greater rounded to the next higher percent.

2. The measured on-peak power factor equals the power factor measured during the customer's maximum peak demand for each month, as recorded at the customer's point of delivery. If there are multiple occurrences of the same peak demand, the lowest associated power factor will be used. The measured average power factor will be the average power factor for the billing month. If the customer has multiple points of delivery, the power factor will be determined from the total information from the points of delivery. The monthly average and on-peak power factors are those recorded for CVP power only.

3. The upper limit for both the monthly average and measured on-peak power factors is 95 percent. Customers will receive no credit for operating between 100 percent and 95 percent power factors.

4. The LPF charge will apply to calculated power factors less than 95 percent, lagging or leading.

5. Customers with a monthly maximum peak demand less than or equal to 50 kW will not be subject to the LPF charge.

6. Western may waive the LPF charge for good cause in whole or in part.

Rate Schedule CV–FT4

(Supersedes Schedule CV–FT3)

Schedule of Rate for Firm Transmission Service

Effective

The first day of the first full billing period beginning on or after April 1, 2001, through December 31, 2004.

Available

Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable

To firm transmission service where power is received into the CVP system at points of receipt with other systems and transmitted and delivered to points of delivery on the CVP system as agreed to by the parties.

Character and Conditions of Service

Transmission service for three-phase alternating current at 60 hertz, delivered and metered at the voltages and points of delivery. It includes scheduling, system control and dispatch service and reactive supply and voltage control service needed to support the transmission service.

Formula Rate

The formula rate for firm CVP transmission has two components.

Component 1 is the following formula:

$$\frac{\text{TRR}}{\text{CVPc} + \text{TTc}}$$

Where:

TRR = Transmission Revenue Requirement—the costs associated with facilities that support the transfer capability of the CVP transmission system, excluding generation facilities and radial lines. These costs include investment cost, interest expense, and operation and maintenance (O&M) expense, less revenue credits.

CVPc = CVP Capacity—the sum of the maximum operating capacity of the Northern CVP powerplants under normal operating conditions. Northern CVP powerplants are Judge Francis Carr, Folsom, Keswick, Nimbus, Shasta, Spring Creek, and Trinity.

TTc = Total Transmission Capacity—the total transmission capacity under long-term contract between Western and other parties.

Component 2 is any transmission-related costs incurred by Western due to electric industry restructuring or other industry changes associated with providing CVP transmission service. The costs in component 2, and any changes to these costs, will be passed through to each appropriate transmission customer.

Western will revise the rate from component 1, as of April 30 of each year, based on previous year's annual financial data available. In addition to the annual update on April 30 of each year, Western will also revise the rate from component 1 if there is a change in the numerator or denominator that results in a rate change of at least $.05 per kilowattmonth. Customers will be notified of the rate change 30 days before the first bill is issued using the changed rates.

If the rates from the formula rate are higher than other transmission rates in California, transmission service for 1 year or less may be sold at a lower rate.

Billing

The rate from the formula rate listed above will be applied monthly to the maximum amount of capacity reserved, payable whether used or not.

Adjustments

For Losses

Losses incurred from the transmission and delivery of power under this rate schedule will be accounted for as agreed to by the parties.

Rate Schedule CV–NFT4

(Supersedes Schedule CV–NFT3)

Schedule of Rate for Nonfirm Transmission Service

Effective

The first day of the first full billing period beginning on or after April 1, 2001, through December 31, 2004.

Available

Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable

To nonfirm transmission service where power is received into the CVP system at points of receipt with other systems and transmitted and delivered, subject to the availability of transmission capacity, to points of delivery on the CVP system as agreed to by the parties.

Character and Conditions of Service

Transmission service on an intermittent basis for three-phase alternating current at 60 hertz, delivered and metered at the voltages and points of delivery. It includes scheduling, system control and dispatch service and reactive supply and voltage control service needed to support the transmission service.

Formula Rate

The formula rate for nonfirm CVP transmission has two components. Component 1 is the following formula:

$$\frac{\text{TRR}}{\text{CVPe} + \text{TTe}}$$

Where:

TRR = Transmission Revenue Requirement—the costs associated with facilities that support the transfer capability of the CVP transmission system, excluding generation facilities and radial lines. These costs include investment cost, interest expense, and operation and maintenance (O&M) expense, less revenue credits.

CVPe = CVP energy—the energy associated with the maximum operating capacity of the Northern CVP powerplants under normal operating conditions. Northern CVP powerplants are Judge Francis Carr, Folsom, Keswick, Nimbus, Shasta, Spring Creek, and Trinity.

TTe = Total Transmission energy—the energy associated with the total transmission capacity under long-term contract between Western and other parties.

Component 2 is any transmission-related costs incurred by Western due to electric industry restructuring or other industry changes associated with providing CVP transmission service. The costs in component 2, as well as any changes to these costs, will be passed through to each appropriate transmission customer.

Western will revise the rate from component 1, as of April 30 of each year, based on previous year's annual financial data available. Western will also revise the rate from component 1 if there is a change in component 1 of the CVP firm transmission rate of at least $.05 per kilowattmonth. Customers will be notified of the rate change 30 days before the first bill is issued using the changed rates.

If the rates from the formula rate are higher than other transmission rates in

California, transmission service for 1 year or less may be sold at a lower rate.

Billing

The rate resulting from the formula rate listed above will be applied to each kWh delivered at the point of delivery, as specified in the service contract.

Adjustments

For Losses

Losses incurred in connection with the transmission and delivery of power under this rate schedule will be accounted for as agreed to by the parties.

Rate Schedule CV–TPT5

(Supersedes Schedule CV–TPT4)

Schedule of Rate for Transmission of CVP Power by Others

Effective

The first day of the first full billing period beginning on or after April 1, 2001, through December 31, 2004.

Available

Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable

To power service customers of the CVP who require transmission service by a third party to receive power sold by Western.

Character and Conditions of Service

Transmission service for three-phase alternating current at 60 hertz, delivered and metered at the voltages and points of delivery as agreed to by the parties.

Formula Rate

When Western incurs costs for using transmission facilities, other than its own, in supplying service under a customer's power sales contract, the customer will pay all costs, including transmission losses, incurred in the delivery of power. For billing purposes, transmission losses will be added to the meter readings of the capacity and energy delivered to the customer under the customer's power sales agreement with Western. For power deliveries under Contract No. 14–06–200–2948A (Contract 2948A) on the Pacific Gas and Electric Company's system, the transmission losses charged to the customer will be those losses that are in excess of the ''at or above 44-kilovolt'' transmission losses specified by Contract 2948A.

Rate Schedule CV–NWT2

(Supersedes Schedule CV–NWT1)

Schedule of Rate for Network Integration Transmission Service

Effective

The first day of the first full billing period beginning on or after April 1, 2001, through December 31, 2004.

Available

Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable

To customers who receive network integration transmission service, subject to the availability of transmission capacity, to points of delivery specified in the service agreement.

Character and Conditions of Service

Transmission service for three-phase, alternating current at 60 hertz, delivered and metered at the voltages and points of delivery. It includes scheduling, system control and dispatch service and reactive supply and voltage control service needed to support the transmission service.

Formula Rate

The formula rate for network transmission service consists of two components.

Component 1 is the product of the network customer's load ratio share times 1/12 of the annual network transmission revenue requirement. The load ratio share is the network customer's hourly load coincident with Western's monthly CVP transmission system peak, minus the coincident peak for all firm CVP (including reserved capacity) point-to-point transmission service, plus the reserved capacity of all firm point-to-point transmission service customers. The network transmission revenue requirement is the cost associated with facilities that support the transfer capability of the CVP transmission system, excluding generation facilities and radial lines.

Component 2 is for any transmission-related costs incurred by Western due to electric industry restructuring or other industry changes associated with providing network integration transmission service. The costs in component 2, as well as any changes to these costs, will be passed through to each appropriate transmission customer as part of the network integration transmission revenue requirement.

Billing

Billing determinants for the formula rate above will be as specified in the service agreement.

Adjustments

For Losses

Losses incurred in connection with the transmission and delivery of power under this rate schedule will be accounted for as stated in the service agreement.

Rate Schedule CV–RFS2

(Supersedes Schedule CV–RFS1)

Schedule of Rates for Regulation and Frequency Response Service

Effective

The first day of the first full billing period beginning on or after April 1, 2001, through December 31, 2004.

Available

Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable

To customers receiving regulation and frequency response service.

Character and Conditions of Service

Regulation and frequency response service provides generation to match resources and loads on a real-time continuous basis.

Rates

Regulation and Frequency Service Charge:
Monthly: $2.496 per kilowattmonth.
Weekly: $0.574 per kilowattweek.
Daily: $0.082 per kilowattday.

Billing

The rates listed above will be applied to the maximum service amount in kilowatts agreed to in the service agreement, payable whether used or not.

Rate Schedule CV–EID2

(Supersedes Schedule CV–EID1)

Schedule of Rate for Energy Imbalance Service

Effective

The first day of the first full billing period beginning on or after April 1, 2001, through December 31, 2004.

Available

Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable

To customers receiving energy imbalance service.

Character and Conditions of Service

Energy imbalance service supplies energy when a difference occurs between the scheduled and actual delivery of energy to a load or from a generation resource within a control area over a single month. The hourly deviation, in megawatt units, is the net scheduled amount of energy for the hour minus the hourly net metered (actual delivered) amount.

Formula Rate

Within Limits of Deviation Band

Accumulated deviations are to be corrected or eliminated within 30 days. Any net deviations accumulated at the end of the month (positive or negative) are to be exchanged with like hours of energy or charged at the composite rate for CVP firm power then in effect.

Outside Limits of Deviation Band

1. Positive Deviations—the greater of no charge, or any additional cost incurred.
2. Negative Deviations—during on-peak hours, the greater of three times the rate for CVP firm power or any additional cost incurred. During off-peak hours, the greater of the rate for CVP firm power or any additional cost incurred.

Billing

The billing determinants for the above formula rate will be specified in the service agreement.

Rate Schedule CV–SPR2

(Supersedes Schedule CV–SPR1)

Schedule of Rates for Spinning Reserve Service

Effective

The first day of the first full billing period beginning on or after April 1, 2001, through December 31, 2004.

Available

Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable

To customers receiving spinning reserve service.

Character and Conditions of Service

Spinning reserve service supplies capacity that is available the first 10 minutes to take load and is synchronized with the power system.

Rates

Spinning Reserve Service Charge:
Monthly: $2.946 per kilowattmonth.
Weekly: $0.672 per kilowattweek.
Daily: $0.096 per kilowattday.
Hourly: $0.0040 per kilowatthour.

Billing

The rates listed above will be applied to the maximum service amount in kilowatts agreed to in the service agreement, payable whether used or not.

Rate Schedule CV–SUR2

(Supersedes Schedule CV–SUR1)

Schedule of Rates for Supplemental Reserve Service

Effective

The first day of the first full billing period beginning on or after April 1, 2001, through December 31, 2004.

Available

Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable

To customers receiving supplemental reserve service.

Character and Conditions of Service:

Supplemental reserve service supplies capacity that is not synchronized with the power system but can be available to serve load within 10 minutes.

Rates

Supplemental Reserve Service Charge:
Monthly: $2.491 per kilowattmonth.
Weekly: $0.574 per kilowattweek.
Daily: $0.082 per kilowattday.
Hourly: $0.0034 per kilowatthour.

Billing:

The rates listed above will be applied to the maximum service amount in kilowatts agreed to in the service agreement, payable whether used or not.

Rate Schedule CV–PSS2

(Supersedes Schedule CV–PSS1)

Schedule of Rate for Power Scheduling Service

Effective

The first day of the first full billing period beginning on or after April 1, 2001, through December 31, 2004.

Available

Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable

To customers receiving power scheduling service.

Character and Conditions of Service

Power scheduling service provides for the scheduling of resources to meet loads and reserve requirements.

Rate

$76.65 per hour.

Billing

The rate listed above will be applied as stated in the service agreement.

Rate Schedule CV–SCS1

Schedule of Rate for Scheduling Coordinator Service

Effective

The first day of the first full billing period beginning on or after April 1, 2001, through December 31, 2004.

Available

Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable

To customers receiving scheduling coordinator service.

Character and Conditions of Service

Scheduling Coordinator service provides for the scheduling, real-time dispatching, and financial settlements with the California Independent System Operator and/or power exchanges.

Rate

$76.65 per hour.

Billing

The rate listed above will be applied as stated in the service agreement.

Rate Schedule COTP–FT2

(Supersedes Schedule COTP–FT1)

Schedule of Rate for Firm Transmission Service

Effective

The first day of the first full billing period beginning on or after April 1, 2001, through December 31, 2004.

Available

Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable

To firm transmission service customers where power is received into the California-Oregon Transmission Project (COTP) at points of receipt with other systems and transmitted and delivered to points of delivery on the COTP as agreed to by the parties.

Character and Conditions of Service

Transmission service for three-phase, alternating current at 60 hertz, delivered and metered at the voltages and points of delivery. It includes scheduling, system control and dispatch service and

reactive supply and voltage control service needed to support the transmission service.

Formula Rate

The formula rate for COTP firm transmission includes two components.

Component 1 is the following formula:

$$\frac{TRR}{COTPsc}$$

Where:

TRR = Transmission Revenue Requirement—Western's share of the costs associated with facilities that support the transfer capability of the COTP. These costs include investment cost, interest expense, operation and maintenance (O&M) expense, less revenue credits.

COTPsc = COTP seasonal capacity—Western's share of capacity under the then current California-Oregon Intertie transfer capability for the season. Seasonal definitions for summer, winter, and spring are June through October, November through March, and April through May, respectively.

Western will update component 1 at least 15 days before the start of each season. Notification of rate changes will occur through the posting of the rate on the open access same time information system.

Component 2 is any transmission-related costs incurred by Western due to electric industry restructuring or other industry changes associated with providing COTP transmission service. The costs in component 2, as well as any changes to these costs, will be passed through to each appropriate transmission customer.

If the rates from the formula rate are higher than other transmission rates in California, transmission service for 1 year or less may be sold at a lower rate.

Billing

The rates listed above will be applied monthly to the maximum amount of capacity reserved, payable whether used or not.

Adjustments

For Losses

Losses incurred in connection with the transmission and delivery of power under this rate schedule will be accounted for as agreed to by the parties.

Rate Schedule COTP–NFT2

(Supersedes Schedule COTP–NFT1)

Schedule of Rate for Nonfirm Transmission Service

Effective

The first day of the first full billing period beginning on or after April 1, 2001, through December 31, 2004.

Available

Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable

To nonfirm transmission service customers where power is received into the California-Oregon Transmission Project (COTP) at points of receipt with other systems and transmitted and delivered, subject to the availability of transmission capacity, to points of delivery on the COTP as agreed to by the parties.

Character and Conditions of Service

Transmission service on an intermittent basis for three-phase, alternating current at 60 hertz, delivered and metered at the voltages and points of delivery. It includes scheduling, system control and dispatch service and reactive supply and voltage control service needed to support the transmission service.

Rate

The formula rate for COTP nonfirm transmission includes two components.

Component 1 is the following formula:

$$\frac{TRR}{COTPe}$$

Where:

TRR = Transmission Revenue Requirement—Western's share of the costs associated with facilities that support the transfer capability of the COTP. These costs include investment cost, interest expense, operation and maintenance expense, less revenue credits.

COTPe = Energy associated with COTP Seasonal Capacity—the energy associated with Western's share of capacity under the then current California-Oregon Intertie (COI) transfer capability for the season. Seasonal definitions for summer, winter, and spring are June through October, November through March, and April through May, respectively.

Western will update component 1 at least 15 days before the start of each season. Notification of rate changes will occur through the posting of the rate on the open access same time information system.

Component 2 is any transmission-related costs incurred by Western due to electric industry restructuring or other industry changes associated with providing COTP transmission service. The costs in component 2, as well as any changes to these costs, will be passed through to each appropriate transmission customer.

If the rates resulting from the formula rate are higher than other transmission rates in California, transmission service for 1 year or less may be sold at a lower rate.

Billing

The rates listed above will be applied to each kilowatthour delivered at the point of delivery, as specified in the service contract.

Adjustments

For Losses

Losses incurred in connection with the transmission and delivery of power and energy under this rate schedule will be accounted for as agreed to by the parties.

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Federal Register

Friday,
April 27, 2001

Part III

Department of Health and Human Services

Administration for Children and Families

Refugee Resettlement Office: Proposed Notice of Allocations to States of FY 2001 Funds for Refugee Social Services and Proposed Availability of Formula Allocation Funding for FY 2001 Targeted Assistance Grants for Services to Refugees in Local Areas of High Need; Notices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Refugee Resettlement Program: Proposed Notice of Allocations to States of FY 2001 Funds for Refugee Social Services

AGENCY: Office of Refugee Resettlement (ORR), ACF, HHS.

ACTION: Proposed notice of allocations to States of FY 2001 funds for refugee social services.

SUMMARY: This notice establishes the proposed allocations to States of FY 2001 funds for social services under the Refugee Resettlement Program (RRP). In the final notice, allocation amounts could be adjusted slightly based on final adjustments in FY 2000 arrivals in some States.

This notice includes $20.5 million in two set-aside funding allocations to: (1) Provide outreach and referral services to ensure that eligible refugees access the State Children's Health Insurance Program (SCHIP)and other programs for low income working populations and provide specialized interpreter training and the hiring of interpreters to enable refugees to have equal access to medical and legal services; and (2) provide outreach, referral, and social services to ensure that persons granted asylum access programs to help them attain economic self-sufficiency, as needed.

DATES: Comments on this notice must be received by May 29, 2001.

ADDRESSES: Address written comments, in duplicate, to: Barbara R. Chesnik, Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: Barbara R. Chesnik, Division of Refugee Self-Sufficiency, (202) 401–4558.

SUPPLEMENTARY INFORMATION:

I. Amounts For Allocation

The Office of Refugee Resettlement (ORR) has available $143,621,000 in FY 2001 refugee social service funds as part of the FY 2001 appropriation for the Department of Health and Human Services (Consolidated Appropriations Act, 2001, as enacted into law by Section 1(a)(1) of Pub. L. No. 106–554).

The FY 2001 House Appropriations Committee Report (H.R. Rept. No. 106–645) reads as follows with respect to social services funds:

> The bill provides $143,621,000 for social services, the same as the fiscal year 2000 appropriation and $305,000 above the budget request. Funds are distributed by formula as well as through the discretionary grant making process for special projects. The Committee agrees that $19,000,000 is available for assistance to serve communities affected by the Cuban and Haitian entrants and refugees whose arrivals in recent years have increased. The Committee has set aside $26,000,000 for increased support to communities with large concentrations of refugees whose cultural differences make assimilation especially difficult justifying a more intense level and longer duration of Federal assistance. Finally, the Committee has set aside $14,000,000 to address the needs of refugees and communities impacted by recent changes in Federal assistance programs relating to welfare reform. The Committee urges ORR to assist refugees at risk of losing, or who have lost benefits including SSI, TANF and Medicaid, in obtaining citizenship.

The FY 2001 Conference Report on Appropriations (H.R. Conf. 106–1033) reads as follows concerning social services:

> The agreement includes $20,000,000 from carryover funds that are to be used under social services to increase educational support to schools with a significant proportion of refugee children and for the development of alternative cash assistance programs that involve case management approaches to improve resettlement outcomes. Such support should include intensive English language training and cultural assimilation programs.
>
> The agreement also includes $26,000,000 for increased support to communities with large concentrations of refugees whose cultural differences make assimilation especially difficult justifying a more intense level and longer duration of Federal assistance.

The Conference report provided $143,621,000 in social services funds.

ORR proposes to use the $143,621,000 appropriated for FY 2001 social services as follows:

- $71,927,850 will be allocated under the 3-year population formula, as set forth in this notice for the purpose of providing employment services and other needed services to refugees.
- $12,693,150 will be awarded as continuation social service discretionary grants under prior year competitive grant announcements issued separately from this notice.
- $19,000,000 will be awarded to serve communities most heavily affected by recent Cuban and Haitian entrant and refugee arrivals. These funds will be awarded through continuation awards under a separate prior year announcement.
- $26,000,000 will be awarded through discretionary grants for communities with large concentrations of refugees whose cultural differences make assimilation especially difficult justifying a more intense level and longer duration of Federal assistance. Continuation awards will be made through separate prior year announcements.
- $14,000,000 will be awarded to address the needs of refugees and communities impacted by recent changes in Federal assistance programs relating to welfare reform. Awards will be made through separate announcements.
- $20,000,000 will be awarded in prior year funds to increase educational support to schools with a significant proportion of refugee children and for the development of alternative cash assistance programs that involve case management approaches to improve resettlement outcomes. This support will include intensive English language training and cultural assimilation programs. Continuation awards will be made through a separate prior year announcement.

In addition, we are proposing to add $20,500,000 in prior year funds to the FY 2001 formula social services allocation as two set-aside allocations as follows: (1) For outreach and assistance for low-income refugees and interpreter capacity building services, and (2) as a set-aside for outreach, referral, and services for asylees, increasing the total amount available for the formula social services program in FY 2001 to $92,427,850.

Congress provided ORR with broad carry-over authority in the FY 2000 HHS appropriations law (as enacted into law by section 1000(a)(4) of Public Law 106–113) to use unexpended FY 1998 and FY 1999 CMA funds for assistance and other activities in the refugee program provided through September 30, 2001. The appropriations law states:

> That funds appropriated pursuant to section 414(a) of the Immigration and Nationality Act under Public Law 105–78 for fiscal year 1998 and under Public Law 105–277 for fiscal year 1999 shall be available for the costs of assistance provided and other activities through September 30, 2001.

Refugee Social Service Funds

The population figures for the formula social services allocation include refugees, Cuban/Haitian entrants, and Amerasians from Vietnam. (A State must, however, have an approved State plan for the Cuban/Haitian Entrant Program or indicate in its refugee program State plan that Cuban/Haitian entrants will be served in order to use funds on behalf of entrants as well as refugees.)

The Director is proposing to allocate $71,927,850 to States on the basis of each State's proportion of the national

population of refugees who had been in the U.S. 3 years or less as of October 1, 2000 (including a floor amount for States which have small refugee populations).

The use of the 3-year population base in the allocation formula is required by section 412(c)(1)(B) of the Immigration and Nationality Act (INA) which states that the ''funds available for a fiscal year for grants and contracts [for social services] * * * shall be allocated among the States based on the total number of refugees (including children and adults) who arrived in the United States not more than 36 months before the beginning of such fiscal year and who are actually residing in each State (taking into account secondary migration) as of the beginning of the fiscal year.''

As established in the FY 1991 social services notice published in the **Federal Register** of August 29, 1991, section I, ''Allocation Amounts'' (56 FR 42745), a variable floor amount for States which have small refugee populations is calculated as follows: If the application of the regular allocation formula yields less than $100,000, then—

(1) A base amount of $75,000 is provided for a State with a population of 50 or fewer refugees who have been in the U.S. 3 years or less; and

(2) For a State with more than 50 refugees who have been in the U.S. 3 years or less: (a) A floor has been calculated consisting of $50,000 plus the regular per capita allocation for refugees above 50 up to a total of $100,000 (in other words, the maximum under the floor formula is $100,000); (b) if this calculation has yielded less than $75,000, a base amount of $75,000 is provided for the State.

The Director is also proposing to allocate an additional total of $20.5 million from prior year carry-over funds as two set-aside allocations as follow:

(1) $10.5 million to (a) provide referral services, including outreach, to ensure that refugees are able to access the State Children's Health Insurance Program (SCHIP) and other programs for low income populations; and (b) expand the capacity of communities to provide interpretation services for refugees through special training and hiring of interpreters to enable refugees to have equal access to medical, social, and certain legal services.

(2) $10 million to provide outreach, referrals, and social services to individuals granted asylum. The need for outreach to asylees is greatest immediately after asylum is granted and the services for asylees may be provided only during the 5-year period following the date that asylum was granted.

Outreach, referral and interpretation services are not subject to the 5-year limitation and may be provided to refugees and asylees regardless of their length of time in the U.S. *See* 45 CFR 400.152(b).

Regarding the first set-aside allocation, eligible refugee families often are not aware of, or do not know how to access, other Federal support programs available to low income working families in the community. We believe that these programs, including SCHIP, Food Stamps, Low Income Home Energy Assistance Program (LIHEAP), Medicaid, Head Start, low-income housing, the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), child care assistance, adult day care for aged dependents, and other support programs for low-income families, are important for the well-being of working refugees, particularly refugee families, and are necessary to help these refugees maintain employment and move toward full self-sufficiency.

The organizations funded by the first set-aside amount are expected to conduct outreach into the community to identify low-income refugees and to help these refugees enroll in and to be familiar with the services available and the participation requirements of these programs. We expect States to fund community-based organizations, to the maximum extent possible, to provide hands-on assistance, which means having the application forms available and helping refugees to fill out the application, accompanying the refugee to the eligibility office, assisting in the communication between the family and the eligibility worker, closely following the application process until the family has been found eligible, and then helping the family effectively use the service or support program in which they have been enrolled. For example, there may be different levels of medical coverage available to a family, depending on the ages of the children and the income level of the family, each with different requirements. It is important for the caseworkers/advocates funded through this initiative to understand the program requirements (such as a co-payment structure) in order to help the family make decisions and fully participate.

The organizations funded under this set-aside should develop effective ways to provide an on-going link between these services, the population they serve, and the targeted low income programs. Methods might include: partnering with schools to identify refugee children who may be eligible for SCHIP by virtue of their eligibility for the school lunch program; connecting with local Head Start programs to help identify refugee children who are eligible for SCHIP and other health care programs; arranging to have Medicaid eligibility workers visit the Mutual Assistance Association (MAA) or other participating organization on a scheduled basis; and working with other groups serving low income families, such as hospitals, WIC programs, low-income housing programs, and food assistance programs to make these services widely known to the refugee community being served.

It is also important that States provide as high a standard as possible in language interpretation to non-English speaking and to Limited-English-Proficient (LEP) refugees, particularly with regard to medical and legal issues. We are therefore including funding in the first set-aside for States to improve the availability and quality of interpreter services for refugees in their communities. The set-aside funds are to be used by States: (1) To fund specialized interpreter training for medical, legal, and social services; and (2) to pay for the hiring and employment of these trained interpreters by MAAs, voluntary agencies, and other community-based organizations serving refugees, to the maximum extent possible, in order to increase the number of skilled interpreters in the community.

Interpretation requires a great deal of skill—interpreters need to be fluent in English and the language spoken by the refugee. They must have the ability to quickly understand the message and terminology, if technical, in one language and to express it as quickly and correctly in another language. In addition to fluency in two languages, interpreters must have the skills to handle confidential client information and to deal with a variety of professionals in the medical, legal, law enforcement, social services, and other fields. All interpreters should be working under a recognized code of ethics.

States should use qualified training programs or trainers to provide the interpreter training. Several strategies may be employed, e.g., the direct training of interpreters in a group setting, paying the course tuition and associated expenses for individuals at a community college or university, and the training of trainers in order to establish and maintain an efficient training capacity in the community. To the extent possible, we would expect States to use an established curriculum rather than incurring costs to develop a new one. Funding of interpreter services

should be directed to areas of greatest need and to the most linguistically isolated communities.

States must determine a community's capacity to ensure refugee access to medical and other services, and then examine how best to fund and maintain interpreter services for refugees based upon the need and size of refugee population. For example, an interpreter bank with dedicated interpreters may be a preferred option if the needs of the community can justify full-time interpreters. However, because the provision of interpreter services may not fully occupy funded staff in some locations or in certain languages, States may choose to train bilingual caseworkers at voluntary resettlement agencies, MAAs and refugee service providers. These workers are frequently called upon to interpret and should receive interpreter training. States may also consider cross-training of interpreters so that they may also assist, for example, in enrolling clients in SCHIP, Medicaid, or other services for low-income clients, and/or serve as case managers or in other staff positions. Staff with both bilingual interpreter skills and knowledge of the family services network, such as child protective services and the domestic violence system, are also highly desirable.

We also encourage States to set up creative ways to maintain and expand the availability of interpreter services in the community, such as seeking reimbursement for services from the courts, hospitals, and agencies which may be able to pay for interpreter services but have been otherwise hindered in providing these services by the lack of available and appropriately trained individuals. Fees from low-income refugee clients, however, may not be sought.

Regarding the second set-aside allocation, individuals granted asylum do not have voluntary agency caseworkers to bring them into the network of refugee program and benefits. They often are unaware of the benefits to which they are entitled. Outreach activities under the second set-aside allocation should be conducted with the goal of providing information to asylees or of providing information to the agencies and organizations that traditionally have contact with asylees and may be able to assist them in accessing needed services and benefits. For example, outreach through organizations and agencies may include training seminars on benefits eligibility conducted for attorneys that represent asylum seekers, monthly liaison meetings with the District Office of the Immigration and Naturalization Service to establish effective contacts, or provision of benefits and eligibility materials to local English as a Second Language (ESL) programs for distribution to students. This set-aside amount may also be used to provide social services to asylees. Although the formula social services funds are available to serve asylees, States may augment this funding using these set-aside funds for those agencies who are already serving, or expect to serve, refugees and asylees. Or, States may elect to hold a separate competition for the funds, depending upon State administrative procedures and programmatic need. As for refugees, services to asylees are those covered in 45 CFR 400.154 and 400.155.

A State that can demonstrate that the total amount of set-aside funds awarded is not needed to provide the services described above may submit a written request to the Director to use a portion of the funds for another non-employment service. This request must fully describe how the need for the specified set-aside services is already being met in the State, as well as a description of the additional service proposed, why it is needed, and how it will be provided.

In using the set-aside amount, funds should be directed to refugee specific organizations, where possible, such as refugee MAAs, qualified community based organizations with refugee experience, voluntary resettlement agencies, or refugee service providers.

Population To Be Served and Allowable Services

Eligibility for refugee social services includes persons who meet all requirements of 45 CFR 400.43 (as amended by 65 FR 15409 (March 22, 2000). (Note: ORR State Letter No. 00–12 clarifies that effective June 15, 2000, persons granted asylum are eligible for refugee benefits and services from the date that asylum was granted.)

Services to refugees must be provided in accordance with the rules of 45 CFR Part 400 Subpart I—Refugee Social Services. Although the allocation formula is based on the 3-year refugee population, States are not required to limit social service programs to refugees who have been in the U.S. only 3 years. However, under 45 CFR 400.152, States may not provide services funded by this notice, except for referral and interpreter services and citizenship and naturalization preparation services, to refugees who have been in the United States for more than 60 months (5 years).

Allowable social services are those indicated in 45 CFR 400.154 and 400.155. Additional services not included in these sections which the State may wish to provide must be submitted to and approved by the Director of ORR (§ 400.155(h)).

Service Priorities

In the past, a number of States have focused primarily on serving refugee cash assistance (RCA) recipients because of the need to help these refugees become employed and self-sufficient within the 8-month RCA eligibility period. Now, with the passage of welfare reform, refugee recipients of Temporary Assistance for Needy Families (TANF) also face a time limit for cash assistance and need appropriate services as quickly as possible to become employed and self-sufficient. In order for refugees to move quickly off TANF, we believe it is crucial for these refugees to receive refugee-specific services that are designed to address the employment barriers that refugees typically face.

Some States are doing remarkably well in helping refugees achieve self-sufficiency. For this reason, this may be a good time for these States to re-examine the range of services they currently offer to refugees and expand beyond employment services to address the broader needs that refugees have in order to successfully integrate into the community.

States should also expect that these funds will be made available to pay for social services which are provided to refugees who participate in Wilson/Fish projects. Section 412(e)(7)(A) of the INA provides that:

> The Secretary [of HHS] shall develop and implement alternative projects for refugees who have been in the United States less than thirty-six months, under which refugees are provided interim support, medical services, support [social] services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers.

This provision is generally known as the Wilson/Fish Amendment. The Department has already issued a separate notice in the **Federal Register** with respect to applications for such projects (64 FR 19793 (April 22, 1999)).

II. (Reserved for Discussion of Comments in Final Notice)

III. Allocation Formulas

Of the funds available for FY 2001 for social services, $71,927,850 is allocated to States in accordance with the formula specified in A. below. In addition, $20.5

million in set-aside funds are allocated in accordance with the formulas specified in B. and C. below.

A. A State's allowable formula allocation is calculated as follows:

1. The total amount of funds determined by the Director to be available for this purpose; divided by—

2. The total number of refugees, Cuban/Haitian entrants, and Amerasians from Vietnam who arrived in the United States not more than 3 years prior to the beginning of the fiscal year for which the funds are appropriated, as shown by the ORR Refugee Data System. The resulting per capita amount is multiplied by—

3. The number of persons in item 2, above, in the State as of October 1, 2000, adjusted for estimated secondary migration.

The calculation above yields the formula allocation for each State. Minimum allocations for small States are taken into account.

B. A State's allowable first set-aside allocation is calculated as follows:

1. The total amount of funds determined by the Director to be available for this purpose; divided by—

2. The total number of refugees, Cuban/Haitian entrants, and Amerasians from Vietnam who arrived in the United States not more than 3 years prior to the beginning of the fiscal year for which the funds are appropriated, as shown by the ORR Refugee Data System. The resulting per capita amount is multiplied by—

3. The number of persons in item 2 above, in the State as of October 1, 2000, adjusted for estimated secondary migration.

C. A State's allowable second set-aside allocation is calculated as follows:

1. The total amount of funds determined by the Director to be available for this purpose; divided by—

2. The total number of asylees who were granted asylum in FY 2000 by the INS asylum corps (22,809), the asylum judges of the Executive Office of Immigration Review (12,763), and the Bureau of Immigration Appeals (1,402).

The calculations in B. and C. above yields the set-aside formula allocations for each State.

Adding the results for A., B., and C. above yields the total formula allocation for each State.

IV. Basis of Population Estimates

The population estimates for the allocation of funds in FY 2001 for the proposed formula social service allocation and the first set-aside are based on data on refugee arrivals from the ORR Refugee Data System, adjusted as of October 1, 2000, for estimated secondary migration. The data base includes refugees of all nationalities—Amerasians from Vietnam, and Cuban and Haitian entrants.

For fiscal year 2001, ORR's proposed formula social service allocations for the States are based on the numbers of refugees, Amerasians, and entrants in the ORR data base. The numbers are based upon the arrivals during the preceding three fiscal years: 1998, 1999, and 2000.

The estimates of secondary migration were based on data submitted by all participating States on Form ORR–11 on secondary migrants who have resided in the U.S. for 36 months or less, as of September 30, 2000. The total migration reported by each State was summed, yielding in- and out-migration figures and a net migration figure for each State. The net migration figure was applied to the State's total arrival figure, resulting in a revised population estimate.

Estimates were developed separately for refugees and entrants and then combined into a total estimated 3-year refugee/entrant population for each State. Eligible Amerasians are included in the refugee figures. Havana parolees (HP's) are enumerated in a separate column in Table 1, below because they are tabulated separately from other entrants. For FY 2000 and FY 1999, Havana parolee arrivals for all States are based on actual data. For FY 1998, Florida's HP's (10,183) are based on actual data, while HP's in other States (3,258) are prorated according to the State's proportion of the three-year entrant populations.

If a State does not agree with ORR's population estimate and wishes ORR to reconsider its numbers, it should submit written evidence to ORR, including a list of refugees identified by name, alien number, date of birth, and date of arrival. Listings of refugees who are not identified by their alien number will not be considered. Such evidence should be submitted separately from comments on the proposed allocation formula no later than 30 days from the date of publication of this notice and should be addressed to: Loren Bussert, Division of Refugee Self-Sufficiency, Office of Refugee Resettlement, 370 L'Enfant Promenade, SW., Washington, DC 20447, Telephone: (202) 401–4732.

The proposed second set-aside is based on the number of asylees granted asylum in FY 2000, according to data received from the Department of Justice for cases approved by the Asylum Corps, the immigration judges of the Executive Office of Immigration Review, and the Bureau of Immigration Appeals. These data show the asylee's zip code of record. Because we are asking States to set up systems to identify and serve those asylees in need of services, we have added this second set-aside amount to the total allocation for States. During the next year, ORR intends to revise the ORR–11 and seek OMB approval to capture the number of asylees and secondary migrants accessing services at the county level. ORR will adjust the social services formula 3-year population based on these data.

Table 1, below, shows the estimated 3-year populations, as of October 1, 2000, of refugees (col. 1), entrants (col. 2), Havana parolees (col. 3); total refugee/entrant population, (col. 4); the proposed formula amounts which the population estimates yield, (col. 5); the proposed allocation amounts after allowing for the minimum amounts (col. 6); first proposed set aside allocation, (col. 7); the 1 year asylee population (col. 8); the second proposed set-aside amount, (col. 9); and the total proposed allocation (col. 10).

V. Proposed Allocation Amounts

Funding subsequent to the publication of this notice will be contingent upon the submittal and approval of a State annual services plan that is developed on the basis of a local consultative process, as required by 45 CFR 400.11(b)(2) in the ORR regulations.

The following amounts are for allocation for refugee social services in FY 2000:

TABLE 1.—ESTIMATED THREE-YEAR REFUGEE/ENTRANT/PAROLEE POPULATIONS OF STATES PARTICIPATING IN THE REFUGEE PROGRAM—PROPOSED SET-ASIDES, AND PROPOSED SOCIAL SERVICE FORMULA AMOUNT AND ALLOCATION FOR FY 2001

State	Refugees [1]	Entrants	Havana Parolees [2]	Total population	Proposed formula amount	Proposed allocation	Proposed set-aside ($10.5 million)	Asylees [3]	Proposed asylee set-aside ($10 million)	Total proposed allocation
Alabama	456	5	59	520	$126,497	$126,497	$18,568	33	$8,925	$153,990
Alaska [4]	0	0	0	0				0		
Arizona	7,402	433	190	8,025	1,953,272	1,953,272	286,717	306	82,761	2,322,750
Arkansas	29	9	8	46	11,286	75,000	1,657	21	5,680	82,337
California	29,322	53	379	29,754	7,242,172	7,242,172	1,063,065	13,573	3,670,958	11,976,195
Colorado	3,316	3	5	3,324	809,058	809,058	118,760	262	70,861	998,679
Connecticut	3,427	28	102	3,557	865,737	865,737	127,080	194	52,469	1,045,286
Delaware	122	11	1	134	32,609	75,000	4,787	50	13,523	93,310
Dist. of Columbia	968	1	9	978	238,032	238,032	34,940	296	80,056	353,028
Florida	13,465	11,984	34,836	60,285	14,673,438	14,673,438	2,153,886	5,313	1,436,956	18,264,280
Georgia	11,189	33	118	11,340	2,760,068	2,760,068	405,145	559	151,187	3,316,400
Hawaii	93	0	0	93	22,754	75,000	3,340	24	6,491	84,831
Idaho [5]	2,076	0	3	2,079	506,031	506,031	74,279	5	1,352	581,662
Illinois	10,808	14	190	11,012	2,680,373	2,680,373	393,447	526	142,262	3,216,082
Indiana	1,831	4	13	1,848	449,909	449,909	66,041	101	27,316	543,266
Iowa	5,271	0	3	5,274	1,283,691	1,283,691	188,430	41	11,089	1,483,210
Kansas	727	1	8	736	179,233	179,233	26,309	44	11,900	217,442
Kentucky [6]	3,596	1,171	396	5,163	1,256,780	1,256,780	184,480	34	9,196	1,450,456
Louisiana	1,486	104	78	1,668	406,080	406,080	59,608	41	11,089	476,777
Maine	869	0	0	869	211,516	211,516	31,048	14	3,786	246,350
Maryland	3,073	10	34	3,117	758,763	758,763	111,377	1,582	427,868	1,298,008
Massachusetts	6,360	102	78	6,540	1,591,910	1,591,910	233,673	682	184,454	2,010,037
Michigan	7,777	713	191	8,681	2,113,084	2,113,084	310,175	411	111,159	2,534,418
Minnesota	10,212	2	7	10,221	2,487,900	2,487,900	365,194	555	150,105	3,003,199
Mississippi	68	5	8	81	19,680	75,000	2,889	34	9,196	87,085
Missouri	8,312	6	22	8,340	2,029,937	2,029,937	297,971	26	7,032	2,334,940
Montana	12	0	2	14	3,408	75,000	500	1	270	75,770
Nebraska	2,641	3	22	2,666	649,024	649,024	95,269	36	9,737	754,030
Nevada [6]	1,192	734	341	2,267	551,717	551,717	80,986	181	48,953	681,656
New Hampshire	1,718	0	0	1,718	418,163	418,163	61,381	25	6,762	486,306
New Jersey	4,363	265	818	5,446	1,325,618	1,325,618	194,585	765	206,902	1,727,105
New Mexico	433	330	229	992	241,393	241,393	35,434	10	2,705	279,532
New York	22,435	1,113	526	24,074	5,859,658	5,859,658	860,128	6,865	1,856,710	8,576,496
North Carolina	4,662	15	57	4,734	1,152,281	1,152,281	169,141	219	59,231	1,380,653
North Dakota	1,545	0	0	1,545	376,055	376,055	55,200	0		431,255
Ohio	4,613	5	28	4,646	1,130,930	1,130,930	166,007	203	54,903	1,351,840
Oklahoma	403	0	8	411	100,135	100,135	14,699	62	16,769	131,603
Oregon	4,667	460	170	5,297	1,289,303	1,289,303	189,254	132	35,701	1,514,258
Pennsylvania	7,710	166	158	8,034	1,955,475	1,955,475	287,040	656	177,422	2,419,937
Rhode Island	596	1	8	605	147,362	147,362	21,631	87	23,530	192,523
South Carolina	189	1	21	211	51,337	89,166	7,536	37	10,007	106,709
South Dakota [6]	1,257	0	0	1,257	305,955	305,955	44,911	10	2,705	353,571
Tennessee	3,180	7	118	3,305	804,448	804,448	118,083	267	72,213	994,744
Texas	13,246	831	459	14,536	3,538,020	3,538,020	519,339	788	213,123	4,270,482
Utah	3,422	0	2	3,424	833,524	833,524	122,351	48	12,982	968,857
Vermont	981	0	0	981	238,777	238,777	35,050	9	2,434	276,261
Virginia	4,836	111	72	5,019	1,221,716	1,221,716	179,333	1,340	362,417	1,763,466
Washington	17,297	0	36	17,333	4,218,836	4,218,836	619,275	382	103,316	4,941,427
West Virginia	8	0	0	8	1,947	75,000	286	4	1,082	76,368
Wisconsin	1,665	2	4	1,671	406,813	406,813	59,715	120	32,455	498,983
Wyoming [4]										
Total	235,326	18,736	39,822	293,884	71,531,705	71,927,850	10,500,000	36,974	10,000,000	92,427,850

[1] Includes: refugees and Amerasian immigrants from Vietnam adjusted for secondary migration.

[2] For FY 1999 and FY 2000, Havana Parolee arrivals for all States are based on actual data. For FY 1998, Florida's HP's are based on actual data, while Havana Parolees in other States are prorated according to the State's proportion of the three-year entrant population.

[3] Includes individuals granted asylum in FY 2000 by the INS asylum corps (22,809), the immigration judges of the Executive Office of Immigration Review (12,763), and the Bureau of Immigration Appeals (1,402). These numbers were not used for the social services allocation. See narrative for their use in the $10 million asylee set-aside.

[4] Alaska and Wyoming no longer participate in the Refugee Program.

[5] The allocation for Idaho is expected to be awarded to the State replacement designee.

[6] The allocations for South Dakota, Kentucky, and Nevada are expected to be awarded to Wilson/Fish projects.

VI. Paperwork Reduction Act

This notice does not create any reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance No. 93.566 Refugee Assistance—State Administered Programs)

Dated: April 20, 2001.

Carmel Clay-Thompson,

Acting Director, Office of Refugee Resettlement.

[FR Doc. 01–10443 Filed 4–26–01; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Refugee Resettlement Program; Proposed Availability of Formula Allocation Funding for FY 2001 Targeted Assistance Grants for Services to Refugees in Local Areas of High Need

AGENCY: Office of Refugee Resettlement (ORR), ACF, HHS.

ACTION: Notice of proposed availability of formula allocation funding for FY 2001 targeted assistance grants to States for services to refugees in local areas of high need.

SUMMARY: This notice announces the proposed availability of funds and award procedures for FY 2001 targeted assistance grants for services to refugees under the Refugee Resettlement Program (RRP). These grants are for service provision in localities with large refugee populations, high refugee concentrations, and high use of public assistance, and where specific needs exist for supplementation of currently available resources.

This notice continues the eligibility of those 50 counties located in 29 States that previously qualified for and received targeted assistance program (TAP) grants beginning in FY 1999 as a result of the three-year qualification process. The FY 2001 TAP formula allocations are based on the same formula as in FY 1999, updated to reflect arrivals during the five-year period from FY 1996 through FY 2000.

DATES: Comments on this notice must be received by May 29, 2001.

ADDRESSES: Address written comments, in duplicate, to: Gayle A. Smith, Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, D.C. 20447.

Application Deadline: The deadline for applications will be established by the final notice. Applications should not be sent in response to this notice of proposed allocations.

FOR FURTHER INFORMATION CONTACT: Gayle Smith, Director, Division of Refugee Self-Sufficiency, (202) 205–3590, e-mail: gsmith@acf.dhhs.gov.

SUPPLEMENTARY INFORMATION:

I. Purpose and Scope

This notice announces the proposed availability of funds for grants for targeted assistance for services to refugees in counties where, because of factors such as unusually large refugee populations, high refugee concentrations, and high use of public assistance, there exists and can be demonstrated a specific need for supplementation of resources for services to this population.

The Office of Refugee Resettlement (ORR) has available $49,477,000 in FY 2001 funds for the targeted assistance program (TAP) as part of the FY 2001 appropriation for the Department of Health and Human Services (Consolidated Appropriations Act, 2001, as enacted into law by section 1(a)(1) of Pub. L. No. 106–554).

The Director of the Office of Refugee Resettlement (ORR) proposes to use the $49,477,000 in targeted assistance funds as follows:

- $44,529,300 will be allocated to States under the five-year population formula, as set forth in this notice.
- $4,947,700 (10 percent of the total) will be used to award discretionary grants to States under separate continuation grant awards.

The purpose of targeted assistance grants is to provide, through a process of local planning and implementation, direct services intended to result in the economic self-sufficiency and reduced welfare dependency of refugees through job placements.

The targeted assistance program reflects the requirements of section 412(c)(2)(B) of the Immigration and Nationality Act (INA), which provides that targeted assistance grants shall be made available ''(i) primarily for the purpose of facilitating refugee employment and achievement of self-sufficiency, (ii) in a manner that does not supplant other refugee program funds and that assures that not less than 95 percent of the amount of the grant award is made available to the county or other local entity.''

II. Authorization

Targeted assistance projects are funded under the authority of section 412(c)(2) of the Immigration and Nationality Act (INA), as amended by the Refugee Assistance Extension Act of 1986 (Pub. L. No. 99–605), 8 U.S.C. 1522(c); section 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. No. 96–422), 8 U.S.C. 1522 note, insofar as it incorporates by reference with respect to Cuban and Haitian entrants the authorities pertaining to assistance for refugees established by section 412(c)(2) of the INA, as cited above; section 584(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. No. 100–202), insofar as it incorporates by reference with respect to certain Amerasians from Vietnam the authorities pertaining to assistance for refugees established by section 412(c)(2) of the INA, as cited above, including certain Amerasians from Vietnam who are U.S. citizens, as provided under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. No. 100–461), 1990 (Pub. L. No. 101–167), and 1991 (Pub. L. No. 101–513).

III. Use of Funds

Targeted assistance funding must be used to assist refugee families to achieve economic independence in accordance with regulations at 45 CFR part 400. The term ''refugee'' includes persons who meet all requirements of 45 CFR 400.43 (as amended by 65 FR 15409 (March 22, 2000)). In addition to the statutory requirement that TAP funds be used ''primarily for the purpose of facilitating refugee employment'' (section 412(c)(2)(B)(i)), funds awarded under this program are intended to help fulfill the Congressional intent that ''employable refugees should be placed on jobs as soon as possible after their arrival in the United States'' (section 412(a)(1)(B)(i) of the INA). Therefore, in accordance with 45 CFR 400.313, targeted assistance funds must be used primarily for employability services designed to enable refugees to obtain jobs with less than one year's participation in the targeted assistance program in order to achieve economic self-sufficiency as soon as possible. Under 45 CFR 400.316, a State may provide the same scope of services under targeted assistance as may be provided to refugees under 45 CFR 400.154 and 45 CFR 400.155, with the exception of 45 CFR 400.155(h). Targeted assistance services may continue to be provided after a refugee has entered a job to help the refugee retain employment or move to a better job. Targeted assistance funds may not be used for long-term training programs such as vocational training that last for

more than a year or educational programs that are not intended to lead to employment within a year.

States may not provide services funded under this notice, except for referral and interpreter services, to refugees who have been in the United States for more than 60 months (five years). Citizenship and naturalization preparation services to refugees who have been in the United States for more than 60 months may not be provided with targeted assistance funding.

In accordance with 45 CFR 400.314, States are required to provide targeted assistance services to refugees in the following order of priority, except in certain individual extreme circumstances: (a) Refugees who are cash assistance recipients, particularly long-term recipients; (b) unemployed refugees who are not receiving cash assistance; and (c) employed refugees in need of services to retain employment or to attain economic independence.

In accordance with 45 CFR 400.317, if targeted assistance funds are used for the provision of English language training, such training must be provided in a concurrent, rather than sequential, time period with employment or with other employment-related activities.

Refugees who are participating in TAP-funded or social services-funded employment services or have accepted employment are eligible for day care services for children. For an employed refugee, TAP-funded day care should be limited to one year after the refugee becomes employed. States and counties, however, are expected to use day care funding from other publicly funded mainstream programs as a prior resource and are encouraged to work with service providers to assure maximum access to other publicly funded resources for day care for which the child is eligible.

Reflecting section 412(a)(1)(A)(iv) of the INA, States must ''ensure that women have the same opportunities as men to participate in training and instruction.'' In addition, in accordance with 45 CFR 400.317, targeted assistance services must be provided, to the maximum extent feasible, in a manner that includes the use of bilingual/bicultural women on service agency staffs to ensure adequate service access by refugee women.

In accordance with 45 CFR 400.317, targeted assistance services must be provided in a manner that is culturally and linguistically compatible with a refugee's language and cultural background, to the maximum extent feasible. In light of the increasingly diverse population of refugees who are resettling in this country, refugee service agencies will need to develop practical ways of providing culturally and linguistically appropriate services to a changing ethnic population. Services funded under this notice must be refugee-specific services that are designed specifically to meet refugee needs and are in keeping with the rules and objectives of the refugee program. Vocational or job-skills training, on-the-job training, or English language training, however, need not be refugee-specific.

Finally, in order to provide culturally and linguistically compatible services in as cost-efficient a manner as possible in a time of limited resources, ORR strongly encourages States and counties to promote and give special consideration to the provision of services through coalitions of refugee service organizations, such as coalitions of Mutual Assistance Associations (MAAs), voluntary resettlement agencies, or a variety of service providers. ORR believes it is essential for refugee-serving organizations to form close partnerships in the provision of services to refugees in order to be able to respond adequately to a changing refugee picture. Coalition-building and consolidation of providers is particularly important in communities with multiple service providers in order to ensure better coordination of services and maximum use of funding for services by minimizing the funds used for multiple administrative overhead costs.

The award of funds to States under this notice will be contingent upon the completeness of a State's application as described in section VIII below.

IV. (Reserved for Discussion of Comments in the Final Notice)

V. Eligible Grantees

Eligible grantees are (a) those agencies of State governments that are responsible for the refugee program under 45 CFR 400.5 in States containing counties that qualify for FY 2001 targeted assistance awards; (b) a replacement designee appointed by the Director pursuant to 45 CFR 400.301(c) if the State authorized the replacement designee to act as its agent in applying for and receiving targeted assistance funds; or (c) an agency which has State-wide responsibility for an alternative to the State-administered program in lieu of the State under a Wilson/Fish grant authorized by section 412 (e)(7) of the INA.

The Director of ORR proposes to determine the eligibility of counties for inclusion in the FY 2001 targeted assistance program on the basis of the method described in section VI of this notice.

The use of targeted assistance funds for services to Cuban and Haitian entrants is limited to States that have an approved State plan under the Cuban/Haitian Entrant Program (CHEP).

The State agency will submit a single application on behalf of all county governments that are qualified counties in that State. Subsequent to the approval of the State's application by ORR, local targeted assistance plans will be developed by the county government or other designated entity and submitted to the State.

A State with more than one qualified county is permitted, but not required, to determine the allocation amount for each qualified county within the State. However, if a State chooses to determine county allocations differently from those set forth in the final notice, in accordance with 45 CFR 400.319, the FY 2001 allocations proposed by the State must be based on the State's population of refugees who arrived in the U.S. during the most recent five-year period. A State may use welfare data as an additional factor in the allocation of its targeted assistance funds if it so chooses; however, a State may not assign a greater weight to welfare data than it has assigned to population data in its allocation formula. In addition, if a State chooses to allocate its FY 2001 targeted assistance funds in a manner different from the formula set forth in the final notice, the FY 2001 allocations and methodology proposed by the State **must be included** in the State's application for ORR review and approval.

Applications submitted in response to the final notice are not subject to review by State and area-wide clearinghouses under Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

VI. Qualification and Allocation

A. Qualification

The Director of ORR will determine the qualification of counties for targeted assistance once every three years, as stated in the FY 1999 notice of proposed availability of targeted assistance allocations to States which was published in the **Federal Register** on March 10, 1999 (64 FR 11927). Since ORR determined the qualification of counties for targeted assistance in FY 1999, those qualifying counties determined eligible in FY 1999 and listed in this notice as qualified to apply for FY 2001 TAP funding would remain qualified for TAP funding through FY 2001 on the basis of the most current

five-year refugee/entrant arrival data. ORR does not plan to consider the eligibility of additional counties for TAP funding until FY 2002, when ORR will again review data on all counties that could potentially qualify for TAP funds.

B. Allocation Formula

Of the funds available for FY 2001 for targeted assistance, $44,529,300 would be allocated by formula to States for qualified counties based on the initial placements of refugees, Amerasians, entrants (including Havana parolees), and Kurdish asylees in these counties during the five-year period from FY 1996 through FY 2000 (October 1, 1995–September 30, 2000). This is data that is available in the ORR Refugee Data System.

The arrival data used as the basis for targeted assistance formula allocations do not take asylees or secondary migrants who have received services into account. We are unable to include secondary migrants in the 5-year population because secondary migration is not currently tracked at the county level. We are unable to include asylees, except for Kurdish asylees who were processed on Guam, because information from the Immigration and Naturalization Service (INS) and Executive Office of Immigration Review (EOIR) on grants of asylum are available by zip code of the asylee. Unfortunately, zip code assignments do not correspond to county designations. Many zip codes cross county lines and in some cases, State lines. Therefore, based on available data, ORR is currently unable to credit numbers of asylees to counties.

ORR plans to remedy this by revising the ORR–11 and seeking OMB approval to capture numbers of asylees and secondary migrants accessing services at the county level. This revision to the ORR–11 will allow States to report on numbers of asylees and secondary migrants receiving services at the county level. ORR will adjust the targeted assistance 5-year population based on these data.

States are advised that ORR expects that these revisions to the ORR–11, once implemented, will require States to track asylees and secondary migrants who receive services by name, social security number, alien registration number, county of initial residence/resettlement, and county of current residence in order to transmit this information to ORR in the future.

With regard to Havana parolees, in the absence of reliable data on the State-by-State resettlement of this population, we are crediting 49,504 Havana parolees who arrived in the U.S. during the past five years according to the Immigration and Naturalization Service (INS), using the following methodology. For FY 1999 and FY 2000, we credited the qualifying counties with Havana parolees according to arrival numbers supplied to us by the Parolee Orientation Program funded by the International Affairs Office of the INS. For FY 1996 through FY 1998, the Havana parolees for each qualifying county in Florida are based on actual arrival data submitted by the State of Florida; Havana parolees credited to qualifying counties in other States were prorated based on the counties' proportion of the three-year (FY 1996 through FY 1998) entrant population in the U.S.

If a qualifying county does not agree with ORR's population estimate and believes that its five-year population for FY 1996–FY 2000 was undercounted and wishes ORR to reconsider its population estimate, the county must provide the following evidence: The county must submit to ORR a letter from each local voluntary agency that resettled refugees in the county that attests to the fact that the refugees/entrants listed in an attachment to the letter were resettled as initial placements during the five-year period from FY 1996–FY 2000 in the county making the claim. Documentation must include the name, alien number, date of birth and date of arrival in the U.S. for each refugee/entrant claimed. Listings of refugees who are not identified by their alien numbers will not be considered. Counties should submit such evidence separately from comments on the proposed formula no later than 30 days from the date of publication of this notice and addressed to: Loren Bussert, Division of Refugee Self-Sufficiency, Office of Refugee Resettlement, 370 L'Enfant Promenade, SW., Washington, DC 20447; telephone, (202) 401–4732; E-mail: lbussert@acf.dhhs.gov. **Failure to submit the required documentation within the required time period will result in forfeiture of consideration.**

VII. Allocations

Table 1 lists the qualifying counties; the number of refugee (column 3) and entrant (column 4) arrivals in those counties during the five-year period from October 1, 1995–September 30, 2000; the number of Havana parolees (column 5) credited to each county during this period, the total number of arrivals; and the proposed amount of each county's allocation based on its five-year arrival population.

TABLE 1.—PROPOSED TARGETED ASSISTANCE ALLOCATIONS BY COUNTY: FY 2001

County	State	Refugees [1]	Entrants	Havanna parolees [2]	Total arrivals FY 1996–2000	Total FY 2001 proposed allocation
1 Maricopa County	Arizona	9,674	685	401	10,760	$1,407,207
2 Fresno County	California	968	2	1	971	126,988
3 Los Angeles County	California	13,149	124	380	13,653	1,785,506
4 Orange County	California	4,713	12	23	4,748	620,904
5 Sacramento County	California	10,652	2	6	10,660	1,394,099
6 San Diego County	California	5,826	141	280	6,247	816,924
7 San Francisco	California	5,028	13	33	5,074	663,511
8 Santa Clara County	California	6,317	43	31	6,391	835,815
9 Yolo County	California	1,224	0	3	1,227	160,407
10 Denver County	Colorado	2,795	0	5	2,800	366,117
11 District of Columbia	District of Columbia	2,941	5	14	2,960	387,124
12 Broward County	Florida	617	1,279	1,274	3,170	414,566
13 Dade County	Florida	7,012	14,453	40,330	61,795	8,081,420
14 Duval County	Florida	4,641	18	59	4,718	617,010
15 Hillsborough County	Florida	1,605	329	1,312	3,246	424,505
16 DeKalb County	Georgia	8,685	10	8	8,703	1,138,115
17 Fulton County	Georgia	4,644	84	134	4,862	635,840
18 Cook/Kane	Illinois	14,730	182	272	15,184	1,985,732
19 Polk County	Iowa	3,571	1	2	3,574	467,400
20 Jefferson County [3]	Kentucky	3,765	1,576	487	5,828	762,188

TABLE 1.—PROPOSED TARGETED ASSISTANCE ALLOCATIONS BY COUNTY: FY 2001—Continued

County	State	Refugees [1]	Entrants	Havanna parolees [2]	Total arrivals FY 1996–2000	Total FY 2001 proposed allocation
21 Hampden County	Massachusetts	2,296	9	5	2,310	302,046
22 Suffolk County	Massachusetts	4,154	57	49	4,260	557,146
23 Ingham County	Michigan	1,911	718	227	2,856	373,532
24 Kent County	Michigan	3,125	190	29	3,344	437,320
25 Hennepin County	Minnesota	7,891	5	4	7,900	1,033,085
26 Ramsey County	Minnesota	1,680	2	5	1,687	220,638
27 City of St. Louis	Missouri	9,429	1	1	9,431	1,233,302
28 Lancaster County	Nebraska	2,302	34	20	2,356	308,113
29 Clark County [4]	Nevada	1,761	1,162	698	3,621	473,547
30 Hudson County	New Jersey	787	257	868	1,912	250,047
31 Bernalillo County	New Mexico	880	695	647	2,222	290,588
32 Monroe County	New York	2,526	643	358	3,527	461,254
33 New York	New York	32,361	355	481	33,197	4,341,434
34 Oneida County	New York	4,781	0	0	4,781	625,249
35 Guilford County	North Carolina	2,508	5	15	2,528	330,607
36 Cass County	North Dakota	2,043	0	2	2,045	267,441
37 Cuyahoga County	Ohio	3,335	6	7	3,348	437,854
38 Multnomah	Oregon	11,076	734	317	12,127	1,585,917
39 Erie County	Pennsylvania	1,989	0	0	1,989	260,117
40 Philadelphia County	Pennsylvania	4,200	26	39	4,265	557,718
41 Minnehaha County [5]	South Dakota	1,729	0	0	1,729	226,115
42 Davidson County	Tennessee	3,180	54	45	3,279	428,774
43 Dallas/Tarrant	Texas	10,636	333	406	11,375	1,487,587
44 Harris County	Texas	8,039	508	118	8,665	1,133,158
45 Davis/Salt Lake	Utah	5,569	1	3	5,573	728,761
46 Fairfax County	Virginia	3,285	4	9	3,298	431,318
47 City of Richmond	Virginia	2,403	39	59	2,501	327,116
48 King/Snohomish	Washington	12,529	41	34	12,604	1,648,339
49 Pierce County	Washington	1,982	3	5	1,990	260,264
50 Spokane County	Washington	3,207	0	1	3,208	419,535
Total		266,151	24,841	49,504	340,496	44,529,300

[1] Includes refugees, Amerasian immigrants from Vietnam, and Kurdish asylees from Iraq. Does not inlcude other asylees or secondary migrants.

[2] For FY 1999 and FY 2000, the Havana parolees for all counties are based on actual data. For previous years, the Havana parolees of Florida counties are based on actual data, while parolees from other counties are prorated based on each county's proportion of the three-year (FY 1996–1998) entrant population.

[3] The allocation for Jefferson County, Kentucky will be awarded to the Kentucky Wilson/Fish project.

[4] The allocation for Clark County, Nevada will be awarded to the Nevada Wilson/Fish project.

[5] The allocation for Minnehaha County, South Dakota will be awarded to the South Dakota Wilson/Fish project.

TABLE 2.—TARGETED ASSISTANCE PROPOSED ALLOCATIONS BY STATE: FY 2001

State	Total FY 2001 allocation
Arizona	$1,407,207
California	6,404,154
Colorado	366,117
District of Columbia	387,124
Florida	9,537,501
Georgia	1,773,955
Illinois	1,985,732
Iowa	467,400
Kentucky	762,188
Massachusetts	859,192
Michigan	810,852
Minnesota	1,253,723
Missouri	1,233,302
Nebraska	308,113
Nevada	473,547
New Jersey	250,047
New Mexico	290,588
New York	5,427,937
North Carolina	330,607
North Dakota	267,441
Ohio	437,854
Oregon	1,585,917

TABLE 2.—TARGETED ASSISTANCE PROPOSED ALLOCATIONS BY STATE: FY 2001—Continued

State	Total FY 2001 allocation
Pennsylvania	817,835
South Dakota	226,115
Tennesee	428,774
Texas	2,620,745
Utah	728,761
Virginia	758,434
Washington	2,328,138
Total	44,529,300

VIII. Application and Implementation Process

States that are currently operating under approved management plans for their FY 1999 targeted assistance program and wish to continue to do so for their FY 2001 grants may provide the following in lieu of resubmitting the full currently approved plan:

The State's application for FY 2001 funding shall provide:

- Assurance that the State's current management plan for the administration of the targeted assistance program, as approved by ORR in FY 1999, will continue to be in full force and effect for the FY 2001 targeted assistance program, subject to any additional assurances or revisions required by this notice which are not reflected in the current plan. **Any proposed modifications to the approved plan will be identified in the application and are subject to ORR review and approval, e.g., if the State assumes local administration of the program or if the State chooses to determine county allocations differently.** Any proposed changes must address and reference all appropriate portions of the FY 1999 application content requirements to ensure complete incorporation in the State's management plan.
- A line item budget and justification for State administrative costs limited to

a maximum of five percent of the total award to the State. Each total budget period funding amount requested must be necessary, reasonable, and allocable to the project.

- All applicants must submit targeted assistance performance goals as described under Section IX.

IX. Results or Benefits Expected

All applicants must establish targeted assistance proposed performance goals for each of the six ORR performance outcome measures for each targeted assistance county's proposed service contract(s) or sub-grants for the next contracting cycle. Proposed performance goals must be included in the application for each performance measure. The six ORR performance measures are: entered employments, cash assistance reductions due to employment, cash assistance terminations due to employment, 90-day employment retentions, average wage at placement, and job placements with available health benefits. Targeted assistance program activity and progress achieved toward meeting performance outcome goals are to be reported quarterly on the ORR–6, the ''Quarterly Performance Report.''

X. Reporting Requirements

States will be required to submit quarterly reports on the outcomes of the targeted assistance program, using the same form which States use for reporting on refugee social services formula grants. This is Schedule A and Schedule C, pages 1 and 2 of the ORR–6 Quarterly Performance Report form (OMB #0970–0036).

XI. The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

This notice does not create any reporting or recordkeeping requirements requiring OMB clearance.

Catalog of Federal Domestic Assistance (CFDA) Number: 93.584

Dated: April 20, 2001.

Carmel Clay-Thompson,

Acting Director, Office of Refugee Resettlement.

[FR Doc. 01–10444 Filed 4–26–01; 8:45 am]

BILLING CODE 4184–01–P

Federal Register

Friday,
April 27, 2001

Part IV

Commodity Futures Trading Commission

17 CFR Part 160

Privacy of Consumer Financial Information; Final Rule

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 160

RIN 3038–AB68

Privacy of Consumer Financial Information

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission is adopting part 160, privacy rules promulgated under section 5g of the Commodity Exchange Act, which directs the Commission to prescribe regulations under Title V of the Gramm-Leach-Bliley Act. Title V requires certain federal agencies to adopt rules implementing notice requirements and restrictions on the ability of financial institutions to disclose nonpublic personal information about consumers to nonaffiliated third parties. Under section 503 of the Gramm-Leach-Bliley Act, a financial institution must provide its customers with a notice of its privacy policies and practices, and must not disclose nonpublic personal information about a consumer to nonaffiliated third parties unless the institution provides certain information to the consumer and the consumer has not elected to opt out of the disclosure. Section 505 of the Gramm-Leach-Bliley Act further requires certain federal agencies to establish for financial institutions appropriate standards to protect customer information. The part 160 rules implement these requirements of the Gramm-Leach-Bliley Act with respect to futures commission merchants, commodity trading advisors, commodity pool operators and introducing brokers that are subject to the jurisdiction of the Commission under the Commodity Exchange Act as amended.

DATES:

Effective Date: These rules are effective June 21, 2001.

Compliance Date: Compliance will be mandatory as of March 31, 2002. Joint marketing and service agreements in effect as of March 31, 2002 must be brought into compliance with section 160.13 by March 31, 2003.

FOR FURTHER INFORMATION CONTACT: Susan Nathan, Assistant General Counsel, or Bella Rozenberg, Attorney, Office of General Counsel; Nancy E. Yanofsky, Assistant Chief Counsel, Division of Economic Analysis; or Ky Tran-Trong, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418–5000, E-mail: (SNathan@cftc.gov), (BRozenberg@cftc.gov), (NYanofsky@cftc.gov), or (KTran-Trong@cftc.gov).

SUPPLEMENTARY INFORMATION: The Commodity Futures Trading Commission today is adopting new part 160, 17 CFR 160, under Subtitle A of Title V of the Gramm-Leach-Bliley Act (Pub. L. No. 106–102, 113 Stat. 1338 (1999), to be codified at 15 U.S.C. 6801–6809) and section 5g of the Commodity Exchange Act, 7 U.S.C. 7b–2, as amended by the Commodity Futures Modernization Act of 2000 (Pub. L. No. 106–554, 114 Stat. 2763).

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I. Background

Subtitle A of Title V of the Gramm-Leach-Bliley Act (GLB Act),[1] captioned ''Disclosure of Nonpublic Personal Information'' (Title V), limits the instances in which a financial institution may disclose nonpublic personal information about a consumer to nonaffiliated third parties, and requires a financial institution to disclose to all of its customers the institution's privacy policies and practices with respect to information sharing with both affiliates and nonaffiliated third parties.[2] The Commodity Futures Trading Commission (Commission) and entities subject to its jurisdiction originally were excluded from Title V's coverage.[3] The agencies that were covered by Title V—the Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Federal Reserve Board), Federal Deposit Insurance Corporation, Office of Thrift Supervision (collectively, the Banking Agencies), Secretary of the Treasury, Securities and Exchange Commission (SEC), National Credit Union Administration, and Federal Trade Commission (FTC) (collectively with the Banking Agencies, the Agencies)—have each adopted implementing regulations under Title V.[4]

The Commodity Futures Modernization Act of 2000 (CFMA) amended the Commodity Exchange Act (CEA or Act) to provide that certain entities subject to the Commission's jurisdiction'specifically, futures commission merchants (FCMs), commodity trading advisors (CTAs), commodity pool operators (CPOs) and introducing brokers (IBs)—shall be treated as financial institutions for purposes of Title V. At the same time, Congress also amended the CEA to make the Commission a federal functional regulator within the meaning of Title V and to require the Commission to prescribe regulations under Title V within six months.

The Commission has consulted with representatives from the Agencies throughout this rulemaking process, including during the comment period. The rules that we are adopting today are, to the extent possible, consistent with and comparable to the rules adopted by the Agencies. The rules include examples that illustrate the application of the general rules and an appendix of sample clauses that may, to the extent applicable, be used by FCMs, CTAs, CPOs and IBs to comply with the notice and opt-out requirements. These examples and sample clauses differ from those used by the Agencies in order to provide more meaningful guidance to the financial institutions subject to the Commission's jurisdiction. Furthermore, in order to minimize compliance burdens, the rules permit those firms that are registered with both the Commission and the SEC to comply with part 160 by complying with the privacy rules of the SEC, which are found at 17 CFR part 248. Similarly, the Commission has determined to permit CTAs that are also registered or required to be registered as an investment advisor with a state securities regulator to comply with part 160 by complying with the privacy rules of the FTC, 16 CFR part 313.

[1] Pub. L. No. 106–102, 113 Stat. 1338 (1999) (to be codified in scattered sections of 12 U.S.C. and 15 U.S.C.)

[2] GLB Act §§ 501–510 (to be codified at 15 U.S.C. 6801–6809). As discussed in more detail below, the GLB Act distinguishes ''consumers'' from ''customers'' for purposes of its notice requirements. Generally speaking, a customer is a consumer with whom a financial institution has established a ''customer relationship.'' *See id.* §§ 502(a), 503(a) and 509(9) and (11).

[3] *See id.* § 509(3)(B).

[4] *See* 65 FR 40334 (June 29, 2000) (SEC); 65 FR 35162 (June 1, 2000) (Secretary of the Treasury and the Banking Agencies); 65 FR 33646 (May 24, 2000) (FTC); 65 FR 31722 (May 18, 2000) (National Credit Union Administration). *See also* 66 FR 8616 (Feb. 1, 2001) (Secretary of the Treasury and the Banking Agencies); 66 FR 8152 (Jan. 30, 2001) (National Credit Union Administration); 65 FR 54186 (Sept. 7, 2000) (FTC—advance notice of proposed rulemaking) (Guidelines for Establishing Standards for Safeguarding Customer Information).

Title V also requires the Agencies to establish appropriate standards for financial institutions subject to their jurisdiction to safeguard customer records and information. The rules that we are adopting today require FCMs, CTAs, CPOs and IBs to adopt appropriate policies and procedures that address safeguards to protect this information.

II. Overview of Comments Received

On March 19, 2001, the Commission issued a notice of proposed rulemaking (the proposal'' or ''proposed rules'').[5] The Commission received a total of four comments in response to the proposal.

Managed Futures Association (MFA), a trade association, commented on the following aspects of the proposal: The proposed compliance date; exemptions for unregistered entities; and substituted compliance for dual registrants and affiliated financial institutions. MFA expressed support for the Commission's statement regarding its jurisdiction under the privacy rules over entities that are either registered or exempt from registration, and its belief that the rules are consistent with Congressional intent as expressed in the CFMA and with the privacy rules adopted by the other federal functional regulators.

The Futures Industry Association (FIA) wrote generally in support of the proposed rules, endorsing the Commission's proposal to permit those Commission registrants who are also registered with the SEC to comply instead with the SEC's parallel rules. In this regard, FIA suggested that the Commission's final rules clarify the scope of its substituted compliance provision and expressed support for an expansion of the substituted compliance provision. FIA also recommended that the Commission's proposal to exclude from compliance non-U.S. entities that are exempt from registration pursuant to an order issued under Commission rule 30.10. Finally, FIA requested that the Commission expand the subsequent delivery exceptions to the initial notice requirement in proposed rule 160.4(e) to permit an FCM that accepts customer accounts in a bulk transfer pursuant to Commission rule 1.65 to provide its initial privacy notice subsequent to the establishment of a relationship with such customers.

Southwest Futures, Inc., an IB, objected to the ability of an FCM to share with others confidential information regarding an IB's customers. A member of the public expressed general support for rules to facilitate the privacy of citizens' nonpublic information but suggests that the definition of ''consumer'' be expanded.

These comments, and the Commission's responses, are discussed in greater detail below.

III. Section-by-Section Analysis

Section 160.1 Purpose and Scope

Paragraph (a) of section 160.1 identifies three purposes of the rules. First, the rules require a financial institution to provide notice to customers about the institution's privacy policies and practices. Second, the rules describe the conditions under which a financial institution may disclose nonpublic personal information about a consumer to a nonaffiliated third party. Third, the rules provide a method for a consumer to ''opt out'' of the disclosure of that information to nonaffiliated third parties, subject to certain exceptions discussed below.

Paragraph (b) sets out the scope of the Commission's rules and identifies the financial institutions covered by the rules. The Commission proposed including all FCMs, CTAs, CPOs and IBs within the scope of part 160, whether or not such entities were required to register with the Commission. The Commission, however, specifically solicited comment on whether it should seek to exempt some or all categories of unregistered CTAs and CPOs from part 160's coverage. MFA commented that the Commission should exempt, or alternatively create a safe harbor permitting more limited compliance for, unregistered CTAs and CPOs that do not provide nonpublic information to nonaffiliated third parties outside those permitted under the service provider exception. MFA asserted that Congress did not intend to subject all financial institutions subject to the Commission's jurisdiction to the privacy rules, that the Commission had proposed exempting foreign unregistered FCMs from part 160's scope, and that an exemption for unregistered CTAs and CPOs would be consistent with Congress's intent to the extent that such unregistered entities are not sharing nonpublic consumer information with nonaffiliated third parties.

The Commission has carefully considered MFA's comment and has decided not to amend the proposed rules to exempt or create a safe harbor for unregistered CTAs and CPOs. From the face of the statute, it appears that Congress intended to treat all CTAs and CPOs as financial institutions, irrespective of their registration status.[6] The Commission also believes that it would be inconsistent with Title V of the GLB Act to exempt unregistered CTAs and CPOs from part 160 because that title is a consumer protection law that appears designed to afford privacy protection to all consumers.[7] For these reasons, the Commission believes that all CTAs and CPOs should be required to comply with the requirements of part 160 and notes the limited nature of those requirements for CTAs and CPOs that do not share nonpublic personal information with nonaffiliated third parties.

Paragraph (b) also provides that part 160 does not apply to any foreign (or non-resident) FCM, CTA, CPO or IB that is not registered or required to be registered with the Commission. The Commission believes that it would be impracticable to apply part 160 to those foreign unregistered entities and, further, that subjecting these unregistered foreign entities to the obligations to provide the privacy and opt out notices under part 160 would not add to the protections provided to customers under the GLB Act. If a foreign financial institution conducts activities through U.S. interstate commerce in a manner that subjects it to the registration requirements of the Act, and such foreign financial institution has not been exempted from registration requirements by the Commission, it is subject to the part 160 requirements and any other applicable protections to customers, such as anti-fraud protections. The Commission expressly sought comment on the application of this approach to firms that have been exempted from registration requirements pursuant to a rule 30.10 order. FIA observed that it would be difficult, if not impossible, for the Commission to assure compliance

[5] Privacy of Customer Information, 66 FR 15550 (Mar. 19, 2001).

[6] Section 5g of the Act states in relevant part that ''*any* futures commission merchant, commodity trading advisor, commodity pool operator, or introducing broker that is subject to the jurisdiction of the Commission with respect to any financial activity *shall be treated as a financial institution* for purposes of Title V [of the GLB Act] with respect to such financial activity.'' (emphasis added) The SEC also has applied its privacy regulations to unregistered brokers, dealers and funds. 65 FR at 40335 n.12. In accordance with section 505(a)(5) of the GLB Act, however, the SEC's privacy rules do not apply to investment advisers that are not registered with the SEC. *Id.*

[7] MFA correctly notes that the Commission is exempting foreign unregistered FCMs from the scope of part 160. *See infra.* This approach maintains consistency with the approach taken by the other federal functional regulators with regard to *offshore* financial institutions. To the Commission's knowledge, the other federal functional regulators have not exempted any *domestic* entities from the scope of their privacy rules.

by such entities with its privacy rules and, moreover, that these entities may be subject to privacy laws in their home countries that are different from, and may be stricter than, the Commission's rules. While the Commission supports consistent protections for consumers regardless of the entity from whom a financial product or service is obtained, at this stage the Commission does not believe that it is appropriate to attempt to apply the rule to offshore offices of financial institutions. Accordingly, the Commission has adopted the rule as proposed, but will continue to consider this question.

We note that other federal, State, or applicable foreign laws may impose limitations on disclosures of nonpublic personal information in addition to those imposed by the GLB Act and the privacy rules the Commission is adopting today. Thus, financial institutions will need to monitor and comply with relevant legislative and regulatory developments that affect the disclosure of consumer information. Paragraph (b) also makes clear that nothing in the rules is intended to supercede rules relating to medical information that have been issued by the Secretary of Health and Human Services under the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d–1320d–8.[8]

Section 160.2 Rule of Construction

Paragraph (a) of section 160.2 sets out a rule of construction intended to clarify the effect of the examples used in the rules and the sample clauses in the appendix to the rules. Given the wide variety of transactions that Title V covers, new part 160 includes rules of general applicability and provides examples that are intended to assist financial institutions in complying with the rule. The examples are not intended to be exhaustive; rather, they are intended to provide guidance on how the rules would apply in specific situations. The rule also states that compliance with the examples will constitute compliance with the rule.[9] The Commission believes that, when read together, these provisions give financial institutions sufficient flexibility to comply with the regulation and sufficient guidance about the use of the examples. FIA endorses this approach and has asked that the Commission consider publishing additional guidance similar to that published by the federal banking regulators when they promulgated their privacy rules.

Paragraph (b) of section 160.2 authorizes ''substituted compliance'' in certain situations. Specifically, paragraph (b)(1) provides that an FCM, CTA, CPO or IB that is also registered with the SEC in an equivalent capacity may comply with part 160 by complying with Regulation S–P, the privacy rules of the SEC, which are found at 17 CFR part 248. Similarly, under this provision, securities broker-dealers registered with the SEC that are also registered with the Commission as an FCM or IB pursuant to a notice registration for the purpose of trading security futures products[10] will also be deemed to be in compliance with part 160 if they are subject to and in compliance with Regulation S-P. Paragraph (b)(2) of section 160.2 provides that a CTA that is a state-registered investment adviser may comply with part 160 by complying with the privacy rules of the FTC, which are found at 16 CFR part 313.[11]

Section 160.2's authorization of substituted compliance is in no way designed to affect or limit the Commission's authority to enforce its privacy rules against FCMs, CTAs, CPOs and IBs engaged in activities subject to its jurisdiction. Rather, this provision simply authorizes the identified financial institutions to comply with part 160 by complying with certain other substantially similar regulations, and to establish that they have complied with part 160 by establishing that they have complied with those other regulations. In this regard, because the Commission has provided part 160 examples that are tailored to entities under its jurisdiction, the Commission encourages those entities that elect to comply with the substituted compliance provisions in paragraph (b) to look to the Commission's examples for guidance in complying with the privacy rules of the SEC and FTC, respectively.

In its proposal, the Commission requested comment on whether it should provide for a broader form of substituted compliance by permitting an FCM that is affiliated with a financial holding company, a bank holding company, a national bank or a broker-dealer to comply with part 160 by complying with the privacy rules of the functional regulator for the affiliated entity. Both MFA and the FIA endorsed substituted compliance for affiliated financial institutions. While the Commission believes that permitting broader substituted compliance is a desirable goal, we have decided not to adopt this approach at this time. Rather, we believe it would be preferable to address this issue after we have gained some administrative experience under these rules and have further consulted with the other federal functional regulators.

Section 160.3 Definitions

(a) *Affiliate.* The rules incorporate the definition of ''affiliate'' used in section 509(6) of the GLB Act. Thus, an FCM, CTA, CPO or IB is considered affiliated with another company if it ''controls,'' is controlled by, or is under common control with the other company.[12] The definition includes both financial institutions and entities that are not financial institutions. The rules also provide that an FCM, CTA, CPO or IB will be considered an affiliate of another company for purposes of the privacy rules if (i) the other company is regulated under Title V by one of the Agencies and (ii) the privacy rules adopted by that Agency treat the FCM, CTA, CPO or IB as an affiliate of the other company.[13]

(b) *Clear and conspicuous.* Title V and the final rules require that various notices be ''clear and conspicuous.'' The Commission has defined that term as it has been defined in the respective rules of the Agencies, with conforming changes.[14] Section 160.3(b) defines the term to mean that the notice must be ''reasonably understandable and designed to call attention to the nature and significance of the information in the notice.'' This phrase is intended to provide meaning to the term ''conspicuous.'' The Commission believes that this standard will result in

[8] *See* 65 FR 82462 (Dec. 28, 2000).

[9] *Compare* 65 FR at 35227 (OCC rules) *with* 65 FR at 40363 (SEC rules).

[10] *See* CFMA § 252.

[11] This provision responds to a comment of NFA seeking broader substituted compliance for investment advisers that are state-registered and therefore subject to the FTC's privacy rules rather than the SEC's privacy rules. Financial institutions that choose to substitute compliance with the FTC's rules should nonetheless refer to the examples provided throughout part 160.

[12] We have defined ''control'' for purposes of an FCM, CPO, CTA or IB to mean the power to exercise a controlling influence over the management or policies of a company whether through ownership of securities, by contract, or otherwise. In addition, ownership of more than 25 percent of a company's voting securities creates a presumption of control of the company. *See infra* discussion of section 160.3(j). *Compare* 65 FR at 35207 (Federal Reserve Board).

[13] Section 160.3(a)(1)–(2). This part of the definition is designed to prevent the disparate treatment of affiliates within a holding company structure. For example, without this provision an FCM in a bank holding company structure might not be considered affiliated with another entity in that organization under the Commission's rules, even though the two entities would be considered affiliated under the privacy rules of the Banking Agencies.

[14] *See, e.g.*, 12 CFR 40.3(b) (OCC rules) and 17 CFR 248.3(c) (SEC rules).

notices to consumers that communicate effectively the information consumers need in order to make an informed choice about the privacy of their information, including whether to open a commodity interest account or enter into an advisory agreement.

Examples of ''clear and conspicuous.'' The rules provide generally applicable guidance about ways in which an FCM, CTA, CPO or IB may make a disclosure clear and conspicuous. We note that the examples do not mandate how to make a disclosure clear and conspicuous. A financial institution must decide for itself how best to comply with the general rule, and may use techniques not listed in the examples.

Combination of several notices. The Commission is aware that a document may combine different types of disclosures that are subject to specific disclosure requirements under different regulations. For example, a CTA that includes a privacy notice in its disclosure document would have to make the privacy notice clear and conspicuous, and would have to prepare the disclosure document according to certain standards under the CEA and Commission regulations.[15] The rule provides an example of how a financial institution may make privacy disclosures conspicuous, including privacy disclosures that are combined in a document with other information.[16] In order to avoid the potential conflicts between two different rules requiring different sets of disclosures that are subject to different standards, the rule does not mandate precise specifications for presenting various disclosures.

Disclosures on Internet web pages. The rule provides guidance on how financial institutions may clearly and conspicuously disclose privacy-related information on their Internet sites. Disclosures over the Internet may present some issues that will not arise in paper-based disclosures. Consumers may view various web pages within a financial institution's web site in a different order each time they access the site, aided by hypertext links. Depending on the hardware and software used to access the Internet, some web pages may require consumers to scroll down to view the entire page. To address these issues, the rule provides an example concerning Internet disclosures stating that FCMs, CTAs, CPOs and IBs may comply with the rule if they use text or visual cues to encourage scrolling down the page if necessary to view the entire notice, and ensure that other elements on the web site (such as text, graphics, hypertext links, or sound) do not distract attention from the notice.[17] The examples also note that the institution should place a notice or a conspicuous link on a screen that consumers frequently access, such as a page on which consumers conduct transactions.

There is a range of approaches an FCM, CTA, CPO or IB could use based on current technology. For example, an FCM could use a dialog box that pops up to provide the disclosure before a consumer provides information to a financial institution. Another approach would be a simple, clearly labeled graphic located near the top of the page or in close proximity to the financial institution's logo, directing the customer, through a hypertext link or hotlink, to the privacy disclosures on a separate web page.

(c) *Collect.* The GLB Act requires a financial institution to disclose in its initial and annual notices the categories of information that the institution collects. The Commission has defined this term to mean obtaining information that can be organized or retrieved by the name of the individual or by another identifying number, symbol, or other identifying particular assigned to the individual,[18] irrespective of the source of the underlying information. The definition is intended to provide guidance about the information that an FCM, CTA, CPO or IB must include in its notices and to clarify that the obligations arise regardless of whether the institution obtains the information from a consumer or from some other source. This definition is not intended to include information that an FCM, CTA, CPO or IB receives but then immediately passes on without retaining a copy, as such information would not be organized and retrievable.

(d) *Commission.* The term ''Commission'' means Commodity Futures Trading Commission.

(e) *Commodity pool operator.* The term ''commodity pool operator'' has the same meaning as in section 1a(5) of the Commodity Exchange Act, as amended, and includes anyone registered as such under the Act.

(f) *Commodity trading advisor.* The term ''commodity trading'' advisor has the same meaning as in section 1a(6) of the Commodity Exchange Act, as amended, and includes anyone registered as such under the Act.

(g) *Company.* The rules define ''company'' to mean any corporation, limited liability company, business trust, general or limited partnership, association or similar organization.

(h) *Consumer.* The rules define ''consumer'' as an individual (including his or her legal representative) who obtains a financial product or service from an FCM, CTA, CPO or IB that is to be used primarily for personal, family or household purposes. An individual also will be deemed to be a consumer for purposes of a financial institution if that institution purchases the individual's account from some other institution. The GLB Act distinguishes ''consumers'' from ''customers'' for purposes of the notice requirements imposed by that Act. As explained in the discussion of section 160.4, a financial institution must give a ''consumer'' the notices required under Title V only if the institution intends to disclose nonpublic personal information about the consumer to a nonaffiliated third party for a purpose that is not authorized by one of several exceptions set out in sections 160.14 and 160.15. By contrast, a financial institution must give all ''customers,'' not later than the time of establishing a customer relationship and annually thereafter during the continuation of the customer relationship, a notice of the institution's privacy policy.

A person is a ''consumer'' under the rules if he or she obtains a financial product or service from a financial institution that is to be used primarily for personal, family or household purposes. The definition of ''financial product or service'' in section 160.3(o) includes, among other things, a financial institution's evaluation of an individual's application to obtain a financial product or service. Thus, a financial institution that intends to share nonpublic personal information about a consumer with nonaffiliated third parties outside of the exceptions described in sections 160.14 and 160.15 will have to give the requisite notices, even if the application or request is denied or withdrawn.

The examples that follow the definition of ''consumer'' explain when someone is a consumer. The examples clarify that a consumer includes someone who provides nonpublic personal information in connection with seeking to obtain commodity interest trading or advisory services, but does not include someone who provides only his or her name, address, and areas of investment interest in order to obtain a

[15] *See* 7 U.S.C. 6m; 17 CFR part 4.

[16] *See* section 160.3(b)(2)(ii)(E). Because we believe that privacy disclosures may be clear and conspicuous when combined with other disclosures, this section does not mandate that privacy disclosures be provided on a separate piece of paper. The requirement is not necessary and might significantly increase the burden on financial institutions.

[17] Section 1603.(b)(2)(iii).

[18] The definition uses language from the Privacy Act of 1974, 5 U.S.C. 552a.

brochure or other information about a financial product or service.[19] An individual who has an account with an originating FCM and whose positions are carried by a clearing FCM in an omnibus account in the name of the originating FCM is not a consumer for purposes of the clearing FCM if the clearing FCM receives no nonpublic personal information about the consumer.

Requirements arising from consumer relationship. While the rules define ''consumer'' broadly, we note that this definition will not result in any additional burden to an FCM, CTA, CPO or IB if (i) no customer relationship is established and (ii) the institution does not intend to disclose nonpublic personal information about the consumer to nonaffiliated third parties. Under this approach, an FCM, CTA, CPO or IB is under no obligation to provide a consumer who is not a customer with any privacy disclosures unless it intends to disclose the consumer's nonpublic personal information to nonaffiliated third parties outside the exceptions in sections 160.14 and 160.15. The institution may disclose a consumer's nonpublic personal information to nonaffiliated third parties if it delivers the requisite notices and the consumer does not opt out. Thus, the rule allows a financial institution to avoid all of the rule's requirements for consumers who are not customers if the institution chooses not to share information about the consumers with nonaffiliated third parties except as provided in the exceptions. Conversely, if an FCM, CTA, CPO or IB chooses to share consumers' nonpublic personal information with nonaffiliated third parties, the financial institution is free to do so, provided it notifies consumers about the sharing and affords them a reasonable opportunity to opt out. In this way, the rule attempts to strike a balance between protecting an individual's nonpublic personal information and minimizing the burden on a financial institution.

(i) *Consumer reporting agency.* The rules incorporate the definition of ''consumer reporting agency'' in section 603(f) of the Fair Credit Reporting Act (FCRA).[20] The term is used in sections 160.12 and 160.15.

(j) *Control.* The rules define ''control'' for purposes of FCMs, CTAs, CPOs or IBs to mean the power to exercise a controlling influence over the management or policies of a company whether through ownership of securities, by contract, or otherwise. In addition, ownership of more than 25 percent of a company's voting securities creates a presumption of control of the company. This definition is used to determine when companies are affiliated, and results in financial institutions being considered as affiliates regardless of whether the control is exercised by a company or individual.

(k) *Customer.* The rules define ''customer'' as any consumer who has a ''customer relationship'' with a particular financial institution. Thus, a consumer becomes a customer of a financial institution when he or she enters into a continuing relationship with the institution. For example, a consumer would become a customer when he or she completes the documents needed to open a commodity interest account or enters into an advisory agreement (whether in writing or orally).

The distinction between consumers and customers determines the notices that a financial institution must provide. If a consumer never becomes a customer, the institution is not required to provide any notices to the consumer unless the institution intends to disclose nonpublic personal information about that consumer to nonaffiliated third parties (outside of the exceptions as set out in sections 160.14 and 160.15). By contrast, if a consumer becomes a customer, the institution must provide a copy of its privacy policy no later than at the time it establishes the customer relationship and at least annually during the continuation of the customer relationship.

(l) *Customer relationship.* The rules define ''customer relationship'' as a continuing relationship between a consumer and a financial institution in which the institution provides a financial product or service that is to be used by the consumer primarily for personal, family, or household purposes. Because the GLB Act requires annual notices of the financial institution's privacy policies to its customers, we have interpreted that Act as requiring more than isolated transactions between a financial institution and a consumer to establish a customer relationship, unless it is reasonable to expect further contact about that transaction between the institution and consumer afterwards. Thus, the rules define ''customer relationship'' as one that generally is of a continuing nature. As noted in the examples that follow the definition, this would include a commodity interest account or an advisory relationship. An FCM would have a customer relationship with a consumer when the FCM regularly enters orders for the customer, even if the FCM holds none of the customer's assets.

A one-time transaction may be sufficient to establish a customer relationship, depending on the nature of the transaction. The examples that follow the definition of ''customer relationship'' clarify that an individual's purchase or sale of a futures or options contract through an FCM with whom the customer opens an account would be sufficient to establish a customer relationship because of the continuing nature of the service. By contrast, an individual who is merely referred by an IB to an FCM would not be the IB's customer if the IB does not enter orders for the individual.[21]

(m) *Federal functional regulator.* The rules define the term ''federal functional regulator'' to include the Commission and each of the Agencies. This term is used in two places. First, it is used in section 160.3(a), the definition of affiliate. Second, it is used in section 160.15(a)(4) for disclosures to law enforcement agencies, ''including federal functional regulators.''

(n) *Financial institution.* The rules define ''financial institution'' as (i) an FCM, CTA, CPO or IB that is registered with the Commission as such or is otherwise subject to the Commission's jurisdiction, and (ii) any institution the business of which is engaging in activities that are financial in nature or incidental to such financial activities as described in section 4(k) of the Bank Holding Company Act of 1956 (BHCA).[22] The rules exempt from the definition of ''financial institution'' those entities specifically excluded by the GLB Act, except to the extent those entities were brought within the scope of Title V by section 5g of the CEA.

The GLB Act excludes ''any person or entity'' that is subject to the Commission's jurisdiction from Title V's coverage.[23] Section 5g of the CEA partially reverses that exclusion by providing that certain entities subject to

[19] Individuals may provide this information, for example, on ''tear-out'' cards from magazines, or in telephone or Internet requests for brochures or other information.

[20] 15 U.S.C. 1681a(f).

[21] The individual would, however, be a consumer of the IB for purposes of the privacy rules, which would require the IB to provide notices if it intends to disclose nonpublic personal information about the consumer to nonaffiliated third parties outside of the exceptions.

[22] 12 U.S.C. 1843(k).

[23] Section 509(3)(B) of the GLB Act provides:

Notwithstanding subparagraph (A), the term ''financial institution'' does not include any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act.

the Commission's jurisdiction—specifically, FCMs, CTAs, CPOs and IBs—shall be covered by Title V with respect to their financial activity.[24] The rule retains the exclusion of the GLB Act, to the extent that it has not been superseded by section 5g of the CEA, to make clear that floor brokers and various trading facilities and clearing organizations that are subject to the Commission's jurisdiction are not ''financial institutions'' for purposes of the GLB Act.

(o) *Financial product or service.* The rules define ''financial product or service'' as a product or service (i) that an FCM, CTA, CPO or IB could offer that is subject to the Commission's jurisdiction, or (ii) that a financial institution could offer that is financial in nature, or incidental to such a financial activity, under section 4(k) of the BHCA. An activity that is complementary to a financial activity, as described in section 4(k), is not included in the definition of ''financial product or service'' under this paragraph.

The Commission's definition of ''financial product or service'' differs from that of the other Agencies to the extent that it includes any product or service that an FCM, CTA, CPO or IB could offer that is subject to the Commission's jurisdiction and that is not otherwise included as a financial activity under section 4(k) of the BHCA. The other Agencies have defined financial product or service as any product or service that a financial institution could offer that is financial in nature, or incidental to such a financial activity, under section 4(k) of the BHCA. The Commission's broader definition includes certain activity—such as acting as a CPO—which is not financial in nature, or incidental to such a financial activity, under section 4(k) of the BHCA.[25] The Commission's definition of ''financial product or service'' is designed to implement Congress'' intent in section 5g of the CEA that customers of FCMs, CTAs, CPOs and IBs be accorded the same privacy rights as customers of other financial institutions and is solely for purposes of part 160.

The definition includes the financial institution's evaluation of information collected in connection with an application by a consumer for a financial product or service even if the application ultimately is rejected or withdrawn. It also includes the distribution of information about a consumer for the purpose of assisting the consumer to obtain a financial product or service.

(p) *Futures commission merchant.* The term ''futures commission merchant'' has the same meaning as in section 1a(20) of the Commodity Exchange Act, as amended, and includes anyone registered as such under the Act.

(q) *GLB Act.* The term ''GLB Act'' means the Gramm-Leach-Bliley Act (Pub. L. No. 106–102, 113 Stat. 1338 (1999)).

(r) *Introducing broker.* The term ''introducing broker'' has the same meaning as in section 1a(23) of the Commodity Exchange Act, as amended, and includes anyone registered as such under the Act.

(s) *Nonaffiliated third party.* The rule defines ''nonaffiliated third party'' to mean any person (including natural persons as well as corporate entities) except (i) an affiliate of a financial institution and (ii) a joint employee of a financial institution and a third party. Information received by a joint employee will be deemed to have been given to the financial institution that is providing the financial product or service in question. Thus, for example, if an employee of a broker-dealer is also an employee of an FCM, information that the employee received in connection with a securities transaction conducted with the broker-dealer would be considered as received by the broker-dealer.

(t) *Nonpublic personal information.* Section 509(4) of the GLB Act defines ''nonpublic personal information'' to mean ''personally identifiable financial information'' that (i) is provided by a consumer to a financial institution, (ii) results from any transaction with the consumer or any service performed for the consumer, or (iii) is otherwise obtained by the financial institution. The term also includes any ''list, description, or other grouping of consumers, and publicly available information pertaining to them, that is derived using any nonpublic personal information that is not publicly available information.'' The GLB Act excludes publicly available information (unless provided as part of the list, description, or other grouping described above), as well as any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived without using nonpublic personal information. The GLB Act does not define either ''personally identifiable financial information'' or ''publicly available information.''

The rule implements the definition of ''nonpublic personal information'' under the GLB Act by restating the categories of information described above. The rule provides that information will be deemed to be ''publicly available'' and therefore excluded from the definition of ''nonpublic personal information'' if an FCM, CTA, CPO or IB reasonably believes that the information is lawfully made available to the general public from one of the three categories of sources listed in the rule.[26] The examples provided in the rule clarify when an FCM, CTA, CPO or IB has a reasonable belief that information is lawfully made available to the general public. For example, an institution would have a reasonable belief if (i) the institution has confirmed, or the consumer has represented, that the information is publicly available from a public source, or (ii) the institution has taken steps to submit the information, in accordance with its internal procedures and policies and with applicable law, to a keeper of federal, State, or local government records who is required by law to make the information publicly available.[27] The examples also state that an FCM, CTA, CPO or IB would have a reasonable belief that a telephone number is publicly available if the institution located the number in a telephone book or Internet listing service or if the consumer told the institution that the number is not unlisted.[28] Moreover, the examples make clear that an institution may not assume information about a particular consumer is publicly available simply because that type of information is normally provided to a government record keeper and made available to the public by the record keeper, because the consumer may have the ability to keep that information nonpublic or to screen his or her identity.

The approach of the rule is the same as that taken by the Agencies in their rules[29] and is based on the underlying principle that a consumer in many circumstances can control the public availability or identification of his or

[24] Section 5g of the CEA provides:

Notwithstanding section 509(3)(B) of the Gramm-Leach-Bliley Act, any futures commission merchant, commodity trading advisor, commodity pool operator, or introducing broker that is subject to the jurisdiction of the Commission under this Act with respect to any financial activity shall be treated as a financial institution for purposes of title V of such Act with respect to such financial activity.

[25] *See* 12 CFR 225.86 (66 FR 400, 418 (Jan. 3, 2001)).

[26] *See* section 160.3(v)(1).

[27] *See* section 160.3(v)(2)(i)(B).

[28] *See* section 160.3(v)(2)(i)(C).

[29] See, e.g., 65 FR at 35208 (Federal Reserve Board); 65 FR at 35218 (Federal Deposit Insurance Corporation); 65 FR at 40364–65 (SEC).

her information and that a financial institution therefore should not assume that the information about that consumer is in fact publicly available. Thus, even though a lender typically enters a mortgage in public records in order to protect its security interest, when a borrower can maintain the privacy of his or her personal information by owning the property and obtaining the loan through a separate legal entity, the customer's name would not appear in the public record. In the case of a telephone number, a person may request that his or her number be unlisted. Thus, in evaluating whether it is reasonable to believe that information is publicly available, a financial institution must determine whether the consumer has kept the information or his or her identity from being a matter of public record.

To implement the complex definition of ''nonpublic personal information'' that is provided in the statute, the rule adopts a definition that consists, generally speaking, of (i) personally identifiable financial information, plus (ii) a consumer list or description or grouping of consumers (and publicly available information pertaining to the consumers) that is derived using any personally identifiable financial information that is not publicly available information. From that body of information, the rule excludes publicly available information (except as noted above or if the information is disclosed in a manner that indicates that the individual is the institution's consumer) and any consumer list that is derived without using personally identifiable financial information that is not publicly available information.[30] Examples are provided in section 160.3(t)(3) to illustrate how this definition applies in the context of consumer lists.

(u) *Personally identifiable financial information.* As discussed above, the GLB Act defines ''nonpublic personal information'' to include, among other things, ''personally identifiable financial information'' but does not define the latter term. As a general matter, the rules treat any personally identifiable information as financial if the financial institution obtains the information in connection with providing a financial product or service to a consumer. We believe that this approach reasonably interprets the word ''financial'' and creates a workable and clear standard for distinguishing information that is financial from other personal information. This interpretation would cover a broad range of personal information provided to a financial institution, including, for example, information about the consumer's health, as well as the fact that an individual is a customer of a financial institution.

The rules define ''personally identifiable financial information'' to include three categories of information. The first category includes any information that a consumer provides a financial institution in order to obtain a financial product or service from the institution. As noted in the examples that follow the definition, this includes information provided on an application to open a commodity trading account, invest in a commodity pool or to obtain another financial product of service. If, for example, a consumer provides medical information on an application to obtain a financial product or service, that information would be considered ''personally identifiable financial information'' for purposes of the proposed rules. Similarly, information that may be required for financial planning purposes, including details about retirement and family obligations, such as the care of a disabled child, would be covered by the definition.

The second category includes any information about a consumer resulting from any transaction between the consumer and the financial institution involving a financial product or service. This would include, as noted in the examples following the definition, information about account balance, payment or overdraft history, credit or debit card purchases or financial products purchased or sold.

The third category includes any financial information about a consumer otherwise obtained by the financial institution in connection with providing a financial product or service. This would include information obtained through an information-collecting device from a web server, often referred to as a ''cookie.'' It would also include information from a consumer report or from an outside source to verify information a consumer provides on an application to obtain a financial product or service. It would not, however, include information that is publicly available (unless, as previously noted, the information is part of a list of consumers that is derived using personally identifiable financial information).

The examples clarify that the definition of ''personally identifiable financial information'' does not include a list of names and addresses of people who are customers of an entity that is not a financial institution. Thus, the names and addresses of people who subscribe, for instance, to a particular magazine would fall outside the definition. The examples also clarify that aggregate information (or ''blind data'') lacking personal identifiers is not covered by the definition of ''personally identifiable financial information.''

(v) *Publicly available information.* The rules define ''publicly available information'' as information the financial institution reasonably believes is lawfully made available to members of the general public from three broad types of sources.[31] First, it includes information from official public records, such as real estate recordations or security interest filings. Second, it includes information from widely distributed media, such as a telephone book, radio program, or newspaper. Third, it includes information from disclosures required to be made to the general public by federal, State, or local law, such as securities disclosure documents. The rules state that information obtained over the Internet will be considered publicly available information if the information is obtainable from a site available to the general public on an unrestricted basis.[32]

The rules treat information as publicly available if it could be obtained from one of the public sources listed in the rules. If an institution reasonably believes the information is lawfully made available to the general public from one of the listed public sources, then the information will be considered publicly available and excluded from the scope of ''nonpublic personal information,'' whether or not the institution obtains it from a publicly available source (unless, as previously noted, it is part of a list of consumers that is derived using personally identifiable financial information). Under this approach, the fact that a consumer has given information to a financial institution would not automatically extend to that information

[30] See section 160.3(t)(2).

[31] We recognize that some information that is available to the general public may have been published illegally. In some cases, such as a list of customer account numbers posted on a web site, the publication will be obviously unlawful. In other cases, the legality of the publication may be unclear or unresolved. The rules provide that information is ''publicly available'' if the institution reasonably believes that information is lawfully available to the public.

[32] The examples further explain that an Internet site is not restricted merely because an Internet service provider or a site operator requires a fee or password as long as access is otherwise available to the general public. This recognizes that the ''widely distributed'' requirement focuses on whether the information is lawfully available to the general public, rather than on the type of medium from which information is obtained.

the protections afforded to nonpublic personal information.

The rules incorporate the concept of information being lawfully obtained. Thus, information unlawfully obtained will not be deemed to be publicly available notwithstanding that it may be available to the general public through widely distributed media.

(w) *You.* The rules define you as any FCM, CTA, CPO or IB subject to the jurisdiction of the Commission. The term ''you'' is used in order to make the rules easier to understand and use.

Subpart A—Privacy and Opt Out Notices

Section 160.4 Initial Privacy Notice to Consumers Required

Initial notice required. The GLB Act requires that a financial institution provide an initial notice of its privacy policies and practices in two circumstances. For customers, the notice must be provided no later than at the time of establishing a customer relationship. For consumers who do not, or have not yet, become customers, the notice must be provided before disclosing nonpublic personal information about the consumer to a nonaffiliated third party.

Paragraph (a) of section 160.4 states the general rule regarding these notices. A financial institution must provide a clear and conspicuous notice, as defined in section 160.3(b), that accurately reflects the institution's privacy policies and practices. Accordingly, a financial institution must maintain the protections that its notice represents it will provide. The Commission expects that FCMs, CTAs, CPOs and IBs will take appropriate measures to adhere to their stated privacy policies and practices.

The rules do not prohibit two or more institutions from providing a joint initial, annual or opt out notice, as long as the notice is delivered in accordance with the rules and is accurate with respect to all institutions.[33] For example, institutions that could provide joint notices include: (i) an IB and its FCM; (ii) a CTA and the FCM carrying the customer's account; and (iii) a clearing FCM and an executing FCM. Similarly, the rules do not preclude an institution from establishing different privacy policies and practices for different categories of consumers, customers or products so long as each particular consumer or customer receives a notice that is accurate with respect to that individual.

Notice to customers. The rules require that a financial institution provide an individual a privacy notice not later than the time that it establishes a customer relationship subject to the limited circumstances set forth in paragraph (e), as discussed below. Thus, the initial notice may be provided at the same time an FCM, CTA, CPO or IB is required to give other notices, such as the rule 1.55 risk disclosure statement that an FCM or IB is required to provide before opening an account for a customer and the part 4 disclosure document that a CPO or CTA is required to provide before soliciting or accepting funds from pool participants (in the case of a CPO) or soliciting or entering into an agreement to direct a client's account (in the case of a CTA).[34] This approach is intended to strike a balance between (i) ensuring that consumers will receive privacy notices at a meaningful point during the process of ''establishing a customer relationship'' and (ii) minimizing unnecessary burdens on FCMs, CTAs, CPOs and IBs that may otherwise result if the rule were to require financial institutions to provide consumers with a series of notices at various times in a transaction.

Paragraph (c) of section 160.4 identifies the time a customer relationship is established as the point at which a financial institution and a consumer enter into a continuing relationship. The examples in paragraph (c) clarify that, for customer relationships that are contractual in nature including, for example, a commodity interest advisory relationship, a customer relationship is established when the customer enters into the contract (whether written or oral) that is necessary to engage in the activity in question. Thus, for example, a customer relationship is established with an FCM when the customer executes a commodity interest trade through the FCM or opens an account with the FCM under its procedures.

Notice to consumers. For consumers who do not establish a customer relationship, the initial privacy notice may be provided at any point before the financial institution discloses nonpublic personal information to nonaffiliated third parties. As provided in paragraph (b) of section 160.4, if the institution does not intend to disclose the information in question or intends to make only those disclosures that are authorized by one of the exceptions or as required by law,[35] the institution is not required to provide the initial notice.

How to provide notice. When you are required by this section to deliver an initial privacy notice, the notice must be delivered according to the provisions of section 160.9. The general rule requires that the initial notice be provided so that each recipient can reasonably be expected to receive actual notice.

New notices not required for each new financial product or service. The Commission believes that it would be burdensome, with little corresponding benefit to the consumer, to require a financial institution to provide the same consumer with additional copies of its initial notice every time the consumer obtains a financial product or service. Accordingly, the final rule states, in section 160.4(d), that a financial institution will satisfy the notice requirements when an existing customer obtains a new financial product or service if the institution's initial, revised or annual notice is accurate with respect to the new financial product or service.

Exceptions to allow subsequent delivery of notice. As proposed, section 160.4(e) would permit a financial institution to provide subsequent delivery of the initial notice required by paragraph (a)(1) within a reasonable time after the customer relationship is established in limited instances. For example, the institution may provide notice after the fact if the customer has not elected to establish a customer relationship. This might occur, for instance, when a commodity interest account is transferred from a financially-distressed FCM to another FCM in an emergency situation. Subsequent delivery of the initial notice would also be permitted after the establishment of a customer relationship when to do otherwise would substantially delay the consumer's transaction and the customer agrees to receive the notice at a later time. An example of this is when an investor requests over the telephone that an FCM execute a trade.

In response to the proposed rules, FIA commented that it was unclear how the subsequent delivery exceptions would apply in the context of a bulk transfer under Commission Rule 1.65. Rule 1.65 establishes a ''negative consent'' procedure for the transfer of customers'' accounts from one FCM to another. Because the customer has the right to move his or her account to another FCM prior to the transfer, FIA requested

[33] See also infra discussion of section 160.9(f).

[34] The Commission recognizes that the disclosure requirements of part 4 apply as early as the solicitation stage, which often occurs before a customer relationship has been established. *See* 17 CFR 4.21 (CPO disclosure document) and 17 CFR 4.31 (CTA disclosure document). In these circumstances, a CPO or CTA would not be required to provide the initial privacy notice until such time as the customer relationship has been established, although it could elect to provide the notice earlier at the time of the solicitation.

[35] See sections 160.14, 160.15.

clarification regarding the ability of a transferee FCM to take advantage of the section 160.4(e) exceptions. FIA expressed the belief that subsequent delivery of the initial notice should also be permitted in the bulk transfer context, and asked the Commission to amend the rule accordingly. The Commission agrees with this interpretation and notes that historically, the Commission has considered a bulk transfer to be a transfer that is not at the customer's election. Nevertheless, to provide further guidance, the Commission has determined to add a new exception in paragraph (e)(1)(iv) that specifically addresses a bulk transfer carried out in accordance with Rule 1.65.

We note that, in most situations, a financial institution should give the initial notice at a point when the consumer still has a meaningful choice about whether to enter into the customer relationship. The exceptions listed in the examples, while not exhaustive, are intended to illustrate the less frequent situations when delivery either would pose a significant impediment to the conduct of a routine business practice or the customer agrees to receive the notice later in order to obtain a financial product or service immediately.

In circumstances when it is appropriate to deliver an initial notice after the customer relationship has been established, a financial institution should deliver an initial notice within a reasonable time thereafter. The Commission believes that a rule prescribing the maximum number of days in which a financial institution must deliver a notice in these circumstances would be inappropriate because (a) the circumstances when an after-the-fact notice is appropriate are likely to vary significantly, and (b) a rule that attempts to accommodate every circumstance is likely to provide more time than is appropriate in many circumstances.[36]

Section 160.5 Annual Privacy Notice to Customers Required

Section 503 of the GLB Act requires a financial institution to provide notices of its privacy policies and practices to its customers at least annually. Section 160.5 implements this requirement by requiring that a clear and conspicuous notice that accurately reflects the institution's current privacy policies and practices be provided at least once during any period of twelve consecutive months during which the customer relationship exists. An institution may select a calendar year as the 12-month period within which notices will be provided and provide the first annual notice at any point in the calendar year following the year in which the customer relationship was established. Section 160.5(a)(1) also requires that an institution apply the 12-month rule to its customers on a consistent basis. The rules governing how to provide an initial notice also apply to annual notices.

Section 503(a) of the GLB Act requires that the annual notice be provided ''during the continuation'' of a customer relationship. Accordingly, the rules state that a financial institution is not required to provide an annual notice to a customer with whom it no longer has a continuing relationship. For example, a customer becomes a former customer when the individual's account is closed.

Section 160.6 Information To Be Included in Privacy Notices

Section 503 of the GLB Act identifies the categories of information that must be included in a financial institution's initial and annual privacy notices and establishes the general requirement that a financial institution must provide customers with a notice describing the institution's policies and practices with respect to, among other things, disclosing nonpublic personal information to both affiliates and nonaffiliated third parties. Section 503(b) of the GLB Act identifies certain elements that the notice must address.

The required content is the same for initial and annual notices of privacy policies and practices. While the information contained in the notices must be accurate as of the time the notices are provided, a financial institution may prepare its notices based on current and anticipated policies and practices.

Subsection (a) of section 160.6 prescribes the information to be included; subsection (c) provides examples of how to comply with this requirement.

1. *Categories of nonpublic personal information that a financial institution may collect.* Section 503(b)(2) of the GLB Act requires a financial institution to inform its customers about the categories of nonpublic personal information that the institution collects. Section 160.6(a)(1) implements this requirement and paragraph (c)(1) provides an example of compliance that focuses on the source of the information collected. As described in the example, a financial institution will satisfy this requirement if it categorizes the information according to the sources, such as application information, transaction information, and consumer report information. While financial institutions may provide more detail about the categories and information collected, they are not required to do so.

2. *Categories of nonpublic personal information that a financial institution may disclose.* Section 503(a)(1) of the GLB Act requires the financial institution's initial and annual notice to provide information about the categories of nonpublic personal information that may be disclosed either to affiliates or nonaffiliated third parties. Rule 160.6(a)(2) implements this requirement. The examples of how to comply with this rule in paragraph (c)(2) focus on the content of the information to be disclosed. A financial institution may satisfy this requirement by categorizing information according to source and providing examples of the content of this information. These categories might include application information (such as assets, income, and investment goals), identifying information (such as name, address and social security number), transaction information (such as information about account activity and balances), and information from consumer reports (such as credit history).

Financial institutions may choose to provide more detailed information in the initial and annual notices. If a financial institution does not disclose, and does not intend to disclose, nonpublic personal information to affiliates or nonaffiliated third parties, its initial and annual notices may simply state this fact without further elaboration about categories of information disclosed.

3. *Categories of affiliates and nonaffiliated third parties to whom a financial institution discloses nonpublic personal information.* Section 503(a) of the GLB Act includes a general requirement that a financial institution provide notice to its customers of the institution's policies and practices with respect to disclosing nonpublic personal information to affiliates and nonaffiliated third parties. Section 503(b) provides that the notice required by section 503(a) must include certain specified items, including the requirement that a financial institution inform its customers about its policies and practices with respect to disclosing nonpublic personal information to nonaffiliated third parties. We believe

[36] The Commission believes, however, that allowing the transferee FCM 60 days to deliver the initial privacy notice to the customer following a Rule 1.65 bulk transfer as requested by FIA would be unreasonable and inconsistent with the intent of the privacy rules. Instead, the transferee FCM would be expected to deliver the initial privacy notice no later than the time that it delivers the monthly account statements required by Rule 1.33.

that sections 503(a) and 503(b) of the GLB Act, when read together, require a financial institution's notice to address disclosures of nonpublic personal information to both affiliates and nonaffiliated third parties.

Rule 160.6(a)(3) implements the notice requirement of section 503. The example in paragraph (c)(3) explains that a financial institution will adequately categorize the affiliates and nonaffiliated third parties to whom it discloses nonpublic information about consumers if it identifies the types of businesses in which they engage. Types of businesses may be described in general terms, such as financial products or services, if the financial institution provides examples of the significant types of businesses engaged in by the recipient, such as retail banking, mortgage lending, life insurance or securities brokerage.

Section 502(e) of the GLB Act creates exceptions to the requirements that apply to the disclosure of nonpublic personal information to nonaffiliated third parties. In addition, section 503(b) of the GLB Act does not require a financial institution to list the categories of persons to whom information may be disclosed under any of those enumerated exceptions. Accordingly, rule 160.6(b) requires only that a financial institution inform consumers that it makes disclosures as permitted by law to nonaffiliated third parties in addition to those described in the notice.

If a financial institution does not disclose, and does not intend to disclose, nonpublic personal information to affiliates or nonaffiliated third parties, its initial and annual notices may state this fact without further elaboration about categories of third parties.

4. *Information about former customers.* Section 503(a)(2) of the GLB Act requires that the financial institution's initial and annual privacy notices include the institution's policies and practices with respect to disclosing nonpublic personal information about persons who have ceased to be customers of the financial institution. Section 503(b)(1)(B) requires that this information be provided with respect to information disclosed to nonaffiliated third parties. We believe that, read together, sections 503(a)(2) and (b)(1)(B) require a financial institution to include in its initial and annual notices the institution's policies and practices with respect to sharing information about former customers with all affiliates and nonaffiliated third parties. Rule 160.6(a)(4) sets forth this requirement. This rule does not require a financial institution to provide notice and opportunity to opt out to a former customer before sharing nonpublic personal information about the former customer with an affiliate.

5. *Information disclosed to service providers.* Section 502(b)(2) of the GLB Act permits a financial institution to disclose nonpublic personal information about a consumer to a nonaffiliated third party that performs services for the institution, including marketing financial products or services under a joint agreement between the financial institution and at least one other financial institution. In such cases, a consumer has no right to opt out, but the financial institution must inform the consumer that it will be disclosing the information in question unless the service falls within one of the exceptions enumerated in section 502(e) of the GLB Act.

Rule 160.6(a)(5) implements these provisions by requiring that, if a financial institution discloses nonpublic personal information to a nonaffiliated third party under the exception for service providers and joint marketing, it must include in its initial and annual privacy notices a separate description of the categories of information that are disclosed and the categories of third parties providing the services. A financial institution may comply with these requirements by providing the same level of detail in the notice as is required to satisfy sections 160.6(a)(2) and (3).

6. *Right to opt out.* Sections 503(a)(1) and (b)(2) of the GLB Act require a financial institution to provide customers with a notice of its privacy policies and practices concerning, among other things, disclosure of nonpublic personal information consistent with section 502 of the GLB Act. Rule 160.6(a)(6) implements this section of the GLB Act by requiring the initial and annual privacy notices to explain the right to opt out of disclosures of nonpublic personal information to nonaffiliated third parties, and the methods available to exercise that right.

7. *Disclosures made under the Fair Credit Reporting Act.* Pursuant to section 503(b)(4) of the GLB Act, a financial institution's initial and annual notice must include the disclosures, if any, required under section 603(d)(2)(A)(iii) of the FCRA.[37] That section excludes from the definition of ''consumer report'' (and, accordingly, the protections provided under the FCRA for information contained in consumer reports) the communication of certain consumer information among affiliated entities if the consumer is notified about the disclosure of the information and given an opportunity to opt out of the information sharing. Information that can be shared among affiliates under this provision generally is personal information provided directly by the consumer to the financial institution, such as income and social security number, in addition to information contained in credit bureau reports.

Rule 160.6(a)(7) implements section 503(b)(4) of the GLB Act by requiring that a financial institution's initial and annual privacy notices include any disclosures the institution makes under section 603(d)(2)(A)(iii) of the FCRA.

8. *Confidentiality and security.* Pursuant to section 503(a)(3) of the GLB Act, a financial institution's initial and annual privacy notices must provide information about the institution's policies and practices with respect to protecting the nonpublic personal information of consumers. Section 503(b)(3) requires that the notices include the policies that the financial institution maintains to protect the confidentiality and security of nonpublic personal information in accordance with section 501, which requires the federal functional regulators to establish standards governing the administrative, technical and physical safeguards of customer information.[38]

Rule 160.6(a)(8) implements these provisions by requiring a financial institution to include in its initial and annual privacy notices the institution's policies and practices with respect to protecting the confidentiality and security of nonpublic personal information. The example in the rules states that a financial institution may comply with the requirement for confidentiality and security if the institution explains such matters as who has access to the information and the circumstances under which the information may be accessed. An institution's security policy should include safeguards to protect the integrity of nonpublic personal information and thus, should also focus on the measures the financial institution takes to protect against reasonably anticipated threats or hazards. The rule does not require a financial institution to disclose technical or proprietary information about how it safeguards consumer information.

Short-form initial notice. Although the general rule requires a financial institution to provide both the initial

[37] 15 U.S.C. 1681a(d)(2)(A)(iii).

[38] *See infra* discussion of section 160.30.

and opt out notices to a consumer before disclosing nonpublic financial information about that person to nonaffiliated third parties, the Commission believes that the need to provide a copy of a financial institution's complete initial notice to consumers is less compelling when there is no customer relationship. Accordingly, section 160.6(d) states that a financial institution may provide a ''short-form'' initial privacy notice along with the opt out notice to a consumer with whom the institution does not have a customer relationship. The short-form notice must clearly and conspicuously state that the disclosure containing information about the institution's privacy policies and practices is available upon request and provide one or more means by which the consumer may obtain a copy of the notice. The rule also requires a financial institution to provide a consumer who is interested in the more complete privacy disclosures with a reasonable means to obtain them.

Section 160.7 Form of Opt Out Notice to Consumers; Opt Out Methods

Section 160.7 provides that any financial institution required to supply an opt out notice under section 160.10 must provide a clear and conspicuous notice to each consumer that accurately explains the right to opt out. The notice must inform the consumer that the institution may disclose nonpublic personal information to nonaffiliated third parties, state that the consumer has the right to opt out, and provide the consumer with a reasonable means by which to opt out.

The examples provided in paragraph (a)(2) of section 160.7 state that a financial institution will provide adequate notice of the right to opt out if it identifies the categories of information that may be disclosed and the categories of nonaffiliated third parties to whom the information may be disclosed and explains that the consumer may opt out of those disclosures. A financial institution that plans to disclose only limited types of information or to make disclosures only to a specific type of nonaffiliated third party may provide a correspondingly narrow notice to consumers. To minimize the number of opt out notices a financial institution must provide, however, the institution may wish to base its notices on current and anticipated information sharing plans. A new opt out notice is not required for disclosures to different types of nonaffiliated third parties or of different types of information so long as the most recent opt out notice is sufficiently broad to cover the entities or information in question. A financial institution also need not provide subsequent opt out notices when a consumer establishes a new type of customer relationship with that financial institution, unless the institution's opt out policies vary based on the type of customer relationship.

The examples suggest several methods of providing reasonable means to opt out, including check-off boxes, reply forms, electronic mail addresses, and toll-free telephone numbers. A financial institution does not provide a reasonable means of opting out if the only means provided is for the consumer to write his or her own letter requesting to opt out, although an institution may honor such a letter if received.

Paragraph (b) of section 160.7 applies to delivery of the opt out notice the same rules that apply to delivery of the initial and annual privacy notices,[39] and clarifies that the opt out notice may be provided together with, or on the same form as, the initial and annual notices. Paragraph (c) provides that if the opt out notice is provided after the initial notice, a financial institution must provide a copy of the initial notice along with the opt out notice.

Paragraph (d) of section 160.7 states that if two or more consumers jointly obtain a financial product or service from a financial institution, the institution may provide a single opt out notice. The opt out notice must, however, explain how the financial institution will treat an opt out direction by a joint customer. The Commission invited comment on how the right to opt out should apply in the case of joint accounts; no comments were received. The Commission has observed, however, that disclosure obligations arising from joint accounts are well settled under other rules, such as the regulations implementing the Equal Credit Opportunity Act (Regulation B, 12 CFR part 202) and the Truth in Lending Act (Regulation Z, 12 CFR part 226). Under both Regulation B and Regulation Z, a financial institution is permitted to give only one notice. The authorities cited include requirements that the financial institution give disclosures, as appropriate, to the ''primary applicant'' if this is readily apparent (see 12 CFR 202.9(f) (Reg. B) and 226.5(b) (Reg. Z)). The Commission accordingly believes that a financial institution should have the option of providing one privacy notice per account, regardless of the number of persons on the account. Each of the account holders must, however, have the right to opt out. The Commission also recognizes that there may be circumstances where one or more of the joint account holders may want separate notices. Accordingly, the final rule states in § 160.7(d) that the financial institution may send one notice, but must honor requests from one or more joint account holders for separate notices. The final rule also requires a financial institution to state in its opt out notice provided to a joint account holder whether the institution will consider an opt out by a joint account holder as an opt out by all of the account holders or whether each account holder is permitted to opt out separately.

Paragraph (e) provides that a financial institution must comply with the customer's opt out as soon as reasonably practicable after receiving it. Paragraph (f) clarifies that a consumer has the right to opt out at any time.

Paragraph (g) states that an opt out will continue until it is revoked by the consumer in writing , in hard copy or, if the consumer agrees, electronically. When a customer relationship terminates, the customer's opt out direction continues to apply to the nonpublic personal information collected by the financial institution during or related to the relationship. That opt out will continue until the customer revokes it. If that individual subsequently establishes a new customer relationship with the financial institution, however, the opt out direction that applied to the former relationship does not apply to the new relationship and the institution must provide a new opt out notice to the customer in connection with the new relationship.

Section 160.8 Revised Privacy Notices

This section sets forth the rules governing a financial institution's obligations in the event the institution changes its disclosure policies. As stated in this section, a financial institution may not directly or through an affiliate disclose nonpublic personal information to a nonaffiliated third party under the new policy unless the institution first provides a revised notice and a new opportunity to opt out. The institution must wait a reasonable period of time before disclosing information according to the terms of the revised notice in order to afford the consumer a reasonable opportunity to opt out. A financial institution must provide a consumer the revised notice of its policies and practices and an opt out notice in a manner such that each consumer can reasonably be expected to

[39] *See* section 160.9.

receive actual notice, as provided in Section 160.9.

Section 160.9 Delivering Privacy and Opt Out Notices

Paragraph (a) of section 160.9 requires that any privacy and opt out notices provided by a financial institution be provided in a manner such that each consumer can reasonably be expected to receive actual notice in writing, either in hard copy or, if the customer agrees, electronically. Paragraph (b) sets forth examples of reasonable expectation of actual notice, including, for example, hand-delivery to the consumer of a printed copy of the notice, mailing a printed copy of the notice to the last known address of the consumer, and, for a consumer who conducts transactions electronically, posting the notice on the electronic site and requiring the consumer to acknowledge receipt of the notice as a necessary step to obtaining the particular financial product or service. It would not be sufficient to provide only a posted copy of the notice in a lobby. Similarly, it would not be sufficient to provide an initial notice only on a Web page, unless the consumer is required to access that page to obtain the product or service in question. Electronic delivery generally should be in the form of electronic mail to ensure that a consumer actually receives the notice. If a financial institution and a consumer orally agree to enter into a contract for a financial product or service over the telephone, the institution may provide the consumer with the option of receiving an initial notice after providing the product or service so as not to delay the transaction.[40]

Paragraph (c) describes additional examples of reasonable expectation of actual notice that apply only in the context of the annual privacy notice. A financial institution may reasonably expect that a customer who uses the institution's web site to obtain financial products and services will receive actual notice of the annual privacy notice if the customer has agreed to accept notices at the institution's web site and if the institution continuously posts a current notice of its privacy policies and practices in a clear and conspicuous manner on the web site. This paragraph also makes clear that a financial institution need not send the annual privacy notice to a customer who affirmatively requests no communication from the institution, provided that the notice is available upon request. Paragraph (d) prohibits financial institutions from providing privacy notices orally. Paragraph (e) clarifies that the requirement that a privacy policy be provided in a manner that permits a customer to retain or reaccess the policy may be satisfied if the financial institution makes available on its web site the privacy policy currently in effect.

Section 160.9(f) expressly permits the provision of joint notice from two or more financial institutions as long as the notice is accurate with respect to all financial institutions and identifies each institution by name. The Commission believes that FCMs, CTAs, CPOs and IBs should be able to combine initial, annual, or revised disclosures in one document and to give, on a collective basis, a consumer only one copy of the notice. For example, a clearing FCM could provide a joint notice with an executing FCM for which it clears transactions on a fully disclosed basis, or an IB could provide a joint notice with the FCM to which it introduces trades. The Commission emphasizes that this notice must be accurate for each institution that uses the notice and must identify each institution by name.[41]

Where two or more consumers jointly obtain a financial product or service from a financial institution, paragraph (g) of section 160.9 permits the financial institution to satisfy the initial, annual and revised notice requirements of this section by providing one notice to those customers jointly. The final rule adds the provisions that while only one notice is required to be sent in connection with a joint account, the financial institution must honor requests from one or more joint account holders for separate notices and may in its discretion provide notices to each party to an account.

Subpart B—Limits on Disclosures

Section 160.10 Limits on Disclosure of Nonpublic Personal Information to Nonaffiliated Third Parties

Section 502(a) of the GLB Act generally prohibits a financial institution from sharing nonpublic personal information about a consumer with a nonaffiliated third party unless the institution provides the consumer with notice of the institution's privacy policies and practices. Section 502(b) further requires that the financial institution provide the consumer with a clear and conspicuous notice that the consumer's nonpublic personal information may be disclosed to nonaffiliated third parties, that the consumer be given an opportunity to opt out of that disclosure, and that the consumer be informed as to how to opt out.

Section 160.10 implements these provisions by setting forth the criteria that a financial institution must satisfy before disclosing nonpublic personal information to nonaffiliated third parties and by defining ''opt out'' in a way that incorporates the exceptions to the right to opt out enunciated in sections 160.13, 160.14 and 160.15.

The rule requires that the consumer's opportunity to opt out be ''reasonable,'' which recognizes that the appropriate waiting time before disclosure will vary depending on many factors including, for example, the method of delivery of the opt out notice. The examples that follow the general rule are intended to provide guidance in situations involving notices by mail or by electronic means and notices that are to be provided in the case of isolated transactions with a consumer. In the case of mail and electronic notices, the consumer will be considered to have had a reasonable opportunity to opt out if the financial institution provides 30 days in which to opt out. In the case of an isolated transaction, the opportunity will be reasonable if the consumer must decide as part of the transaction whether to opt out before completing the transaction.

The requirement that a consumer have a reasonable opportunity to opt out does not mean that the consumer forfeits that right once the opportunity passes. As provided in section 160.7(f), a consumer always has the right to opt out. If, however, a consumer does not exercise the opt out right when first presented with the opportunity, the financial institution will be permitted to disclose nonpublic personal information to nonaffiliated third parties during the period of time before it implements the consumer's subsequent opt out direction.

All customers are consumers under the rules. Accordingly, paragraph (b) of section 160.10 clarifies that the right to opt out applies regardless of whether a consumer has established a customer relationship with the financial institution. The fact that a consumer establishes a customer relationship with a financial institution does not change the institution's obligations to comply with the requirements of section 160.10 before sharing nonpublic personal

[40] *See* also section 160.4(e).

[41] In this regard, the Commission believes that each subsidiary or affiliate of a holding company or like structure need not necessarily be identified by legal name as long as the joint notice clearly identifies the institutions covered by the privacy policy. For instance, a privacy policy for ABC & Co. could state that it applies to all institutions with the ABC name. However, if the privacy policy applies to affiliated companies that do not share the ABC name, the policy should specifically identify those affiliates.

information about the consumer with nonaffiliated third parties. Importantly, the rule applies as well in the context of a consumer who had a customer relationship with a financial institution and subsequently terminated the relationship. Paragraph (b) also establishes that the consumer protections afforded by paragraph (a) apply to all nonpublic personal information collected by a financial institution, regardless of when collected. Thus, if a consumer elects to opt out of information sharing with nonaffiliated third parties, the election applies to all nonpublic information about the consumer in the financial institution's possession, regardless of when the information is obtained.

Paragraph (c) of section 160.10 provides that a financial institution may—but is not required to—provide consumers with the option of a partial opt out in addition to the opt out required by this section. This option could enable a consumer to limit, for instance, the types of information disclosed to nonaffiliated third parties or the types of recipients of the nonpublic personal information about that consumer. If the financial institution elects to provide the partial opt out, it must state this option in a way that clearly informs the consumer about the choices available and the resulting consequences.

Section 160.11 Limits on Redisclosure and Reuse of Information

Section 502(c) of the GLB Act provides that a nonaffiliated third party that receives nonpublic personal information from a financial institution shall not, directly or through an affiliate, disclose the information to any person that is not affiliated with either the financial institution or the third party, unless the disclosure would be lawful if it were made directly by the financial institution. Section 160.11 implements the GLB Act's restrictions on redisclosure and reuse of nonpublic personal information about consumers.

The GLB Act places the institution that receives the nonpublic personal information in the shoes of the institution that discloses the information for the purpose of determining whether redisclosures by the receiving institution are lawful. Thus, the GLB Act permits the receiving institution to redisclose the information to an entity to whom the original transferring institution could disclose the information pursuant to one of the exceptions in sections 160.14 or 160.15, or to an entity to whom the original transferring institution could have disclosed the information as described under its notice of privacy policies and practices, unless the consumer has exercised the right to opt out of that disclosure. Because a consumer can exercise the right to opt out of a disclosure at any time, the GLB Act may effectively preclude third parties that receive information to which the opt out right applies from redisclosing the information other than under one of the exceptions in sections 160.14 or 160.15.

Sections 502(b)(2) and 502(e) of the GLB Act describe the circumstances under which a financial institution may disclose nonpublic personal information without providing the consumer with the initial privacy notice and an opportunity to opt out. Those exceptions apply only when the information is used for the specific purposes set forth in those sections which include, for example, disclosure as necessary to effect, administer, or enforce a transaction authorized by the consumer. Paragraph (a)(2) of section 160.11 clarifies this limitation on reuse as it applies to financial institutions by providing that a financial institution may use nonpublic personal information about a consumer that it receives from a nonaffiliated financial institution in accordance with an exception under section 160.14 or 160.15 only for the purpose of that exception. Paragraph (b)(2) applies the same restrictions on reuse to any nonaffiliated third party that received nonpublic personal information from a financial institution. The Commission has determined not to impose a specific duty on financial institutions to monitor third parties' use of nonpublic personal information provided by the institutions.

The definition of nonpublic personal information dictates that all of the information a financial institution provides to a consumer reporting agency is nonpublic personal information. The financial institution is permitted under section 160.15(a)(5) to disclose nonpublic personal information to a consumer reporting agency without giving the consumer notice and the opportunity to opt out. Thus, the traditional consumer reporting business, whereby financial institutions report information about their consumers to the consumer reporting agencies which, in turn, disclose that information in the form of consumer reports to those who have a permissible purpose to obtain them, continues unaffected. This exception, however, does not permit consumer reporting agencies to redisclose the nonpublic personal information it receives from financial institutions other than in the form of a consumer report. Accordingly, the exception does not operate to permit the disclosure of ''credit header information'' to individual reference services, direct marketers, or any other party that does not have a permissible purpose to obtain that information as part of a consumer report.[42]

Section 160.12 Limits on Sharing Account Number Information for Marketing Purposes

Section 502(d) of the GLB Act prohibits a financial institution from disclosing, other than to a consumer reporting agency, account numbers or similar forms of access numbers or access codes for a credit card account, deposit account, or transaction account of a consumer to any nonaffiliated third party for use in telemarketing, direct mail marketing, or marketing through electronic mail to the consumer. Section 160.12 applies this prohibition to disclosures made directly or indirectly as it has been applied by the Agencies, and incorporates the exceptions that have been established by the Agencies.[43] Thus, the rule provides for two exceptions. First, it permits an FCM, CTA, CPO or IB to disclose account numbers to an agent for the purposes of marketing the institution's financial products or services so long as the agent has no authority to initiate charges to the account. Second, it permits disclosure in a private-label credit card or an affinity or similar program where the participants in the program are identified to the customer when the customer enters into the program. As a matter of clarification, the rule also contains an example that provides that an account number, or similar form of access number or access code, does not include a number or code in an encrypted form, as long as you do not provide the recipient with a means to decode the number or code.[44]

Subpart C—Exceptions

Section 160.13 Exception to Opt Out Requirements for Service Providers and Joint Marketing

Section 502(b) of the GLB Act creates an exception to the opt out rules for the disclosure of information to a nonaffiliated third party for its use to perform services for, or functions on behalf of, the financial institution,

[42] Credit header information traditionally has been defined to include identifying information such as name, address, telephone number, social security number, mother's maiden name, and age.

[43] *See, e.g.,* 17 CFR 248.12 (SEC privacy rules).

[44] This approach thus recognizes that the prohibition in section 502(d) of the GLB Act focuses on numbers that provide *access* to an account. Without a decryption number or code, the consumer's account number cannot be accessed.

including the marketing of the financial institution's own products or services or financial products or services offered under a joint agreement between two or more financial institutions. A consumer will not have the right to opt out of disclosing nonpublic personal information about the consumer to nonaffiliated third parties under these circumstances, if the financial institution satisfies certain requirements.

Before the information may be shared, section 502(b)(2) of the GLB Act requires the institution to (i) ''fully disclose'' to the consumer that it will provide this information to the nonaffiliated third party and (ii) enter into a contractual agreement with the third party that requires the third party to maintain the confidentiality of the information. Paragraph (a) of section 160.13 would implement these provisions of the GLB Act by requiring the FCM, CTA, CPO or IB to (i) provide the initial notice required by section 160.4; and (ii) enter into a contract that prohibits the third party from disclosing or reusing the information other than to carry out the purposes for which the information was disclosed, including use under an exception in sections 160.14 and 160.15 in the ordinary course of business to carry out those purposes. The contract should be designed to ensure that the third party will (a) maintain the confidentiality of the information at least to the same extent as is required for the financial institution that discloses it, and (b) use the information solely for the purposes for which the information is disclosed or as otherwise permitted under the rules.[45]

Section 160.14 Exceptions to Notice and Opt Out Requirements for Processing and Servicing Transactions

Section 502(e) of the GLB Act creates exceptions to the requirements that apply to the disclosure of nonpublic personal information to nonaffiliated third parties. Paragraph (1) of that section provides certain exceptions for disclosures made in connection with the administration, processing, servicing and sale of a consumer's account. Section 160.14 sets forth those exceptions and also the definition of ''necessary to effect, administer, or enforce'' contained in section 509(7) of the GLB Act.

These exceptions and the exceptions discussed in section 160.15, below, do not affect a financial institution's obligation to provide initial notices of its privacy policies and practices at or prior to the time it establishes a customer relationship and annual notices thereafter. These notices must be provided to all customers, even if the financial institution intends to disclose the nonpublic personal information only under the exceptions in section 160.14.

Section 160.15 Other Exceptions to Notice and Opt Out Requirements

As discussed above, section 502(e) of the GLB Act contains several exceptions to the requirements that otherwise would apply to the disclosures of nonpublic personal information to nonaffiliated third parties. Section 160.15 sets forth the exceptions that are not made in connection with the administration, processing, servicing or sale of a consumer's account. For example, one of the exceptions stated in the rule is for disclosures made with the consent, or at the direction of the consumer, provided the consumer has not revoked the consent.

Subpart D—Relation to Other Laws; Effective Date

Section 160.16 Protection of Fair Credit Reporting Act

Section 506(c) of the GLB Act states that, except for the amendments regarding rulemaking authority, nothing in Title V is to be construed to modify, limit or supersede the operation of the FCRA, and no inference is to be drawn on the basis of the provisions of Title V whether information is transaction or experience information under section 603 of the FCRA. Section 160.16 implements section 506(c) of the GLB Act by restating the GLB Act with clarifying changes.

Section 160.17 Relation to State Laws

Section 507 of the GLB Act provides that Title V does not preempt any state law that provides greater protections than are provided by Title V. Determinations whether a state law or Title V provide greater protections are to be made by the FTC after consultation with the agency that regulates either the party filing a complaint or the financial institution about which the complaint was filed. Determinations of whether state or federal law affords greater protection may be initiated by any interested party or on the FTC's own motion.

Section 160.17 is substantively identical to section 507, noting that the rules (like the GLB Act) do not preempt state laws that provide greater protection for consumers than do the rules.

Section 160.18 Effective Date; Transition Rule

Section 160.18 establishes an effective date for part 160 of June 21, 2001, which is the date by which the Commission is required to prescribe final rules implementing Title V.[46] In order to provide financial institutions sufficient time to bring their policies and procedures into compliance with the requirements of the rules, the Commission proposed a compliance date of December 31, 2001. The commenter recommended that the Commission delay compliance for small entities which may not have the staff or resources to quickly develop systems and software, and for whom compliance may be particularly burdensome. The Commission agrees that six months may be insufficient in certain instances for a financial institution, regardless of size, to ensure that its forms, systems and procedures comply with the rule. In order to accommodate situations requiring additional time, and consistent with the approach taken by the other Agencies, the Commission will give financial institutions until March 31, 2002 to be in full compliance with the rule. Financial institutions are expected, however, to begin compliance efforts promptly, to use the period prior to March 30, 2002, to implement and test their systems, and to be in full compliance by March 31, 2002. The Commission is also adopting a provision that phases in compliance with respect to existing service agreements.

Under the final rule, full compliance with the rules' restrictions on disclosures will be required by March 31, 2002. To be in full compliance, FCMs, CTAs, CPOs and IBs will be required to provide their existing customers with a privacy notice, an opt out notice, and a reasonable amount of time to opt out before that date. If these have not been provided, the disclosure restrictions will apply. This means that an FCM, CTA, CPO or IB must cease sharing customers' nonpublic personal information with nonaffiliated third parties on that date, unless it may share the information under an exception under sections 160.14 or 160.15. FCMs, CTAs, CPOs and IBs that both provide the required notices and allow a reasonable period of time to opt out before March 31, 2002, would be able to share nonpublic personal information

[45] Consistent with the approach taken by the Agencies, the Commission will grandfather existing service agreements. Thus, paragraph (c) of rule 160.18 provides that contracts entered into before the March 31, 2002 compliance date must be brought into compliance with section 160.13 by March 31, 2003.

[46] *See* Section 5g of the CEA, as amended by section 124 of the CFMA.

after that date for customers who do not opt out.

Under the final rule, FCMs, CTAs, CPOs and IBs are not required to give initial notices to customers whose relationships had terminated before the date by which institutions must be in compliance with the rules. Thus, if under a financial institution's policies an account is inactive before March 31, 2002, then no initial notice will be required in connection with that account. However, because these former customers will remain consumers, an FCM, CTA, CPO or IB must provide a privacy and opt out notice to them if the institution intends to disclose their nonpublic personal information to nonaffiliated third parties beyond the exceptions in sections 160.14 and 160.15.

Section 160.30 Procedures to Safeguard Customer Information and Records

Section 501 of the GLB Act directs the Agencies to establish appropriate safeguards for financial institutions relating to administrative, technical and physical safeguards to protect customer records and information. Section 160.30 implements this directive by requiring every FCM, CTA, CPO or IB that is subject to the jurisdiction of the Commission to adopt policies and procedures to address the safeguards described above. Consistent with the GLB Act, the rule further requires that the policies and procedures be reasonably designed to: (i) Insure the security and confidentiality of customer records and information; (ii) protect against any anticipated threats or hazards to the security or integrity of customer records and information; and (iii) protect against unauthorized access to or use of customer records or information that could result in substantial harm or inconvenience to any customer.

The Commission believes it is appropriate for each financial institution to tailor its policies and procedures to its own systems of information gathering and transfer and to the needs of its customers and has not prescribed specific policies or procedures that financial institutions must adopt.

IV. Cost-Benefit Analysis

Section 15 of the Act, as amended by section 119 of the CFMA, requires the Commission, before issuing a new regulation under the Act, to consider the costs and benefits of its action. The Commission understands that, by its terms, section 15 does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs.

Section 15 further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. Accordingly, the Commission could in its discretion give greater weight to any one of the five enumerated areas of concern and could in its discretion determine that, notwithstanding its costs, a particular rule was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The Commission has solicited comment on its consideration of these costs and benefits.[47] No comments were received. The Commission has considered the costs and benefits of this rule package in light of the specific areas of concern identified in section 15,[48] and has endeavored to impose minimal costs on the FCMs, CTAs, CPOs and IBs that would be subject to this rule while ensuring that the benefits of the rule can be fully realized. The Commission notes that the disclosure and reporting requirements of this rule would be minimal for those financial institutions that do not share nonpublic personal information about consumers with nonaffiliated third parties. The Commission further notes that the CFMA specifically mandates that the Commission adopt rules to protect the privacy of consumer financial information in accordance with Title V of the GLB Act. Accordingly, the Commission has determined to adopt part 160 as discussed above.

V. Related Matters

A. Paperwork Reduction Act of 1995

This rule contains information collection requirements. As required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, the Commission submitted a copy of the proposed rule to the Office of Management and Budget (OMB) for its review. In response to the Commission's invitation in the notice of proposed rulemaking to comment on any potential paperwork burden associated with this regulation, no comments were received from the public.

The final rule contains several disclosure requirements. The financial institutions covered by this regulation must prepare and provide the initial notice to all current customers and all new customers at the time of establishing a customer relationship (section 160.4(a)). Subsequently, an annual notice must be provided to all customers at least once during a twelve-month period during the continuation of the customer relationship (section 160.5(a)). The initial notice and opt out notice must be provided to a consumer prior to disclosing nonpublic personal information to certain nonaffiliated third parties. If a financial institution wishes to disclose information in a way that is inconsistent with the notices previously given to a consumer, the institution must provide consumers with revised notices (section 160.8(c)).

The final rule also contains consumer reporting requirements. In order for consumers to prevent financial institutions from sharing their information with nonaffiliated third parties, they must opt out (sections 160.7(a)(2)(ii), 160.10(a)(2), and 160.10(c)). At any time during their continued relationship with the institution, consumers have the right to change or update their opt out status with the institution (sections 160.7(f) and (g)).

The rule requires the collection of certain information from FCMs, CTAs, CPOs and IBs subject to the Commission's jurisdiction. The Commission may not conduct or sponsor, and a person is not required to respond to an information collection unless it displays a currently valid OMB control number. The Commission is currently requesting a control number for this information collection from OMB.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that federal agencies, in proposing rules, consider the impact of those rules on small businesses. The rules adopted herein would affect all FCMs, CTAs, CPOs and IBs, including CPOs and CTAs that are exempt from registration requirements. The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its rules on small entities in accordance with the RFA.[49] The Commission has previously determined that registered FCMs and registered CPOs are not small entities for the purpose of the RFA.[50] With

[47] *Id.* at 15563.

[48] *See* 66 FR at 15562–15563.

[49] 47 fr 18618–21 (aPR. 30, 1982).

[50] *Id.* at 18619–20.

respect to IBs and CTAs, the Commission has stated that it is appropriate to evaluate within the context of a particular rule whether some or all of the affected entities should be considered small entities and, if so, to analyze the economic impact on them of any rule.

The Commission proposed part 160 and requested comments on the rule and related issues in a **Federal Register** release on March 19, 2001.[51] At the time of issuance of the proposed rule, the Commission could not make a determination that part 160 would not have a significant economic impact on a substantial number of small entities, and therefore the Commission provided an Initial Regulatory Flexibility Analysis (IRFA) in accordance with 5 U.S.C. 603 of the RFA. The Commission did not receive any comments specifically addressing the IRFA. Given that the burden imposed on small institutions stems in large part from Title V of the GLB Act, and in light of the substantial flexibility provided in the final rule to allow any financial institution, regardless of size, to tailor its privacy practices to its individual needs, the Commission does not believe that the rule will have a significant economic impact on a substantial number of small entities. Nevertheless, because Title V creates a set of requirements that are new both to the Commission and to FCMs, CTAs, CPOs and IBs in general, the Commission has prepared the following Final Regulatory Flexibility Analysis (FRFA).

1. Need for and Objectives of the Final Rule; Legal Basis for the Rule

Section 5g of the Act makes the Commission a Federal functional regulator for purposes of applying the provisions of Title V, Subtitle A of the GLB Act addressing consumer privacy to any FCM, CTA, CPO or IB that is subject to the Commission's jurisdiction with respect to any financial activity, and directs the Commission to prescribe regulations necessary to implement Title V's provisions within 6 months from the date the CFMA was signed into law (December 21, 2000). In general, Title V requires financial institutions to provide notice to consumers about the institution's privacy policies and practices, restricts the ability of a financial institution to share nonpublic personal information about consumers to nonaffiliated third parties, and permits consumers to prevent the institution from disclosing nonpublic personal information about them to certain nonaffiliated third parties by ''opting out'' of that disclosure. Title V also requires the Commission to establish appropriate standards for financial institutions subject to its jurisdiction to safeguard customer information and records.

The Commission believes that by adopting a rule implementing Title V that is consistent with and comparable to those of the Agencies, the Commission will provide the private sector greater certainty on how to comply with the statute and clearer guidance on how the rule will be enforced with respect to financial institutions that are subject to the Commission's jurisdiction.

2. Small Entities to Which the Rule Will Apply

The final rule would apply to all FCMs, CTAs, CPOs and IBs subject to the Commission's jurisdiction, regardless of size, including those with assets of under $100 million. As noted in the IRFA, neither Title V nor section 5g of the Act provide a general exception for small entities, nor does it appear that such an exception would be consistent with the purposes of the GLB Act. Because the rule would also apply to CTAs and CPOs that are exempt from the Commission's registration requirements, the Commission cannot make a precise estimate of the number of small entities that would be subject to the final rule.

3. Compliance Requirements and Effects of the Final Rule on Small Entities

A detailed description of the final rule's requirements is set forth above in the section-by-section analysis (part III). Among other things, the final rule requires financial institutions, *i.e.,* FCMs, CTAs, CPOs and IBs, to prepare a notice of their privacy practices and policies and provide that notice to consumers under conditions as specified in the rule (*e.g.,* a privacy notice must be provided no later than at the time that a customer relationship is established and then once annually for the duration of that customer relationship). A financial institution that discloses nonpublic personal information about consumers to nonaffiliated third parties will be subject to additional mandates, including a requirement to provide an opt out notice to consumers along with a reasonable opportunity to opt out of certain disclosures. If the institution does not intend to share that information with nonaffiliated third parties, then it need not provide a privacy or opt out notice to the consumer. In addition to the notice and opt out requirements, Title V directs the Commission to establish appropriate standards for administrative, technical and physical safeguards to protect customer records and information. The rule implements this section by requiring every FCM, CTA, CPO and IB to adopt policies and procedures to address these safeguards.

There are many exceptions to the general requirements stated above. For example, an institution may share a consumer's nonpublic personal information with nonaffiliated third parties without having to give an opt out notice if such sharing is necessary to effect, administer or enforce a transaction requested or authorized by the consumer. These exceptions have the effect of minimizing the burden on institutions of all sizes. In addition, the rules do not specify the means by which institutions may ensure the safety of customer information and records in order to allow each institution to tailor its policies and procedures to its own systems of information gathering and transfer, and the needs of its customers.

To comply with the final rule, financial institutions will need, among other things, to prepare disclosure forms, make various operational changes, and train staff. Professional skills needed to comply with the final rule may include clerical, computer systems, personnel training, as well as legal drafting and advice. Compliance requirements will vary considerably among institutions depending, for example, on an institution's information sharing practices, whether the institution already has or discloses a privacy policy, and whether the institution already has established an opt out mechanism pursuant to the Fair Credit Reporting Act. The Commission did not receive any comments addressing the compliance requirements described in the IRFA.

4. Summary of Significant Issues Raised by the Public Comments; Descriptions of Steps the Commission Has Taken to Minimize Burden

In response to comments received on the proposed rule, the Commission has considered the following alternatives to minimize the economic burden of the rule: (a) An exemption from coverage of the rule, or any part thereof, for unregistered entities; (b) delay of the compliance date; and (c) substituted compliance for dual registrants and affiliated financial institutions.

As discussed above, neither the GLB Act nor section 5g of the CEA provide a general exception for small or unregistered entities. As stated in section 501(a) of the GLB Act, ''It is the policy of Congress that *each* financial

[51] 66 FR 15550.

institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers' nonpublic personal information.'' (Emphasis added.) Section 5g of the CEA provides that *any* futures commission merchant, commodity trading advisor, commodity pool operator, or introducing broker that is subject to the jurisdiction of the Commission under this Act with respect to any financial activity *shall* be treated as a financial institution for purposes of title V of [the GLB Act] with respect to such financial activity.'' (Emphasis added.) Accordingly, the rule applies to all FCMs, CTAs, CPOs and IBs, including those that are small entities or are unregistered pursuant to an exemption. The final rule, however, reflects certain changes that should increase flexibility and lower costs for those entities.

First, the Commission has extended the compliance date of the rule from December 31, 2001 to March 31, 2002. Similarly, the Commission has extended the compliance date with respect to existing service agreements to March 31, 2003. The Commission expects that delaying compliance for an additional 90 days will lessen the burden of the rule on small entities because they will have additional time to budget for any necessary expenses and to implement all necessary operational changes required to comply with this rule.

Second, the Commission has expanded its substituted compliance proposal to permit commodity trading advisors that are registered or required to be registered as an investment advisor with a state securities regulator to comply with this rule by complying with the privacy rule issued by the Federal Trade Commission. This minimizes any potential regulatory overlap that these entities otherwise might have faced.

Finally, the final rule, like the proposed rule, provides for performance rather than design standards. The rule does not specify the form of privacy notices or the method of delivery of the notices to customers and consumers. Similarly, the rule does not specify the policies and procedures that FCMs, CTAs, CPOs and IBs must adopt to ensure the privacy of the financial information and records of their customers and consumers. The Commission has also included non-exclusive examples of conduct throughout the final rule that illustrate ways to comply with particular provisions. Accordingly, the rule provides substantial flexibility so that FCMs, CTAs, CPOs and IBs may meet the requirements of part 160 in a way that best suits the institution's individual needs.

List of Subjects in 17 CFR Part 160

Brokers, Consumer protection, Privacy, Reporting and recordkeeping requirements.

Text of Final Rules

For the reasons articulated in the preamble, the Commission amends Title 17 of the Code of Federal Regulations by adding a new Part 160 to read as follows:

PART 160—PRIVACY OF CONSUMER FINANCIAL INFORMATION

Sec.

160.1 Purpose and scope.
160.2 Rule of construction.
160.3 Definitions.

Subpart A—Privacy and Opt Out Notices

160.4 Initial privacy notice to consumers required.
160.5 Annual privacy notice to customers required.
160.6 Information to be included in privacy notices.
160.7 Form of opt out notice to consumers; opt out methods.
160.8 Revised privacy notices.
160.9 Delivering privacy and opt out notices.

Subpart B—Limits on Disclosures

160.10 Limits on disclosure of nonpublic personal information to nonaffiliated third parties.
160.11 Limits on redisclosure and re-use of information.
160.12 Limits on sharing account number information for marketing purposes.

Subpart C—Exceptions

160.13 Exception to opt out requirements for service providers and joint marketing.
160.14 Exceptions to notice and opt out requirements for processing and servicing transactions.
160.15 Other exceptions to notice and opt out requirements.

Subpart D—Relation to Other Laws; Effective Date

160.16 Protection of Fair Credit Reporting Act.
160.17 Relation to state laws.
160.18 Effective date; transition rule.
160.19–160.29 [Reserved]
160.30 Procedures to safeguard customer records and information.

Appendix to Part 160—Sample Clauses

Authority: 7 U.S.C. 7b–2 and 12a(5); 15 U.S.C. 6801 *et seq.*

§ 160.1 Purpose and scope.

(a) *Purpose.* This part governs the treatment of nonpublic personal information about consumers by the financial institutions listed in paragraph (b) of this section. This part:

(1) Requires a financial institution to provide notice to customers about its privacy policies and practices;

(2) Describes the conditions under which a financial institution may disclose nonpublic personal information about consumers to nonaffiliated third parties; and

(3) Provides a method for consumers to prevent a financial institution from disclosing nonpublic personal information to most nonaffiliated third parties by ''opting out'' of that disclosure, subject to the exceptions in §§ 160.13, 160.14, and 160.15.

(b) *Scope.* This part applies only to nonpublic personal information about individuals who obtain financial products or services primarily for personal, family, or household purposes from the institutions listed below. This part does not apply to information about companies or about individuals who obtain financial products or services primarily for business, commercial, or agricultural purposes. This part applies to all futures commission merchants, commodity trading advisors, commodity pool operators and introducing brokers that are subject to the jurisdiction of the Commission, regardless whether they are required to register with the Commission. These entities are hereinafter referred to in this part as ''you.'' This part does not apply to foreign (non-resident) futures commission merchants, commodity trading advisors, commodity pool operators and introducing brokers that are not registered with the Commission. Nothing in this part modifies, limits or supercedes the standards governing individually identifiable health information promulgated by the Secretary of Health and Human Services under the authority of sections 262 and 264 of the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d–1320d–8.

§ 160.2 Rule of construction.

(a) *Safe harbor.* The examples in this part and the sample clauses in the Appendix to this part are not exclusive. Compliance with an example or use of a sample clause, to the extent applicable, constitutes compliance with this part.

(b) *Substituted compliance.* (1) Any person or entity otherwise subject to this part that is subject to and in compliance with Securities and Exchange Commission Regulation S–P, 17 CFR part 248, will be deemed to be in compliance with this part.

(2) Any commodity trading advisor otherwise subject to this part that is registered or required to be registered as an investment adviser in the state in

which it maintains its principal office and place of business as defined in § 275.203A–3 of this title, and that is subject to and in compliance with 16 CFR part 313, will be deemed to be in compliance with this part.

§ 160.3 Definitions.

For purposes of this part, unless the context requires otherwise:

(a) *Affiliate* of a futures commission merchant, commodity trading advisor, commodity pool operator or introducing broker means any company that controls, is controlled by, or is under common control with a futures commission merchant, commodity trading advisor, commodity pool operator or introducing broker that is subject to the jurisdiction of the Commission. In addition, a futures commission merchant, commodity trading advisor, commodity pool operator or introducing broker subject to the jurisdiction of the Commission will be deemed an affiliate of a company for purposes of this part if:

(1) That company is regulated under Title V of the GLB Act by the Federal Trade Commission or by a federal functional regulator other than the Commission; and

(2) Rules adopted by the Federal Trade Commission or another federal functional regulator under Title V of the GLB Act treat the futures commission merchant, commodity trading advisor, commodity pool operator or introducing broker as an affiliate of that company.

(b)(1) *Clear and conspicuous* means that a notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

(2) *Examples*—(i) *Reasonably understandable.* Your notice will be reasonably understandable if you:

(A) Present the information in the notice in clear, concise sentences, paragraphs and sections;

(B) Use short explanatory sentences or bullet lists whenever possible;

(C) Use definite, concrete, everyday words and active voice whenever possible;

(D) Avoid multiple negatives;

(E) Avoid legal and highly technical business terminology whenever possible; and

(F) Avoid explanations that are imprecise and readily subject to different interpretations.

(ii) *Designed to call attention.* Your notice is designed to call attention to the nature and significance of the information in it if you:

(A) Use a plain-language heading to call attention to the notice;

(B) Use a typeface and type size that are easy to read;

(C) Provide wide margins and ample line spacing;

(D) Use boldface or italics for key words; and

(E) Use distinctive type size, style and graphic devices, such as shading or sidebars when you combine your notice with other information.

(iii) *Notices on web sites.* If you provide notice on a web page, you design your notice to call attention to the nature and significance of the information in it if you use text or visual cues to encourage scrolling down the page, if necessary to view the entire notice, and ensure that other elements on the web site, such as text, graphics, hyperlinks or sound, do not distract from the notice, and you either:

(A) Place the notice on a screen that consumers frequently access, such as a page on which transactions are conducted; or

(B) Place a link on a screen that consumers frequently access, such as a page on which transactions are conducted, that connects directly to the notice and is labeled appropriately to convey the importance, nature and relevance of the notice.

(c) *Collect* means to obtain information that you organize or can retrieve by the name of an individual or by identifying number, symbol or other identifying particular assigned to the individual, irrespective of the source of the underlying information.

(d) *Commission* means the Commodity Futures Trading Commission.

(e) *Commodity pool operator* has the same meaning as in section 1a(5) of the Commodity Exchange Act, as amended, and includes anyone registered as such under the Act.

(f) *Commodity trading advisor* has the same meaning as in section 1a(6) of the Commodity Exchange Act, as amended, and includes anyone registered as such under the Act.

(g) *Company* means any corporation, limited liability company, business trust, general or limited partnership, association or similar organization.

(h)(1) *Consumer* means an individual who obtains or has obtained a financial product or service from you that is to be used primarily for personal, family or household purposes, or that individual's legal representative.

(2) *Examples.* (i) An individual is your consumer if he or she provides nonpublic personal information to you in connection with obtaining or seeking to obtain brokerage or advisory services, whether or not you provide services to the individual or establish a continuing relationship with the individual.

(ii) An individual is not your consumer if he or she provides you only with his or her name, address and general areas of investment interest in connection with a request for a brochure or other information about financial products or services.

(iii) An individual is not your consumer if he or she has an account with another futures commission merchant (originating futures commission merchant) for which you provide clearing services for an account in the name of the originating futures commission merchant.

(iv) An individual who is a consumer of another financial institution is not your consumer solely because you act as agent for, or provide processing or other services to, that financial institution.

(v) An individual is not your consumer solely because he or she has designated you as trustee for a trust.

(vi) An individual is not your consumer solely because he or she is a beneficiary of a trust for which you are a trustee.

(vii) An individual is not your consumer solely because he or she is a participant or a beneficiary of an employee benefit plan that you sponsor or for which you act as a trustee or fiduciary.

(i) *Consumer reporting agency* has the same meaning as in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)).

(j) Control of a company means the power to exercise a controlling influence over the management or policies of a company whether through ownership of securities, by contract, or otherwise. Any person who owns beneficially, either directly or through one or more controlled companies, more than 25 percent of the voting securities of any company is presumed to control the company. Any person who does not own more than 25 percent of the voting securities of a company will be presumed not to control the company.

(k) *Customer* means a consumer who has a customer relationship with you.

(l)(1) *Customer relationship* means a continuing relationship between a consumer and you under which you provide one or more financial products or services to the consumer that are to be used primarily for personal, family or household purposes.

(2) *Examples*—(i) *Continuing relationship.* A consumer has a continuing relationship with you if:

(A) You are a futures commission merchant through whom a consumer has opened an account, or that carries the consumer's account on a fully-disclosed basis, or that effects or engages in commodity interest

transactions with or for a consumer, even if you do not hold any assets of the consumer.

(B) You are an introducing broker that solicits or accepts specific orders for trades;

(C) You are a commodity trading advisor with whom a consumer has a contract or subscription, either written or oral, regardless of whether the advice is standardized, or is based on, or tailored to, the commodity interest or cash market positions or other circumstances or characteristics of the particular consumer;

(D) You are a commodity pool operator, and you accept or receive from the consumer, funds, securities, or property for the purpose of purchasing an interest in a commodity pool;

(E) You hold securities or other assets as collateral for a loan made to the consumer, even if you did not make the loan or do not effect any transactions on behalf of the consumer; or

(F) You regularly effect or engage in commodity interest transactions with or for a consumer even if you do not hold any assets of the consumer.

(ii) *No continuing relationship.* A consumer does not have a continuing relationship with you if:

(A) You have acted solely as a ''finder'' for a futures commission merchant, and you do not solicit or accept specific orders for trades; or

(B) You have solicited the consumer to participate in a pool or to direct his or her account and he or she has not provided you with funds to participate in a pool or entered into any agreement for you to direct his or her account.

(m) *Federal functional regulator means:*

(1) The Board of Governors of the Federal Reserve System;

(2) The Office of the Comptroller of the Currency;

(3) The Board of Directors of the Federal Deposit Insurance Corporation;

(4) The Director of the Office of Thrift Supervision;

(5) The National Credit Union Administration Board;

(6) The Securities and Exchange Commission; and

(7) The Commodity Futures Trading Commission.

(n)(1) *Financial institution means:*

(i) Any futures commission merchant, commodity trading advisor, commodity pool operator or introducing broker that is registered with the Commission as such or is otherwise subject to the Commission's jurisdiction; and

(ii) Any other institution the business of which is engaging in financial activities as described in section 4(k) of the Bank Holding Company Act of 1956, 12 U.S.C. 1843(k).

(2) *Financial institution* does not include:

(i) Any person or entity, other than a futures commission merchant, commodity trading advisor, commodity pool operator or introducing broker that, with respect to any financial activity, is subject to the jurisdiction of the Commission under the Act.

(ii) The Federal Agricultural Mortgage Corporation or any entity chartered and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 *et seq.*); or

(iii) Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights) or similar transactions related to a transaction of a consumer, as long as such institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

(o)(1) *Financial product or service* means:

(i) Any product or service that a futures commission merchant, commodity trading advisor, commodity pool operator, or introducing broker could offer that is subject to the Commission's jurisdiction; and

(ii) Any product or service that any other financial institution could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under section 4(k) of the Bank Holding Company Act of 1956, 12 U.S.C. 1843(k).

(2) *Financial service* includes your evaluation or brokerage of information that you collect in connection with a request or an application from a consumer for a financial product or service.

(p) *Futures commission merchant* has the same meaning as in section 1a(20) of the Commodity Exchange Act, as amended, and includes any person registered as such under the Act.

(q) *GLB Act* means the Gramm-Leach-Bliley Act (Pub. L. No. 106–102, 113 Stat. 1338 (1999)).

(r) *Introducing broker* has the same meaning as in section 1a(23) of the Commodity Exchange Act, as amended, and includes any person registered as such under the Act.

(s)(1) *Nonaffiliated third party* means any person except:

(i) Your affiliate; or

(ii) A person employed jointly by you and any company that is not your affiliate, but *nonaffiliated third party* includes the other company that jointly employs the person.

(2) *Nonaffiliated third party* includes any company that is an affiliate solely by virtue of your or your affiliate's direct or indirect ownership or control of the company in conducting merchant banking or investment banking activities of the type described in section 4(k)(4)(H) or insurance company investment activities of the type described in section 4(k)(4)(I) of the Bank Holding Company Act of 1956, 12 U.S.C. 1843(k)(4)(H) and (I).

(t)(1) *Nonpublic personal information* means:

(i) Personally identifiable financial information; and

(ii) Any list, description or other grouping of consumers, and publicly available information pertaining to them, that is derived using any personally identifiable financial information that is not publicly available information.

(2) *Nonpublic personal information* does not include:

(i) Publicly available information, except as included on a list described in paragraph (t)(1)(ii) of this section or when the publicly available information is disclosed in a manner that indicates the individual is or has been your consumer; or

(ii) Any list, description or other grouping of consumers, and publicly available information pertaining to them, that is derived without using any personally identifiable financial information that is not publicly available information.

(3) *Examples of lists.* (i) Nonpublic personal information includes any list of individuals' names and street addresses that is derived in whole or in part using personally identifiable financial information that is not publicly available information, such as account numbers.

(ii) Nonpublic personal information does not include any list of individuals' names and addresses that contains only publicly available information, is not derived in whole or in part using personally identifiable financial information that is not publicly available information, and is not disclosed in a manner that indicates that any of the individuals on the list is a consumer of a financial institution.

(u)(1) *Personally identifiable financial information* means any information:

(i) A consumer provides to you to obtain a financial product or service from you;

(ii) About a consumer resulting from any transaction involving a financial product or service between you and a consumer; or

(iii) You otherwise obtain about a consumer in connection with providing a financial product or service to that consumer.

(2) *Examples.*—(i) *Information included.* Personally identifiable financial information includes:

(A) Information a consumer provides to you on an application to open a commodity trading account, invest in a commodity pool, or to obtain another financial product or service;

(B) Account balance information, payment history, overdraft history, margin call history, trading history, and credit or debit card purchase information;

(C) The fact that an individual is or has been one of your customers or has obtained a financial product or service from you;

(D) Any information about your consumer if it is disclosed in a manner that indicates that the individual is or has been your consumer;

(E) Any information you collect through an Internet ''cookie'' (an information-collecting device from a web server); and

(F) Information from a consumer report.

(ii) *Information not included.* Personally identifiable financial information does not include:

(A) A list of names and addresses of customers of an entity that is not a financial institution; or

(B) Information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names or addresses.

(v)(1) *Publicly available information* means any information that you reasonably believe is lawfully made available to the general public from:

(i) Federal, state or local government records;

(ii) Widely distributed media; or

(iii) Disclosures to the general public that are required to be made by federal, state or local law.

(2) *Examples.*—(i) *Reasonable belief.*

(A) You have a reasonable belief that information about your consumer is made available to the general public if you have confirmed, or your consumer has represented to you, that the information is publicly available from a source described in paragraphs (v)(1)(i)–(iii) of this section.

(B) You have a reasonable belief that information about your consumer is made available to the general public if you have taken steps to submit the information, in accordance with your internal procedures and policies and with applicable law, to a keeper of federal, state or local government records that is required by law to make the information publicly available.

(C) You have a reasonable belief that an individual's telephone number is lawfully made available to the general public if you have located the telephone number in the telephone book or on an internet listing service, or the consumer has informed you that the telephone number is not unlisted.

(D) You do not have a reasonable belief that information about a consumer is publicly available solely because that information would normally be recorded with a keeper of federal, state or local government records that is required by law to make the information publicly available, if the consumer has the ability in accordance with applicable law to keep that information nonpublic, such as where a consumer may record a deed in the name of a blind trust.

(ii) *Government records.* Publicly available information in government records includes information in government real estate records and security interest filings.

(iii) *Widely distributed media.* Publicly available information from widely distributed media includes information from a telephone book, a television or radio program, a newspaper, or a web site that is available to the general public on an unrestricted basis. A web site is not restricted merely because an Internet service provider or a site operator requires a fee or password, so long as access is available to the general public.

(w) *You* means:

(1) Any futures commission merchant;

(2) Any commodity trading advisor;

(3) Any commodity pool operator; and

(4) Any introducing broker subject to the jurisdiction of the Commission.

Subpart A—Privacy and Opt Out Notices

§ 160.4 Initial privacy notice to consumers required.

(a) *Initial notice requirement.* You must provide a clear and conspicuous notice that accurately reflects your privacy policies and practices to:

(1) *Customer.* An individual who becomes your customer, not later than when you establish a customer relationship, except as provided in paragraph (e) of this section; and

(2) *Consumer.* A consumer, before you disclose any nonpublic personal information about the consumer to any nonaffiliated third party, if you make such a disclosure other than as authorized by §§ 160.14 and 160.15.

(b) *When initial notice to a consumer is not required.* You are not required to provide an initial notice to a consumer under paragraph (a) of this section if:

(1) You do not disclose any nonpublic personal information about the consumer to any nonaffiliated third party other than as authorized by §§ 160.14 and 160.15; and

(2) You do not have a customer relationship with the consumer.

(c) *When you establish a customer relationship.*

(1) *General rule.* You establish a customer relationship when you and the consumer enter into a continuing relationship.

(2) *Examples of establishing customer relationship.* You establish a customer relationship when the consumer:

(i) Instructs you to execute a commodity interest transaction for the consumer;

(ii) Opens a commodity interest account through an introducing broker or with a futures commission merchant that clears transactions for its customers through you on a fully-disclosed basis;

(iii) Transmits specific orders for commodity interest transactions to you that you pass on to a futures commission merchant for execution, if you are an introducing broker;

(iv) Enters into an advisory contract or subscription with you, whether in writing or orally, and whether you provide standardized, or individually tailored commodity trading advice based on the customer's commodity interest or cash market positions or other circumstances or characteristics, if you are a commodity trading adviser; or

(v) Provides to you funds, securities, or property for an interest in a commodity pool, if you are a commodity pool operator.

(d) *Existing customers.* When an existing customer obtains a new financial product or service from you that is to be used primarily for personal, family or household purposes, you satisfy the initial notice requirements of paragraph (a) of this section as follows:

(1) You may provide a revised privacy notice under § 160.8 that covers the customer's new financial product or service; or

(2) If the initial, revised or annual notice that you most recently provided to that customer was accurate with respect to the new financial product or service, you do not need to provide a new privacy notice under paragraph (a) of this section.

(e) *Exceptions to allow subsequent delivery of notice.* (1) You may provide the initial notice required by paragraph (a)(1) of this section within a reasonable time after you establish a customer relationship if:

(i) Establishing the customer relationship is not at the customer's election;

(ii) Providing notice not later than when you establish a customer relationship would substantially delay the customer's transaction and the

customer agrees to receive the notice at a later time;

(iii) A nonaffiliated financial institution establishes a customer relationship between you and a consumer without your prior knowledge; or

(iv) You have established a customer relationship with a customer in a bulk transfer in accordance with § 1.65, if you are a transferee futures commission merchant or introducing broker.

(2) *Examples of exceptions.*—(i) *Not at customer's election.* Establishing a customer relationship is not at the customer's election if you acquire the customer's commodity interest account from another financial institution and the customer does not have a choice about your acquisition.

(ii) *Substantial delay of customer's transaction.* Providing notice not later than when you establish a customer relationship would substantially delay the customer's transaction when you and the individual agree over the telephone to enter into a customer relationship involving prompt delivery of the financial product or service.

(iii) *No substantial delay of customer's transaction.* Providing notice not later than when you establish a customer relationship would not substantially delay the customer's transaction when the relationship is initiated in person at your office or through other means by which the customer may view the notice, such as on a web site.

(f) *Delivery of notice.* When you are required by this section to deliver an initial privacy notice, you must deliver it according to the provisions of § 160.9. If you use a short-form initial notice for non-customers according to § 160.6(d), you may deliver your privacy notice as provided in section § 160.6(d)(3).

§ 160.5 Annual privacy notice to customers required.

(a)(1) *General rule.* You must provide a clear and conspicuous notice to customers that accurately reflects your privacy policies and practices not less than annually during the life of the customer relationship. *Annually* means at least once in any period of 12 consecutive months during which that relationship exists. You may define the 12-consecutive-month period, but you must apply it to the customer on a consistent basis.

(2) *Example.* You provide notice annually if you define the 12-consecutive-month period as a calendar year and provide the annual notice to the customer once in each calendar year following the calendar year in which you provided the initial notice. For example, if a customer opens an account on any day of year 1, you must provide an annual notice to that customer by December 31 of year 2.

(b)(1) *Termination of customer relationship.* You are not required to provide an annual notice to a former customer.

(2) *Examples.* Your customer becomes a former customer when:

(i) The individual's commodity interest account is closed;

(ii) The individual's advisory contract or subscription is terminated or expires; or

(iii) The individual has redeemed all of his or her units in your pool.

(c) *Delivery of notice.* When you are required by this section to deliver an annual privacy notice, you must deliver it in the manner provided by § 160.9.

§ 160.6 Information to be included in privacy notices.

(a) *General rule.* The initial, annual, and revised privacy notices that you provide under §§ 160.4, 160.5 and 160.8 must include each of the following items of information that applies to you or to the consumers to whom you send your privacy notice, in addition to any other information you wish to provide:

(1) The categories of nonpublic personal information that you collect;

(2) The categories of nonpublic personal information that you disclose;

(3) The categories of affiliates and nonaffiliated third parties to whom you disclose nonpublic personal information, other than those parties to whom you disclose information under §§ 160.14 and 160.15;

(4) The categories of nonpublic personal information about your former customers that you disclose and the categories of affiliates and nonaffiliated third parties to whom you disclose nonpublic personal information about your former customers, other than those parties to whom you disclose information under §§ 160.14 and 160.15;

(5) If you disclose nonpublic personal information to a nonaffiliated third party under § 160.13 (and no other exception applies to that disclosure), a separate statement of the categories of information you disclose and the categories of third parties with whom you have contracted;

(6) An explanation of the consumer's rights under § 160.10(a) to opt out of the disclosure of nonpublic personal information to nonaffiliated third parties, including the method(s) by which the consumer may exercise that right at that time;

(7) Any disclosures that you make under § 603(d)(2)(A)(iii) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)(iii)) (that is, notices regarding the ability to opt out of disclosures of information among affiliates);

(8) Your policies and practices with respect to protecting the confidentiality and security of nonpublic personal information; and

(9) Any disclosure that you make under paragraph (b) of this section.

(b) *Description of nonaffiliated third parties subject to exceptions.* If you disclose nonpublic personal information to third parties as authorized under §§ 160.14 and 160.15, you are not required to list those exceptions in the initial or annual privacy notices required by §§ 160.4 and 160.5. When describing the categories with respect to those parties, you are required to state only that you make disclosures to other nonaffiliated parties as permitted by law.

(c) *Examples.*—(1) *Categories of nonpublic personal information that you collect.* You satisfy the requirement to categorize the nonpublic personal information that you collect if you list the following categories, as applicable:

(i) Information from the consumer;

(ii) Information about the consumer's transactions with you or your affiliates;

(iii) Information about the consumer's transactions with nonaffiliated third parties; and

(iv) Information from a consumer reporting agency.

(2) *Categories of nonpublic personal information you disclose.*

(i) You satisfy the requirement to categorize the nonpublic personal information you disclose if you list the categories described in paragraph (e)(1) of this section, as applicable, and a few examples to illustrate the types of information in each category.

(ii) If you reserve the right to disclose all of the nonpublic personal information about consumers that you collect, you may simply state that fact without describing the categories or examples of the nonpublic personal information you disclose.

(3) *Categories of affiliates and nonaffiliated third parties to whom you disclose.* You satisfy the requirement to categorize the affiliates and nonaffiliated third parties to whom you disclose nonpublic personal information if you list the following categories, as applicable, and a few examples to illustrate the types of third parties in each category:

(i) Financial service providers;

(ii) Non-financial companies; and

(iii) Others.

(4) *Disclosures under exception for service providers and joint marketers.* If you disclose nonpublic personal

information under the exception in § 160.13 to a nonaffiliated third party to market products or services that you offer alone or jointly with another financial institution, you satisfy the disclosure requirement of paragraph (a)(5) of this section if you:

(i) List the categories of nonpublic personal information you disclose, using the same categories and examples you used to meet the requirements of paragraph (a)(2) of this section, as applicable; and

(ii) State whether the third party is:

(A) A service provider that performs marketing services on your behalf or on behalf of you and another financial institution; or

(B) A financial institution with which you have a joint marketing agreement.

(5) *Simplified notices.* If you do not disclose, and do not wish to reserve the right to disclose, nonpublic personal information to affiliates or nonaffiliated third parties except as authorized under §§ 160.14 and 160.15, you may simply state that fact, in addition to information you must provide under paragraphs (a)(1), (a)(8), (a)(9) and (b) of this section.

(6) *Confidentiality and security.* You describe your policies and practices with respect to protecting the confidentiality and security of nonpublic personal information if you do both of the following:

(i) Describe in general terms who is authorized to have access to the information; and

(ii) State whether you have security practices and procedures in place to ensure the confidentiality of the information in accordance with your policy. You are not required to describe technical information about the safeguards you use.

(d) *Short-form initial notice with opt out notice for non-customers.*

(1) You may satisfy the initial notice requirements in §§ 160.4(a)(2), 160.7(b) and 160.7(c) for a consumer who is not a customer by providing a short-form initial notice at the same time as you deliver an opt out notice as required in 160.7.

(2) A short-form initial notice must:

(i) Be clear and conspicuous;

(ii) State that your privacy notice is available upon request; and

(iii) Explain a reasonable means by which the consumer may obtain your privacy notice.

(3) You must deliver your short-form initial notice according to § 160.9. You are not required to deliver your privacy notice with your short-form initial notice. You instead may simply provide the consumer a reasonable means to obtain your privacy notice. If a consumer who receives your short-form notice requests your privacy notice, you must deliver your privacy notice according to § 160.9.

(4) *Examples of obtaining privacy notice.* You provide a reasonable means by which a consumer may obtain a copy of your privacy notice if you:

(i) Provide a toll-free telephone number that the consumer may call to request the notice; or

(ii) For a consumer who conducts business in person at your office, maintain copies of the notice on hand that you provide to the consumer immediately upon request.

(e) *Future disclosures.* Your notice may include:

(1) Categories of nonpublic personal information that you reserve the right to disclose in the future, but do not currently disclose; and

(2) Categories of affiliates and nonaffiliated third parties to whom you reserve the right in the future to disclose, but to whom you do not currently disclose, nonpublic personal information.

(f) *Sample clauses.* Sample clauses illustrating some of the notice content required by this section are included in the Appendix of this part.

§ 160.7 Form of opt out notice to consumers; opt out methods.

(a)(1) *Form of opt out notice.* If you are required to provide an opt out notice under § 160.10(a), you must provide a clear and conspicuous notice to each of your consumers that accurately explains the right to opt out under that section. The notice must state:

(i) That you disclose or reserve the right to disclose nonpublic personal information about your consumer to a nonaffiliated third party;

(ii) That the consumer has the right to opt out of that disclosure; and

(iii) A reasonable means by which the consumer may exercise the opt out right.

(2) *Examples.*—(i) *Adequate opt out notice.* You provide adequate notice that the consumer can opt out of the disclosure of nonpublic personal information to a nonaffiliated third party if you:

(A) Identify all of the categories of nonpublic personal information that you disclose or reserve the right to disclose, and all of the categories of nonaffiliated third parties to which you disclose the information, as described in § 160.6(a)(2) and (3), and state that the consumer can opt out of the disclosure of that information; and

(B) Identify the financial products or services that the consumer obtains from you, either singly or jointly, to which the opt out direction would apply.

(ii) *Reasonable means to opt out.* You provide a reasonable means to exercise an opt out right if you:

(A) Designate check-off boxes in a prominent position on the relevant forms with the opt out notice;

(B) Include a reply form together with the opt out notice;

(C) Provide an electronic means to opt out, such as a form that can be sent via electronic mail or a process at your web site, if the consumer agrees to the electronic delivery of information; or

(D) Provide a toll-free telephone number that consumers may call to opt out.

(iii) *Unreasonable opt out means.* You do not provide a reasonable means of opting out if:

(A) The only means of opting out is for the consumer to write his or her own letter to exercise that opt out right; or

(B) The only means of opting out as described in any notice subsequent to the initial notice is to use a check-off box that you provided with the initial notice but did not include with the subsequent notice.

(iv) *Specific opt out means.* You may require each consumer to opt out through a specific means, as long as that means is reasonable for the consumer.

(b) *Same form as initial notice permitted.* You may provide the opt out notice together with or on the same written or electronic form, as the initial notice you provide in accordance with § 160.4.

(c) *Initial notice required when opt out notice delivered subsequent to initial notice.* If you provide the opt out notice after the initial notice in accordance with § 160.4, you must also include a copy of the initial notice with the opt out notice in writing, or, if the consumer agrees, electronically.

(d) *Joint relationships.* (1) If two or more consumers jointly obtain a financial product or service from you, you may provide a single opt out notice; however, you must honor a request from one or more joint account holders for a separate opt out notice. Your opt out notice must explain how you will treat an opt out direction by a joint consumer.

(2) Any of the joint consumers may exercise the right to opt out. You may either:

(i) Treat an opt out direction by a joint consumer as applying to all of the associated joint consumers; or

(ii) Permit each joint consumer to opt out separately.

(3) If you permit each joint consumer to opt out separately, you must permit one of the joint consumers to opt out on behalf of all of the joint consumers.

(4) You may not require all joint consumers to opt out before you implement any opt out direction.

(5) *Example*. If John and Mary have a joint trading account with you and arrange for you to send statements to John's address, you may do any of the following, but you must explain in your opt out notice which opt out policy you will follow:

(i) Send a single opt out notice to John's address, but you must accept an opt out direction from either John or Mary;

(ii) Treat an opt out direction by either John or Mary as applying to the entire account. If you do so, and John opts out, you may not require Mary to opt out as well before implementing John's opt out direction; or

(iii) Permit John and Mary to make different opt out directions. If you do so:

(A) You must permit John and Mary to opt out for each other.

(B) If both opt out, you must permit both to notify you in a single response (such as on a form or through a telephone call).

(C) If John opts out and Mary does not, you may only disclose nonpublic personal information about Mary, but not about John, and not about John and Mary jointly.

(e) *Time to comply with opt out*. You must comply with a consumer's opt out direction as soon as reasonably practicable after you receive it.

(f) *Continuing right to opt out*. A consumer may exercise the right to opt out at any time.

(g) *Duration of consumer's opt out direction*.

(1) A consumer's direction to opt out under this section is effective until the consumer revokes it in writing, either by hard copy or, if the consumer agrees, electronically.

(2) When a customer relationship terminates, the customer's opt out direction continues to apply to the nonpublic personal information that you collected during or related to that relationship. If the individual subsequently establishes a new customer relationship with you, the opt out direction that applied to the former relationship does not apply to the new relationship.

(h) *Delivery*. When you are required by this section to deliver an opt out notice, you must deliver it according to § 160.9.

§ 160.8 Revised privacy notices.

(a) *General rule*. Except as otherwise authorized in this part, you must not, directly or through any affiliate, disclose any nonpublic personal information about a consumer to a nonaffiliated third party other than as described in the initial notice that you provided to that consumer under § 160.4, unless:

(1) You have provided to the consumer a clear and conspicuous revised notice that accurately describes your policies and practices;

(2) You have provided to the consumer a new opt out notice;

(3) You have given the consumer a reasonable opportunity, before you disclose the information to the nonaffiliated third party, to opt out of the disclosure; and

(4) The consumer does not opt out.

(b) *Examples*. (1) Except as otherwise permitted by §§ 160.13, 160.14, and 160.15, you must provide a revised notice before you:

(i) Disclose a new category of nonpublic personal information to any nonaffiliated third party;

(ii) Disclose nonpublic personal information to a new category of nonaffiliated third party; or

(iii) Disclose nonpublic personal information about a former customer to a nonaffiliated third party, if that former customer has not had the opportunity to exercise an opt out right regarding that disclosure.

(2) A revised notice is not required if you disclose nonpublic personal information to a new nonaffiliated third party that you adequately described in your prior notice.

(c) *Delivery*. When you are required to deliver a revised privacy notice by this section, you must deliver it according to § 160.9.

§ 160.9 Delivering privacy and opt out notices.

(a) *How to provide notices*. You must provide any privacy notices and opt out notices, including short-form initial notices that this part requires so that each consumer can reasonably be expected to receive actual notice in writing either in hard copy or, if the consumer agrees, electronically.

(b)(1) *Examples of reasonable expectation of actual notice*. You may reasonably expect that a consumer will receive actual notice if you:

(i) Hand-deliver a printed copy of the notice to the consumer;

(ii) Mail a printed copy of the notice to the last known address of the consumer; or

(iii) For the consumer who conducts transactions electronically, post the notice on the electronic site and require the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular financial service or product.

(2) *Examples of unreasonable expectation of actual notice*. You may not, however, reasonably expect that a consumer will receive actual notice of your privacy policies and practices if you:

(i) Only post a sign in your branch or office or generally publish advertisements of your privacy policies and practices; or

(ii) Send the notice via electronic mail to a consumer who does not obtain a financial product or service from you electronically.

(c) *Annual notices only*. You may reasonably expect that a consumer will receive actual notice of your annual privacy notice if:

(1) The customer uses your web site to access financial products and services electronically and agrees to receive notices at the web site and you post your current privacy notice continuously in a clear and conspicuous manner on the web site; or

(2) The customer has requested that you refrain from sending any information regarding the customer relationship, and your current privacy notice remains available to the customer upon request.

(d) *Oral description of notice insufficient*. You may not provide any notice required by this part solely by orally explaining the notice, either in person or over the telephone.

(e) *Retention or accessibility of notices for customers*.

(1) For customers only, you must provide the initial notice required by § 160.4(a)(1), the annual notice required by § 160.5(a), and the revised notice required by § 160.8, so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically.

(2) *Examples of retention or accessibility*. You provide a privacy notice to the customer so that the customer can retain it or obtain it later if you:

(i) Hand-deliver a printed copy of the notice to the customer;

(ii) Mail a printed copy of the notice to the last known address of the customer; or

(iii) Make your current privacy notice available on a web site (or a link to another web site) for the customer who obtains a financial product or service electronically and agrees to receive the notice at the web site.

(f) *Joint notice with other financial institutions*. You may provide a joint notice from you and one or more of your affiliates or other financial institutions, as identified in the notice, as long as the notice is accurate with respect to you and the other institutions.

(g) *Joint relationships*. If two or more customers jointly obtain a financial

product or service from you, you may satisfy the initial, annual, and revised notice requirements of paragraph (a) of this section by providing one notice to those customers jointly; however, you must honor a request by one or more joint account holders for a separate notice.

Subpart B—Limits on Disclosures

§ 160.10 Limits on disclosure of nonpublic personal information to nonaffiliated third parties.

(a)(1) *Conditions for disclosure.* Except as otherwise authorized in this part, you may not, directly or through any affiliate, disclose any nonpublic personal information about a consumer to a nonaffiliated third party unless:

(i) You have provided to the consumer an initial notice as required under § 160.4;

(ii) You have provided to the consumer an opt out notice as required in § 160.7;

(iii) You have given the consumer a reasonable opportunity, before you disclose the information to the nonaffiliated third party, to opt of the disclosure; and

(iv) The consumer does not opt out.

(2) *Opt out definition.* Opt out means a direction by the consumer that you not disclose nonpublic personal information about that consumer to a nonaffiliated third party, other than as permitted by §§ 160.13, 160.14 and 160.15.

(3) *Examples of reasonable opportunity to opt out.* You provide a consumer with a reasonable opportunity to opt out if:

(i) *By mail.* You mail the notices required in paragraph (a)(1) of this section to the consumer and allow the consumer to opt out by mailing a form, calling a toll-free telephone number, or any other reasonable means within 30 days after the date you mailed the notices.

(ii) *By electronic means.* A customer opens an on-line account with you and agrees to receive the notices required in paragraph (a)(1) of this section electronically, and you allow the customer to opt out by any reasonable means within 30 days after the date that the customer acknowledges receipt of the notices in conjunction with opening the account.

(iii) *Isolated transaction with consumer. For an isolated transaction with a consumer,* you provide the consumer with a reasonable opportunity to opt out if you provide the notices required in paragraph (a)(1) of this section at the time of the transaction and request that the consumer decide, as a necessary part of the transaction, whether to opt out before completing the transaction.

(b) *Application of opt out to all consumers and all nonpublic personal information.*

(1) You must comply with this section, regardless of whether you and the consumer have established a customer relationship.

(2) Unless you comply with this section, you may not, directly or through any affiliate, disclose any nonpublic personal information about a consumer that you have collected, regardless of whether you have collected it before or after receiving the direction to opt out from the consumer.

(c) *Partial opt out.* You may allow a consumer to select certain nonpublic personal information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

§ 160.11 Limits on redisclosure and reuse of information.

(a) (1) *Information you receive under an exception.* If you receive nonpublic personal information from a nonaffiliated financial institution under an exception in §§ 160.14 or 160.15, your disclosure and use of that information is limited as follows:

(i) You may disclose the information to the affiliate of the financial institution from which you received the information;

(ii) You may disclose the information to your affiliates, but your affiliates may, in turn, disclose and use the information only to the extent that you may disclose and use the information; and

(iii) You may disclose and use the information pursuant to an exception in § 160.14 or 160.15 in the ordinary course of business to carry out the activity covered by the exception under which you received the information.

(2) *Example.* If you receive a customer list from a nonaffiliated financial institution in order to provide account-processing services under the exception in § 160.14(a), you may disclose that information under any exception in §§ 160.14 or 160.15 in the ordinary course of business in order to provide those services. For example, you could disclose that information in response to a properly authorized subpoena or in the ordinary course of business to your attorneys, accountants, and auditors. You could not disclose that information to a third party for marketing purposes or use that information for your own marketing purposes.

(b)(1) *Information you receive outside of an exception.* If you receive nonpublic personal information from a nonaffiliated financial institution other than under an exception in §§ 160.14 or 160.15, you may disclose the information only:

(i) To the affiliates of the financial institution from which you received the information;

(ii) To your affiliates, but your affiliates may, in turn, disclose the information only to the extent that you can disclose the information; and

(iii) To any other person, if the disclosure would be lawful if made directly to that person by the financial institution from which you received the information.

(2) *Example.* If you obtain a customer list from a nonaffiliated financial institution outside of the exceptions in §§ 160.14 and 160.15:

(i) You may use that list for your own purposes;

(ii) You may disclose that list to another nonaffiliated third party only if the financial institution from which you purchased the list could have lawfully disclosed that list to that third party. That is, you may disclose the list in accordance with the privacy policy of the financial institution from which you received the list as limited by the opt out direction of each consumer whose nonpublic personal information you intend to disclose, and you may disclose the list in accordance with an exception in §§ 160.14 and 160.15, such as in the ordinary course of business to your attorneys, accountants, or auditors.

(c) *Information you disclose under an exception.* If you disclose nonpublic personal information to a nonaffiliated third party under an exception in §§ 160.14 or 160.15, the third party may disclose and use that information only as follows:

(1) The third party may disclose the information to your affiliates;

(2) The third party may disclose the information to its affiliates, but its affiliates may, in turn, disclose and use the information only to the extent that the third party may disclose and use the information; and

(3) The third party may disclose and use the information pursuant to an exception in §§ 160.14 or 160.15 in the ordinary course of business to carry out the activity covered by the exception under which it received the information.

(d) *Information you disclose outside of an exception.* If you disclose nonpublic personal information to a nonaffiliated third party other than under an exception in §§ 160.14 or 160.15, the third party may disclose the information only:

(1) To your affiliates;

(2) To its affiliates, but its affiliates, in turn, may disclose the information only to the extent the third party can disclose the information; and

(3) To any other person, if the disclosure would be lawful if you made it directly to that person.

§ 160.12 Limits on sharing account number information for marketing purposes.

(a) *General prohibition on disclosure of account numbers.* You must not, directly or through an affiliate, disclose, other than to a consumer reporting agency, an account number or similar form of access number or access code for a consumer's credit card account, deposit account or transaction account to any nonaffiliated third party for use in telemarketing, direct mail marketing or other marketing through electronic mail to the consumer.

(b) *Exceptions.* Paragraph (a) of this section does not apply if you disclose an account number or similar form of access number or access code:

(1) To your agent or service provider solely in order to perform marketing for your own services or products, as long as the agent or service provider is not authorized to directly initiate charges to the account; or

(2) To a participant in a private-label credit card program or an affinity or similar program where the participants in the program are identified to the customer when the customer enters into the program.

(c) *Example.* An account number, or similar form of access number or access code, does not include a number or code in an encrypted form, as long as you do not provide the recipient with a means to decode the number or code.

Subpart C—Exceptions

§ 160.13 Exception to opt out requirements for service providers and joint marketing.

(a) *General rule.* (1) The opt out requirements in §§ 160.7 and 160.10 do not apply when you provide nonpublic personal information to a nonaffiliated third party to perform services for you or functions on your behalf if you:

(i) Provide the initial notice in accordance with § 160.4; and

(ii) Enter into a contractual agreement with the third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which you disclosed the information, including use under an exception in §§ 160.14 or 160.15 in the ordinary course of business to carry out those purposes.

(2) *Example.* If you disclose nonpublic personal information under this section to a financial institution with which you perform joint marketing, your contractual agreement with that institution meets the requirements of paragraph (a)(1)(ii) of this section if it prohibits the institution from disclosing or using the nonpublic personal information except as necessary to carry out the joint marketing or under an exception in §§ 160.14 or 160.15 in the ordinary course of business to carry out that joint marketing.

(b) *Service may include joint marketing.* The services a nonaffiliated third party performs for you under paragraph (a) of this section may include marketing of your own products or services or marketing of financial products or services offered pursuant to joint agreements between you and one or more financial institutions.

(c) *Definition of joint agreement.* For purposes of this section, *joint agreement* means a written contract pursuant to which you and one or more financial institutions jointly offer, endorse or sponsor a financial product or service.

§ 160.14 Exceptions to notice and opt out requirements for processing and servicing transactions.

(a) *Exceptions for processing and servicing transactions at consumer's request.* The requirements for initial notice in § 160.4(a)(2), for the opt out in §§ 160.7 and 160.10, and for initial notice in § 160.13 in connection with service providers and joint marketing, do not apply if you disclose nonpublic personal information as necessary to effect, administer, or enforce a transaction that a consumer requests or authorizes, or in connection with:

(1) Processing or servicing a financial product or service that a consumer requests or authorizes;

(2) Maintaining or servicing the consumer's account with you, or with another entity as part of an extension of credit on behalf of such entity as part of a private label credit card program or other extension of credit on behalf of such entity; or

(3) A proposed or actual securitization, secondary market sale or similar transaction related to a transaction of the consumer.

(b) *Necessary to effect, administer or enforce a transaction* means that the disclosure is:

(1) Required, or is one of the lawful or appropriate methods, to enforce your rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or

(2) Required, or is a usual, appropriate or acceptable method:

(i) To carry out the transaction or the product or service business of which the transaction is a part, and record, service or maintain the consumer's account in the ordinary course of providing the financial service or financial product;

(ii) To administer or service benefits or claims relating to the transaction or the product or service business of which it is a part;

(iii) To provide a confirmation, statement or other record of the transaction, or information on the status or value of the financial service or financial product to the consumer or the consumer's agent or broker;

(iv) To accrue or recognize incentives or bonuses associated with the transaction that are provided by you or any other party;

(v) In connection with:

(A) The authorization, settlement, billing, processing, clearing, transferring, reconciling or collection of amounts charged, debited or otherwise paid using a debit, credit or other payment card, check or account number, or by other payment means;

(B) The transfer of receivables, accounts or interests therein; or

(C) The audit of debit, credit or other payment information.

§ 160.15 Other exceptions to notice and opt out requirements.

(a) *Exceptions to notice and opt out requirements.* The requirements for initial notice in § 160.4(a)(2), for the opt out in §§ 160.7 and 160.10, and for initial notice in § 160.13 in connection with service providers and joint marketing do not apply when you disclose nonpublic personal information:

(1) With the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction;

(2)(i) To protect the confidentiality or security or your records pertaining to the consumer, service, product or transaction;

(ii) To protect against or prevent actual or potential fraud, unauthorized transactions, claims or other liability;

(iii) For required institutional risk control or for resolving consumer disputes or inquiries;

(iv) To persons holding a legal or beneficial interest relating to the consumer; or

(v) To persons acting in a fiduciary or representative capacity on behalf of the consumer;

(3) To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies that are rating you, persons that are assessing your compliance with

industry standards, and your attorneys, accountants and auditors;

(4) To the extent specifically permitted or required under other provisions of law and in accordance with the Right to Financial Privacy Act of 1978, 12 U.S.C. 3401 *et seq.*, to law enforcement agencies (including a federal functional regulator, the Secretary of the Treasury, with respect to 31 U.S.C. Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions) and 12 U.S.C. Chapter 21 (Financial Recordkeeping), a State insurance authority, with respect to any person domiciled in that insurance authority's state that is engaged in providing insurance, and the Federal Trade Commission), self-regulatory organizations, or for an investigation on a matter related to public safety;

(5)(i) To a consumer reporting agency in accordance with the Fair Credit Reporting Act, 15 U.S.C. 1681 *et seq.*; or

(ii) From a consumer report reported by a consumer reporting agency;

(6) In connection with a proposed or actual sale, merger, transfer or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal information concerns solely consumers of such business or unit; or

(7)(i) To comply with federal, state or local laws, rules and other applicable legal requirements;

(ii) To comply with a properly authorized civil, criminal or regulatory investigation, or subpoena or summons by federal, state or local authorities; or

(iii) To respond to judicial process or government regulatory authorities having jurisdiction over you for examination, compliance or other purposes as authorized by law.

(b) *Examples of consent and revocation of consent.* (1) A consumer may specifically consent to your disclosure to a nonaffiliated mortgage lender of the value of the assets in the customer's account so that the lender can evaluate the consumer's application for a mortgage loan.

(2) A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of nonpublic personal information as permitted under § 160.7(f).

Subpart D—Relation To Other Laws; Effective Date

§ 160.16 Protection of Fair Credit Reporting Act.

Nothing in this part shall be construed to modify, limit or supersede the operation of the Fair Credit Reporting Act, 15 U.S.C. 1681 *et seq.*, and no inference shall be drawn on the basis of the provisions of this part regarding whether information is transaction or experience information under section 603 of that Act.

§ 160.17 Relation to state laws.

(a) *In general.* This part shall not be construed as superseding, altering or affecting any statute, regulation, order or interpretation in effect in any state, except to the extent that such state statute, regulation, order or interpretation is inconsistent with the provisions of this part, and then only to the extent of the inconsistency.

(b) *Greater protection under state law.* For purposes of this section, a state statute, regulation, order or interpretation is not inconsistent with the provisions of this part if the protection such statute, regulation, order or interpretation affords any consumer is greater than the protection provided under this part, as determined by the Federal Trade Commission, after consultation with the Commission, on the Federal Trade Commission's own motion, or upon the petition of any interested party.

§ 160.18 Effective date; compliance date; transition rule.

(a) *Effective date.* This part is effective on June 21, 2001. In order to provide sufficient time for you to establish policies and systems to comply with the requirements for this part, the compliance date for this part is June 21, 2002.

(b)(1) *Notice requirement for consumers who are your customers on the effective date.* By March 31, 2002, you must have provided an initial notice, as required by § 160.4, to consumers who are your customers on June 21, 2001.

(2) *Example.* You provide an initial notice to consumers who are your customers on March 31, 2002 if, by that date, you have established a system for providing an initial notice to all new customers and have mailed the initial notice to all your existing customers.

(c) *One-year grandfathering of service agreements.* Until March 31, 2003, a contract that you have entered into with a nonaffiliated third party to perform services for you or functions on your behalf satisfies the provisions of § 160.13(a)(1)(ii) even if the contract does not include a requirement that the third party maintain the confidentiality of nonpublic personal information, as long as you entered into the agreement on or before March 31, 2002.

§§ 160.19–160.29 [Reserved]

§ 160.30 Procedures to safeguard customer records and information.

Every futures commission merchant, commodity trading advisor, commodity pool operator and introducing broker subject to the jurisdiction of the Commission must adopt policies and procedures that address administrative, technical and physical safeguards for the protection of customer records and information. These policies and procedures must be reasonably designed to:

(a) Insure the security and confidentiality of customer records and information;

(b) Protect against any anticipated threats or hazards to the security or integrity of customer records and information; and

(c) Protect against unauthorized access to or use of customer records or information that could result in substantial harm or inconvenience to any customer.

Appendix to Part 160—Sample Clauses

Financial institutions, including a group of financial holding company affiliates that use a common privacy notice, may use the following sample clauses, if the clause is accurate for each institution that uses the notice. Note that disclosure of certain information, such as assets, income and information from a consumer reporting agency, may give rise to obligations under the Fair Credit Reporting Act, such as a requirement to permit a consumer to opt out of disclosures to affiliates or designation as a consumer reporting agency if disclosures are made to nonaffiliated third parties.

A–1—Categories of Information You Collect (All Institutions)

You may use this clause, as applicable, to meet the requirement of § 160.6(a)(1) to describe the categories of nonpublic personal information you collect.

Sample Clause A–1

We collect nonpublic personal information about you from the following sources:

- Information we receive from you on applications or other forms;
- Information about your transactions with us, our affiliates or others; and
- Information we receive from a consumer reporting agency.

A–2—Categories of Information You Disclose (Institutions That Disclose Outside of the Exceptions)

You may use one of these clauses, as applicable, to meet the requirement of § 160.6(a)(2) to describe the categories of nonpublic personal information you disclose. You may use these clauses if you disclose nonpublic personal information other than as permitted by the exceptions in §§ 160.13, 160.14 and 160.15.

Sample Clause A–2, Alternative 1

We may disclose the following kinds of nonpublic personal information about you:

• Information we receive from you on applications or other forms, such as [*provide illustrative examples, such as ''your name, address, social security number, assets and income''*];

• Information about your transactions with us, our affiliates or others, such as [*provide illustrative examples, such as ''your account balance, payment history, parties to transactions and credit card usage''*]; and

• Information we receive from a consumer reporting agency, such as [*provide illustrative examples, such as ''your creditworthiness and credit history''*].

Sample Clause A–2, Alternative 2

We may disclose all of the information that we collect, as described [*describe location in the notice, such as ''above'' or ''below''*].

A–3—Categories of Information You Disclose and Parties to Whom You Disclose (Institutions That Do Not Disclose Outside of the Exceptions)

You may use this clause, as applicable, to meet the requirements of §§ 160.6(a)(2), (3) and (4) to describe the categories of nonpublic personal information about customers and former customers that you disclose and the categories of affiliates and nonaffiliated third parties to whom you disclose. You may use this clause if you do not disclose nonpublic personal information to any party, other than as is permitted by the exceptions in §§ 160.14 and 160.15.

Sample Clause A–3

We do not disclose any nonpublic personal information about our customers or former customers to anyone, except as permitted by law.

A–4—Categories of Parties to Whom You Disclose (Institutions That Disclose Outside of the Exceptions)

You may use this clause, as applicable, to meet the requirement of § 160.6(a)(3) to describe the categories of affiliates and nonaffiliated third parties to whom you disclose nonpublic personal information. You may use this clause if you disclose nonpublic personal information other than as permitted by the exceptions in §§ 160.13, 160.14 and 160.15, as well as when permitted by the exceptions in §§ 160.14 and 160.15.

Sample Clause A–4

We may disclose nonpublic personal information about you to the following types of third parties:

• Financial service providers, such as [*provide illustrative examples, such as ''mortgage bankers''*];

• Non-financial companies, such as [*provide illustrative examples, such as ''retailers, direct marketers, airlines and publishers''*]; and

• Others, such as [*provide illustrative examples, such as ''non-profit organizations''*].

We may also disclose nonpublic personal information about you to nonaffiliated third parties as permitted by law.

A–5—Service Provider/Joint Marketing Exception

You may use one of these clauses, as applicable, to meet the requirements of § 160.6(a)(5) related to the exception for service providers and joint marketers in § 160.13. If you disclose nonpublic personal information under this exception, you must describe the categories of nonpublic personal information you disclose and the categories of third parties with whom you have contracted.

Sample Clause A–5, Alternative 1

We may disclose the following information to companies that perform marketing services on our behalf or to other financial institutions with which we have joint marketing agreements:

• Information we receive from you on applications or other forms, such as [*provide illustrative examples, such as ''your name, address, social security number, assets and income''*];

• Information about your transactions with us, our affiliates, or others, such as [*provide illustrative examples, such as ''your account balance, payment history, parties to transactions and credit card usage''*]; and

• Information we receive from a consumer reporting agency, such as [*provide illustrative examples, such as ''your creditworthiness and credit history''*].

Sample Clause A–5, Alternative 2

We may disclose all of the information we collect, as described [*describe location in the notice, such as ''above'' or ''below''*] to companies that perform marketing services on our behalf or to other financial institutions with which we have joint marketing agreements.

A–6—Explanation of Opt Out Right (Institutions That Disclose Outside of the Exceptions)

You may use this clause, as applicable, to meet the requirement of § 160.6(a)(6) to provide an explanation of the consumer's right to opt out of the disclosure of nonpublic personal information to nonaffiliated third parties, including the method(s) by which the consumer may exercise that right. You may use this clause if you disclose nonpublic personal information other than as permitted by the exceptions in §§ 160.13, 160.14 and 160.15.

Sample Clause A–6

If you prefer that we not disclose nonpublic personal information about you to nonaffiliated third parties you may opt out of those disclosures; that is, you may direct us not to make those disclosures (other than disclosures permitted or required by law). If you wish to opt out of disclosures to nonaffiliated third parties, you may [*describe a reasonable means of opting out, such as ''call the following toll-free number: (insert number)''*].

A–7—Confidentiality and Security (All Institutions)

You may use this clause, as applicable, to meet the requirement of § 160.6(a)(8) to describe your policies and practices with respect to protecting the confidentiality and security of nonpublic personal information.

Sample Clause A–7

We restrict access to nonpublic personal information about you to [*provide an appropriate description, such as ''those employees who need to know that information to provide products or services to you''*]. We maintain physical, electronic and procedural safeguards that comply with federal standards to safeguard your nonpublic personal information.

Dated: April 20, 2001.

By the Commission.

Catherine D. Dixon,

Assistant Secretary.

[FR Doc. 01–10398 Filed 4–26–01; 8:45 am]

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Federal Register

Friday,
April 27, 2001

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 136

National Parks Air Tour Management; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 136

[Docket No. FAA–2001–8690; Notice No. 01–01]

RIN 2120–AF46

National Parks Air Tour Management

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA is codifying title VIII of Public Law 106–181, National Parks Air Tour Management Act of 2000 (the Act), as a new part of its regulations, 14 CFR part 136. This action also proposes, in cooperation with the National Park Service, a 5,000-ft. above ground level (AGL) altitude that will complete the definition of ''commercial air tour operation'' as required by the Act. If an operator conducts operations below this proposed 5,000-ft. AGL altitude over a national park, and otherwise meets the statutory definition of a commercial air tour operation, that operator would be defined as a commercial air tour operator and would be required to meet the requirements of the Act and new part 136. This action provides easy access to portions of the Act by publishing these portions in the Code of Federal Regulations format as 14 CFR part 136. This NPRM provides the public the opportunity to comment on an altitude that will complete the definition of ''commercial air tour operation.''

DATES: Send your comments on or before June 11, 2001.

ADDRESSES: Address your comments to the Docket Management System, U.S. Department of Transportation, Room PL401, 400 Seventh Street, SW., Washington, DC. You must identify Docket Number FAA–2001–8690 at the beginning of your comments.

You may also submit comments through the Internet to http://dms.dot.gov. You may also review the entire public docket for this NPRM at that same site. You may also review the public docket in person in the Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office is on the plaza level.

FOR FURTHER INFORMATION CONTACT: Howard Nesbitt, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: (202) 493–4981.

SUPPLEMENTARY INFORMATION:

Comments Invited

Anyone may participate in this rulemaking by providing such written data, views, or arguments. The FAA also invites comments relating to the environmental, energy, federalism, or economic impact. Include cost estimates, if possible, for substantive comments. Identify the regulatory docket and submit your comments to the DOT Rules Docket address specified above.

The FAA will file all comments received, as well as report summarizing each substantive public contact with FAA personnel on this rulemaking. The docket is available for public inspection before and after the comment closing date.

The FAA will consider all comments received on or before the closing date before we take action on this proposed rulemaking. We will consider comments received late as far as possible without incurring expense or delay.

If you want the FAA to acknowledge receipt of your comments, include a pre-addressed, stamped postcard with those comments. On the card write ''Comments to Docket No. FAA–2001–8690.'' We will date stamp the card and mail it back to you.

Availability of This NPRM

You can get an electronic copy of this NPRM from the docket with the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management system (DMS) web page *(http://dms.dot.gov/search)*.

(2) On the search page, type in the last four digits of the Docket number shown at the beginning of this document. Click on ''search''.

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the NPRM.

You can also get an electronic copy using the Internet through the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the **Federal Register's** web page at http://www.access.gpo.gov/su_docs/aces/acrs140.htm.

You can also get a copy of this NPRM by mail by submitting a request to the Federal Aviation Administration, Office of Rulemaking, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Be sure to identify the Notice No. of this NPRM.

Background

The National Parks Air tour management Act of 2000 (the Act) was enacted on April 5, 2000, as Public Law 106–181. The Act applies to ''commercial air tour operations'' occurring over a unit of the national park system or tribal lands within or abutting a national park. A commercial air tour operation is defined in the Act as a ''flight conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing over a national park, within ½ mile outside the boundary of any national park, or over tribal lands, during which the aircraft flies—(i) Below a minimum altitude, determined by the Administrator in cooperation with the Director, above ground level (except solely for purposes of takeoff or landing, or necessary for safe operation of aircraft as determined under the rules and regulations of the Federal Aviation Administration requiring the pilot-in-command to take action to ensure the safe operation of the aircraft or (ii) less than 1 mile laterally from any geographic feature within the park (unless more than ½ mile outside the boundary).'' See Section 803 of the Act, to be codified at 49 U.S.C. Section 40128(f)(4)(A). In making the determination as to whether a flight is a commercial air tour operation, the Act lists eight factors that the Administrator may consider. Id. at 40128(f)(4)(B). The term ''tribal land'' is defined in the Act as ''Indian Country (as that term is defined in section 1151 of title 18 of the U.S. Code) that is within or abutting a national park.'' The term ''National Park'' is defined in the Act as ''any unit of the national park system.'' [1] All commercial air tour operations must be conducted in accordance with the following: (1) Title 49 of the U.S. Code (U.S.C.) Section 40128; (2) conditions and limitations prescribed for that operator by the FAA; and (3) any applicable air tour management plans.

The Act states that ''Before commencing commercial air tour operations over a national park or tribal lands, a commercial air tour operator shall apply to the Administrator for authority to conduct the operations over the park or tribal lands.'' See Section 803 of the Act, to be codified at 49 U.S.C. 40128(a)(2)(A). This application then triggers the process for the FAA and NPS to cooperatively develop an air tour management plan (ATMP) for that park or tribal land. The objective of the

[1] There are currently 379 units of the National Park System in the United States. For a complete listing of all units of the national park system see *www.nps.gov/legacy/nomenclature.html.*

ATMP process is to ''develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences, and tribal lands.'' See Section 803 of the Act, to be codified at 49 U.S.C. 40128(b)(1)(B).

The Act also provides that ''upon application for operating authority, the Administrator shall grant interim operating authority under [49 U.S.C. Section 40128(c)] to a commercial air tour operator for commercial air tour operations over a national park or tribal lands for which the operator is an existing commercial air tour operator.'' See Section 803 of the Act to be codified at 49 U.S.C. Section 40128(c)(1). Such interim operating authority is subject to a number of requirements and limitations, including a limit on the number of commercial air tour operations that may be conducted on an interim basis pending issuance of the ATMP for that park.

In the Act, Congress found that the FAA has the authority ''to preserve, protect and enhance the environment by minimizing, mitigating, or preventing the adverse effects of aircraft overflights, on public and tribal lands.'' Section 802 of the Act. Congress also found that the National Park Service (NPS) has the responsibility of ''conserving the scenery and natural and historic objects and wildlife in national parks and of providing for the enjoyment of the national parks in ways that leave the national parks unimpaired for future generations.'' Id. Further, the Act states that ''the protection of tribal lands from aircraft overflights is consistent with protecting the public health and welfare and is essential to the maintenance of the natural and cultural resources of Indian tribes.'' Id.

The Proposal

In this rulemaking, the FAA solicits comments on the establishment of the altitude that completes the definition of a commercial air tour operation. The definition of a commercial air tour operation cannot become fully effective until the FAA, in cooperation with the Director of NPS, establishes through rulemaking a minimum altitude over national park units and tribal lands within or abutting a national park below which a commercial sightseeing flight would be defined as a commercial air tour operation. In making the determination that a flight is a commercial air tour operation, the Administrator may consider eight factors, which are enumerated in the Act.

The FAA, in cooperation with the NPS, proposes that the altitude be 5,000 feet above ground level (AGL). Therefore, under this proposed rule, if a flight is conducted for compensation or hire in a powered aircraft for the purpose of sightseeing over a national park unit (or within ½ mile of the park boundary) or tribal land within or abutting a national park and is less than one mile laterally from any geographic feature of the Park (unless more than ½ mile outside the park boundary) or flies below 5,000 feet AGL for the purpose of sightseeing at any point during its flight over a park or tribal land, then that flight and that operator would be subject to the provisions of the Act and the new Part 136.

A 5,000-ft. AGL altitude would address the great majority of current and potential commercial air tour operations over national park units. In addition, the National Parks Overflights Working Group (NPOWG), which met from May 1997 through December 1997, considered a number of possible minimum altitudes and recommended that the minimum altitude be set at 5,000 feet AGL. The Act acknowledged their efforts in saying; ''this title reflects the recommendations made by that Group.'' See Section 802 of the Act.

The FAA reminds readers that the 5,000-ft. altitude, if adopted, would complete the definition of commercial air tour operation. This would trigger the start of the ATMP process and notify operators conducting commercial air tour operations, as defined in the Act, that such operations are subject to the provisions of the Act. It does not mean that all air tour operations would be required to be conducted above 5,000 ft. AGL or would be limited to that minimum altitude. Rather the air tour management plan for any given national park unit would define the altitudes at which operations may be conducted. The 5,000-ft. AGL altitude also would not apply to takeoffs and landings or for other operations necessary for safety of flight.

The FAA solicits specific, tangible examples of the impact of the proposed 5,000-ft. AGL altitude. The FAA and the NPS also solicit specific information on whether there are any commercial air tours currently conducted at or above 5,000 feet AGL.

Codification

Although the only issue for comment for this notice is the proposed 5,000-ft. altitude, the FAA also sets forth in this rulemaking the codification of the Act so that readers may have easy access to the Act's requirements. The FAA cannot substantively change the Act although the codification is modified in places so that its format conforms with other regulations of Title 14, Chapter 1.

Section by Section

Section 136.1 Applicability

This section codifies Sections 803 and 809 of the Act into FAA's regulations. These provisions have parallel codifications in the United States Code, which are referenced herein. It clarifies that this new part, Part 136, applies to any person who conducts a commercial air tour operation over a unit of the National Park System, over tribal lands that are within or abutting a unit of the National Park System, or any area within ½ mile outside a unit of the National Park System. It specifically excludes the Grand Canyon National Park, tribal lands within or abutting Grand Canyon National Park, land or waters located in the state of Alaska, and air transportation routes over the Lake Mead area.

Readers should note that there are certain portions of the Act that are not incorporated in this rulemaking. They include judicial review (Section 803(a)), competitive bidding (Section 803(a)), quiet technology aircraft issues (Section 804), and the advisory group as established by Section 805. The latter three issues will be addressed in separate rulemaking actions. The FAA considers this altitude proposal a first priority to establish a final rule for the management of such commercial air tour operations.

Section 136.3 Definitions

This section of the Act (to be codified in Title 18 of the U.S. Code as 49 U.S.C. Section 40128(f)) provides the reader with the key definition applicable to this rulemaking. Those include commercial air tour operator, existing commercial air tour operator, new entrant commercial air tour operator, commercial air tour operation, National Park, Tribal Lands, Administrator, and Director. Again, readers are reminded that the focus of this rulemaking is on establishing the altitude, 5,000 feet AGL, which would complete the Act's definition of a commercial air tour operation. With the exception of the definition of ''Superintendent,'' which is administrative, the other definitions are taken directly from the Act and cannot be changed. The definition of ''Superintendent'' is added to the proposal because the term is used in the Act for the exception for Part 91 commercial air tour operations as distinguished from the use of ''Director'' in other sections.

Section 136.5 Prohibition of Commercial Air Tour Operations Over the Rocky Mountain National Park

Section 806 of the Act prohibits all commercial air tour operations in the airspace over the Rocky Mountain National Park regardless of altitude. The FAA notes that this prohibition already exists as SFAR 78 of 14 CFR Part 91. When the final rule is issued in this rulemaking, SFAR 78 will be rescinded and the prohibition of commercial air tour operations over Rocky Mountain National Park will be codified as Section 136.5.

Section 136.7 Overflights of National Parks and Tribal Lands

This section codifies into FAA regulation Section 803 of the Act (to be codified in the U.S. Code as 49 U.S.C. 40128(b)) concerning ATMPs and refers to the authority of the Administrator and the air tour management plan. It states that before beginning any commercial air tour operation over a national park or tribal land, a person must apply to the Administrator for operating authority. The FAA will publish an advisory circular detailing how operators are to comply with this requirement. The FAA will notify the public when the advisory circular is available through a notice published in the **Federal Register**.

This section also describes how the Administrator, in cooperation with the Director, will determine the number of commercial air tour operations to authorize for each park. In making this determination, the Administrator, in cooperation with the Director, will consider the provisions of the air tour management plan, the number of existing commercial air tour operators, the current level of service and equipment provided by operators, and the financial viability of each operator.

Congress also specified in the Act that the FAA is directed to make every effort to act on any ATMP application and issue a decision on the application no later than 24 months after it is received or amended. See Section 803 of the Act, to be codified as 49 U.S.C. 40128(a)(2)(E). The Act also instructs the Administrator to give priority to applications submitted by new entrants.

An exemption to this rule is set forth in the Act, to be codified in 49 U.S.C 40128(a)(3) which permits a commercial air tour operator conducting only a limited number of commercial air tour operations to be excepted from certain requirements of the Act provided such activity is permitted by Title 14 Code of Federal Regulations Part 119. Section 119.1(e)(2) specifically excludes from the requirement to obtain certification for conducting operations under Part 121 or 135 ''nonstop sightseeing flights conducted with aircraft having a passenger seat configuration of 30 or fewer, * * * that begin and end at the same airport, and are conducted within a 25 statute mile radius of that airport.'' To qualify for the exception, such operators are required to obtain a letter of agreement from the Administrator and the national park superintendent for the particular park describing the conditions under which that operator will conduct its commercial air tour operations. This exception is limited to not more then 5 flights in any 30-day period over a particular park. Readers should note that this does not mean 5 flights per operator, but rather a total of 5 flights for any park. For example, if there are two operators in a particular park who wish to use this exception, the 5 flights would have to be divided between them.

Existing commercial air tour operators who did not already have part 119 operating authority were required to apply, not later than 90 days after enactment of the Act, for authority under Part 119 to conduct operations under either part 121, or 135. See Section 803 of the Act, to be codified at 49 U.S.C. Section 40128. Readers are referred to a notice published in the **Federal Register** on May 26, 2000, reminding commercial air tour operators of this requirement. Part 119 also sets forth the process by which a person applies for a part 119 certificate and the types of information that are required by the Administrator for completing the application process. Once the application process is complete, the person would then conduct operations under 14 CFR part 121 or 14 CFR part 135, as appropriate. The FAA reminds operators that if they already hold an operating certificate under 14 CFR part 119, a second application is not required.

Section 136.9 Air Tour Management Plans

This section codifies 49 U.S.C. Section 40128(a) into the FAA's regulations and includes the general requirements for the establishment of an air tour management plan (ATMP), the contents of such a plan, procedures to be followed by the Administrator and the Director, and how amendments will be processed. Establishing an ATMP involves a public process whereby public meetings are held, proposed plans are published in the **Federal Register**, and the participation of any Indian tribe affected by the overflights of commercial air tour operations is solicited. An ATMP may include a broad array of alternatives: some parks may prohibit overflights, other parks may restrict overflights during certain times, and the Administrator and Director may consider incentives such as quiet technology aircraft. The objective of the ATMP is to develop ''acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences, and tribal lands.'' (See Section 803 of the Act, to be codified at 49 U.S.C. 40128(b)(1)(B)). To mitigate or prevent such impacts the FAA, in cooperation with the NPS, may consider guidelines on such things as type of aircraft, routes, altitudes, time of day, and seasonal times, etc. Once an ATMP is finalized, any air tour operator wishing to conduct commercial air tour operations within a particular park will be required to comply with the ATMP for that park.

Section 136.11 Interim Operating Authority (IOA)

Because the certification process cannot be accomplished immediately, the Act gives existing operators the opportunity to continue conducting existing commercial air tour operations over national parks. Additionally, in some instances, new entrant operators may be granted authority to begin operators. These procedures are spelled out in the Act (to be codified as 49 U.S.C. 40128(c)) and will be codified in regulation as section 136.11. Section 136.11 states that upon application for operating authority, the Administrator will grant IOA for existing operators. The number of flights annually authorized would be the greater of the number of commercial air tour operations conducted over the 12 months immediately prior to enactment of the Act, or an average number of commercial air tour operations per 12-month period conducted within a 36-month period prior to enactment of the Act. This number may not be increased, unless agreed to by the Administrator and the Director. The IOA, including the number of operations, will be published in the **Federal Register** for comment, and will be used as a basis for the development of the ATMP. The IOA must promote protection of national park resources, visitor experiences and tribal lands, safe commercial air tour operations, and the adoption of quiet technology, as appropriate.

Section 136.11 also describes the IOA that may be given to new entrant operators. In general, such operating authority may be granted if the Administrator finds it necessary to

ensure competition and if the ATMP has not been developed within 24 months of the enactment of the Act. IOA for new entrant operators will not be granted if the Administrator determines that granting the IOA would create a safety problem or the Director determines that granting the IOA would create a noise problem at the part or on tribal lands.

Environmental Review

The Act provides that the objective of an ATMP is to ''mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences, and tribal lands (to be codified at 49 U.S.C. 40128(b)(a)(B)).'' Accordingly, the purpose of this proposed rule is to allow achievement of this statutory objective, thereby ensuring that any significant adverse environmental impacts from commercial air tour operations are avoided.

In accordance with FAA Order 1050.ID, the FAA has determined that this proposed rule is categorically excluded from environmental review under section 102(2)(C) of the National Environmental Policy Act (NEPA). In particular, this determination is based on FAA Order 1050.1D, Appendix 4, paragraph 4.i, which applies to ''[r]egulatory documents which cover administrative or procedural requirements,'' and paragraph 4.j, which covers ''[r]egulations, standards, and exemptions (excluding those which if implemented may cause a significant impact on the human environment).''

NEPA compliance will be performed as part of the development of each ATMP prepared in accordance with this rule.

Economic Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Trade Agreement Act of 1979 directs agencies to assess the effect of regulatory changes on international trade. Fourth, Public Law 104–4 requires federal agencies to assess the impact any of federal mandates on state, local, tribal governments, and the private sector. The FAA has determined that this rule is a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and Department of Transportation policies and procedures (44 FR 11034, February 26, 1979) because of significant Congressional and public interest in this rulemaking. This proposed rule would not have a significant impact on a substantial number of small entities. In addition, this rule would not constitute a barrier to international trade. Finally, the FAA has determined that the proposal would not impose a federal mandate on state, local, or tribal governments, or the private sector of $100 million per year.

Benefit—Cost Analysis

This proposed rule would codify the applicable provisions of the Act concerning commercial air tour operations over national parks into a new part 136. The Act and the proposed rule are also applicable to the commercial air tour operations over the area within ½ mile outside the boundary of any national park or over tribal lands within or abutting national parks, or less than 1 mile laterally from any geographic feature within the park. The Act and the proposed rule specifically exclude the Grand Canyon National Park and tribal lands within or abutting it, air transportation routes over the Lake Mead area, and land or waters located in Alaska. Congress directed the FAA, in cooperation with the NPS, to determine the minimum altitude under which commercial air tour operations would be subject to the provisions of the statute. An altitude of less than 5,000 feet above ground level is proposed as the altitude that completes the definition of a commercial tour operation to be subject to part 136. A 5,000-ft. AGL altitude would address the great majority of current and potential commercial air tour operations over national park units. In addition, the National Parks Overflights Working Group (NPOWG), which met from May 1997 through December 1997, considered a number of possible minimum altitudes and recommended that the minimum altitude be set at 5,000 feet AGL.

These new statutory provisions will enable the FAA to develop acceptable and effective measures to mitigate or prevent the significant adverse effects, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences, and tribal lands.

The costs and benefits of this rule cannot be evaluated effectively without taking account of specific noise mitigation measures that would be incorporated in an ATMP for a specific park. The NPS and FAA thus intend to prepare such evaluations when specific plans specified in Section 136.9 (Air Tour Management Plans) are proposed.

Initial Regulatory Flexibility Determination and Assessment

The Regulatory Flexibility Act (RFA) of 1980 establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organization, and government jurisdictions subject to regulation.'' To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rational for their actions. The RFA covers a wide range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA has determined that this proposed rule imposes no costs on small commercial air tour operators because the actual effect on small entities will be determined by individual ATMPs. This proposed rule is limited to only what has been authorized by this Act. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies that this rule will not have a significant impact on a substantial number of small entities. The FAA solicits comments on this determination.

International Trade Impact Assessment

The Trade Agreement Act (TAA) of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The TAA also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. In addition, consistent

with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

In accordance with the above Act and policy, the FAA has assessed the potential effect of this proposed rule and has determined that it will have only a domestic impact and therefore no effect on any trade-sensitive activity.

Unfunded Mandates Reform Act Assessment

The Unfunded Mandates Reform Act of 1995 (UMRA), enacted as Public Law 104–4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments.

Title II of the UMRA requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.''

This proposed rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Paperwork Reduction Act

The FAA finds that although this is a process rulemaking, there will be a paperwork and recordkeeping burden on both the agencies and the air tour operators. This NPRM, however, only describes a process. Actual paperwork requirements will be determined according to individual ATMPs, developed through a public process which will involve public meetings and publication in the **Federal Register** for notice and comment. Public Law 106–181 states that the Administrator shall ''make every effort'' to act on an application for an ATMP for a park within 24 months. Within this 24 months, the agencies must publish current air tour operations for a park for public comment, hold public meetings, and prepare the plan. Although the FAA does not anticipate that an ATMP will be developed for each of the 379 parks, even if only 50 parks are initially affected, the burden will considerable. Since the FAA does not know how many applications will be received or in what timeframe, the agency specifically solicits comments from air tour operators who anticipate filing applications. In addition, the notifications received by the FAA in response to the notice to part 91 operators who will eventually receive a certificate under part 119 with authority to operate under part 121 or part 135 should provide some of the number of commercial air tour operators.

List of Subjects in 14 CFR Part 136

Aircraft, Air transportation, Aviation safety, National parks, Recreation and recreation areas.

The Proposed Amendment

For the reasons set forth above, the Federal Aviation Administration proposes to add a new part 136 to chapter I of title 14 of the Code of Federal Regulations as follows:

PART 136—NATIONAL PARKS AIR TOUR MANAGEMENT

Sec.
136.1 Applicability.
136.3 Definitions.
136.5 Prohibition of commercial air tour operations over the Rocky Mountain National Park.
136.7 Overflights of national parks and tribal lands.
136.9 Air tour management plans (ATMP).
136.11 Interim operating authority.

Authority: 49 U.S.C. 106(g), 40113, 40119, 44101, 44701, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 46105.

§ 136.1 Applicability.

(a) This part restates and paraphrases several sections of the National Parks Air Tour Management Act of 2000, including section 803 (to be codified at 49 U.S.C. 40128) and Sections 806 and 809. This part clarifies the requirements for the development of an air tour management plan for each park in the national park system.

(b) Except as provided in paragraph (c) of this section, this part applies to each commercial air tour operator who conducts a commercial air tour operation over:

(1) A unit of the national park system;

(2) Tribal lands as defined in this part; or

(3) Any area within one-half mile outside the boundary of any unit of the national park system.

(c) This part does not apply to a commercial air tour operator conducting a commercial air tour operation:

(1) Over the Grand Canyon National Park;

(2) Over that portion of tribal lands within or abutting the Grand Canyon National Park;

(3) Over any land or waters located in the State of Alaska; or

(4) While flying over or near the Lake Mead Recreation Area, solely as a transportation route, to conduct a commercial air rout over the Grand Canyon National Park.

§ 136.3 Definitions.

For purposes of this part:

(a) *Commercial air tour operator* means any person who conducts a commercial air tour operation.

(b) *Existing commercial air tour operator* means a commercial air tour operator who was actively engaged in the business of providing commercial air tour operations over a national park at any time during the 12-month period ending on April 5, 2000.

(c) *New entrant commercial air tour operator* means a commercial air tour operator who:

(1) Applies for operating authority as a commercial air tour operator for a national park or tribal lands; and

(2) Has not engaged in the business of providing commercial air tour operations over the national park or tribal lands for the 12-month period preceding the application.

(d) *Commercial air tour operation:*

(1) Means any flight, conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing over a national park, within ½ mile outside the boundary of any national park, or over tribal lands, during which the aircraft flies:

(i) Below 5,000 feet above ground level (except for the purpose of takeoff or landing, or as necessary for the safe operation of an aircraft as determined under the rules and regulations of the Federal Aviation Administration requiring the pilot-in-command to take action to ensure the safe operation of the aircraft);

(ii) Less than 1 mile laterally from any geographic feature within the park (unless more than ½ mile outside the boundary); or

(iii) Except as provided in paragraph (c) of this section.

(2) The Administrator may consider the following factors in determining whether a flight is a commercial air tour operation for purposes of this part:

(i) Whether there was a holding out to the pubic of willingness to conduct a sightseeing flight for compensation or hire;

(ii) Whether a narrative that referred to areas or pints of interest on the surface below the route of the flight was provided by the person offering the flight;

(iii) The area of operation;

(iv) The frequency of flights conducted by the person offering the flight;

(v) The route of flight;

(vi) The inclusion of sightseeing flights as part of any travel arrangement package offered by the person offering the flight;

(vii) Whether the flight would have been canceled based on poor visibility of the surface below the route of flight; and

(viii) Any other factors that the Administrator and director consider appropriate.

(3) For purposes of § 136.5 of this part, means any flight conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing over a national park.

(e) *National park* means any unit of the national park system. (See title 16 of the U.S. Code, section 1, et. seq.)

(f) *Tribal lands* means that portion of Indian country (as that term is defined in section 1151 of title 18 of the U.S. Code) that is within or abutting a national park.

(g) *Administrator* means the Administrator of the Federal Aviation Administration.

(h) *Director* means the Director of the National Park Service.

(i) Superintendent means the duly appointed representative of the National Park Service for a particular unit of the national park system.

§ 136.5 Prohibition of commercial air tour operations over the Rocky Mountain National Park.

All commercial air tour operations in the airspace over the Rocky Mountain National Park are prohibited regardless of altitude.

§ 136.7 Overflights of national parks and tribal lands.

(a) *General.* A commercial air tour operator may not conduct commercial air tour operations over a national park or tribal land except:

(1) In accordance with this section;

(2) In accordance with conditions and limitations prescribed for that operator by the Administrator; and

(3) In accordance with any applicable air tour management plan for the park or tribal lands.

(b) *Application for operating authority.* Before commencing commercial air tour operations over a national park or tribal lands, a commercial air tour operator shall apply to the Administrator for authority to conduct the operations over the park or tribal lands. Advisory Circular 119–xxx contains information on how to submit such an application.

(c) *Number of operations authorized.* In determining the number of authorizations to issue to provide commercial air tour operations over a national park, the Administrator, in cooperation with the Director, shall take into consideration the provisions of the air tour management plan, the number of existing commercial air tour operators and current level of service and equipment provided by any such operators, and the financial viability of each commercial air tour operation.

(d) *Cooperation with National Park Service.* Before granting an application under this part, the Administrator, in cooperation with the Director, shall develop an air tour management plan in accordance with § 136.9 and implement such a plan.

(e) *Time limit on response to applications.* Every effort will be made to act on any application under this part and issue a decision on the application not later than 24 months after it is received or amended.

(f) *Priority.* In acting on applications under this paragraph to provide commercial air tour operations over a national park, the Administrator shall give priority to an application under this paragraph in any case where a new entrant commercial air tour operator is seeking operating authority with respect to that national park.

(g) *Exception.* Notwithstanding § 136.7, commercial air tour operators may conduct commercial air tour operations over a national park under part 91 of this chapter if:

(1) Such activity is permitted under part 119 of this chapter;

(2) The operator secures a letter of agreement from the Administrator and the Superintendent for that park describing the conditions under which the operations will be conducted; and

(3) The number of operations under this exception is limited to not more than a total of 5 flights by all operators in any 30-day period over a particular park.

(h) *Special rule for safety equipment.* Notwithstanding § 136.11, an existing commercial air tour operator shall apply, not later than 90 days after April 5, 2000, for operating authority under part 119 of this chapter, for certification under part 121 or part 135 of this chapter. A new entrant commercial air tour operator shall apply for such authority before conducting commercial air tour operations over a national park or tribal lands that are within or about a national park. The Administrator shall make every effort to act on such application for a new entrant and issue a decision on the application not later than 24 months after it is received or amended.

§ 136.9 Air tour management plans (ATMP).

(a) *Establishment.* In general, the Administrator, in cooperation with the Director, shall establish an air tour management plan for any national park, or tribal land for which such a plan is not in effect whenever a person applies for authority to conduct a commercial air tour operation over the park. The air tour management plan shall be developed by means of a public process in accordance with paragraph (d) of this section. The objective of any tour management plan is to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences, and tribal lands.

(b) *Environmental determination.* In establishing an air tour management plan under this subsection, the Administrator and the Director shall each sign the environmental decision document required by section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) which may include a finding of no significant impact, an environmental assessment, or an environmental impact statement and the record of decision for the air tour management plan.

(c) *Contents.* An air tour management plan for a park:

(1) May prohibit commercial air tour operations in whole or in part;

(2) May establish conditions for the conduct of commercial air tour operations, including, but not limited to, commercial air tour routes, maximum number of flights per unit of time, maximum and minimum altitudes, time of day restrictions, restrictions for particular events, intrusions on privacy on tribal lands, and mitigation of noise, visual, or other impacts.

(3) Shall apply to all commercial air tour operations within ½ mile outside the boundary of a national park;

(4) Shall include incentives (such as preferred commercial air tour routes and altitudes, and relief from caps and curfews) for the adoption of quiet technology aircraft by commercial air tour operators conducting commercial air tour operations at the park;

(5) Shall provide for the initial allocation of opportunities to conduct commercial air tour operations if the plan includes a limitation on the number of commercial air tour operations for any time period; and

(6) Shall justify and document the need for measures taken pursuant to

paragraphs (c)(1) through (c)(5) of this section and include such justification in the record of decision.

(d) *Procedure.* In establishing an ATMP for a national park or tribal lands, the Administrator and Director shall:

(1) Hold at least one public meeting with interested parties to develop the air tour management plan;

(2) Publish the proposed plan in the **Federal Register** for notice and comment and make copies of the proposed plan available to the public;

(3) Comply with the regulations set forth in 40 CFR 1501.3 and § 1501.5 through 1501.8 (for the purposes of complying with the regulations, the Federal Aviation Administration is the lead agency and the National Park Service is a cooperating agency); and

(4) Solicit the participation of any Indian tribe whose tribal lands are, or may be, overflown by aircraft involved in a commercial air tour operation over the park or tribal lands to which the plan applies, as a cooperating agency under the regulations referred to in paragraph (d)(3) of this section.

(e) *Amendments.* The Administrator, in cooperation with the Director, may make amendments to an air tour management plan. Any such amendments will be published in the **Federal Register** for notice and comment. A request for amendment of an ATMP will be made in accordance with § 11.25 of this chapter as a petition for rulemaking.

§ 136.11 Interim operating authority.

(a) *General.* Upon application for operating authority, the Administrator shall grant interim operating authority under this section to a commercial air tour operator for commercial air tour operations over a national park or tribal land for which the operator is an existing commercial air tour operator.

(b) *Requirements and limitations.* Interim operating authority granted under this section:

(1) Shall provide annual authorization only for the greater of:

(i) The number of flights used by the operator to provide the commercial air tour operations within the 12-month period prior to April 5, 2000; or

(ii) The average number of flights per 12-month period used by the operator to provide such operations within the 36-month period prior to April 5, 2000, and for seasonal operations, the number of flights so used during the season or seasons covered by that 12-month period.

(2) May not provide for an increase in the number of commercial air tour operations conducted during any time period by the commercial air tour operator above the number the air tour operator was originally granted unless such an increase is agreed to by the Administrator and the Director;

(3) Shall be published in the **Federal Register** to provide notice and opportunity for comment;

(4) May be revoked by the Administrator for cause;

(5) Shall terminate 180 days after the date on which an air tour management plan is established for the park and tribal lands;

(6) Shall promote protection of national park resources, visitor experiences, and tribal lands;

(7) Shall promote safe commercial air tour operations;

(8) Shall promote the adoption of quiet technology, as appropriate, and

(9) Shall allow for modifications of the interim operating authority based on experience if the modification improves protection of national park resources and values and of tribal lands.

(c) *New entrant operators.* The Administrator, in cooperation with the Director, may grant interim operating authority under this paragraph to an air tour operator for a national park or tribal lands for which that operator is a new entrant air tour operator if the Administrator determines the authority is necessary to ensure competition in the provision of commercial air tour operations over the park or tribal lands.

(d) *Limitation.* The Administrator may not grant interim operating authority under paragraph (c) of this section if the Administrator determines that it would create a safety problem at the park or on the tribal lands, or if the Director determines that it would create a noise problem at the park or on the tribal lands.

(e) *ATMP limitation.* The Administrator may grant interim operating authority under paragraph (b) of this section only if the ATMP for the park or tribal lands to which the application relates has not been developed within 24 months after April 5, 2000.

Issued in Washington, DC, on April 20, 2001.

L. Nicholas Lacey,

Director, Flight Standards Service.

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H.R. 132/P.L. 107–6

To designate the facility of the United States Postal Service located at 620 Jacaranda Street in Lanai City, Hawaii, as the ''Goro Hokama Post Office Building''. (Apr. 12, 2001; 115 Stat. 8)

H.R. 395/P.L. 107–7

To designate the facility of the United States Postal Service located at 2305 Minton Road in West Melbourne, Florida, as the ''Ronald W. Reagan Post Office of West Melbourne, Florida''. (Apr. 12, 2001; 115 Stat. 9)

Last List March 21, 2001

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