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DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1951

RIN 0560–AG56

Prompt Disaster Set-Aside Consideration and Primary Loan Servicing Facilitation

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: Farm Service Agency (FSA) is amending its regulations for the Disaster Set-Aside (DSA) program to provide a disaster set-aside more quickly to those who can most benefit from the program. The changes also will reduce the Government's risk associated with the delay in debt collection by adding security requirements.

DATES: This rule is effective on October 27, 2003.

FOR FURTHER INFORMATION CONTACT: Michael Cumpton, Farm Loan Programs, Loan Servicing and Property Management Division, United States Department of Agriculture, Farm Service Agency, STOP 0523, 1400 Independence Avenue, SW., Washington, DC 20250–0523, telephone (202) 690–4014; electronic mail: *mike_cumpton@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant and has not been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601, the Agency has determined that there will not be a significant economic impact on a substantial number of small entities. All Farm Service Agency direct loan borrowers and all entities affected by this rule are small businesses according to the North American Industry Classification System, and the United States Small Business Administration. There is no diversity in size of the entities affected by this rule and the costs to comply with it are the same for all entities. FSA stated its finding in the proposed rule at 67 FR 41869, June 20, 2002, that the rule will not have a significant economic impact on a substantial number of small entities, and received no comments on this finding.

In the U.S. there are 86,000 FSA direct farm loan borrowers. In this final rule FSA is streamlining the Disaster Set-Aside (DSA) program, which postpones one delinquent loan installment to the end of the loan term. This rule somewhat limits the DSA program by increasing the security requirements, tightening the application timeframes and authorizing the program only for borrowers whose financial stress was caused by a designated natural disaster. While borrowers whose financial stress had been caused by low commodity prices had at one time been eligible for the DSA program, this authority applied only to low commodity prices in 1999, with an application deadline of August 31, 2000. This rule removes the low commodity price assistance aspect of the program. However, this authority previously expired on its own terms on August 31, 2000.

While the effect of these rule changes is to make fewer individuals eligible for the DSA program, the small entities affected by these changes may be eligible to receive more extensive debt restructuring known as Primary Loan Servicing (PLS), including reduced interest rates and debt writedown, to alleviate financial stress from designated natural disasters and/or low commodity prices. In FY 2002, 5,000 farm borrowers received PLS, the Agency's statutorily mandated debt restructuring tool. The DSA program, which is regulatory only, was used for only 834 farms. With these changes, FSA estimates that 10 percent of these farms may no longer receive DSA assistance. However, without DSA assistance, the farms may then qualify for more wide ranging assistance under the PLS Program. The Agency estimates that the costs of applying for PLS may be greater than applying for DSA. However, Agency employees routinely assist farmers applying for PLS assistance, and the assistance that may be received will more than offset the costs. The eligibility standards for the two programs are similar. However, PLS assistance will more probably result in a farm becoming a viable small business. Therefore, the costs of compliance from this rule are deemed not significant. Accordingly, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Agency certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Environmental Evaluation

The environmental impacts of this proposed rule have been considered in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.,* the regulations of the Council of Environmental Quality (40 CFR Parts 1500–1508), and the FSA regulations for compliance with NEPA, 7 CFR part 1940, subpart G. FSA completed an environmental evaluation and concluded the rule requires no further environmental review. No extraordinary circumstances or other unforeseeable factors exist which would require preparation of an environmental assessment or environmental impact statement. A copy of the environmental evaluation is available for inspection and review upon request.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. In accordance with this Executive Order: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) except as specifically stated in this rule, no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with 7 CFR part 11 must be exhausted before seeking judicial review.

Executive Order 12372

For reasons contained in the notice related to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs within this rule are excluded from the scope of E.O. 12372, which requires intergovernmental consultation with State and local officials.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments or the private sector of $100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of the UMRA requires FSA to prepare a written statement, including a cost and benefit assessment, for proposed and final rules with ''Federal mandates'' that may result in such expenditures for State, local, or tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates, as defined under title II of the UMRA, for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Paperwork Reduction Act

Notice of this information collection package was published in a Proposed rule (67 FR 41869, June 20, 2002) under the provisions of 44 U.S.C. chapter 35. The information collections required for this regulation have been assigned OMB control number 0560–0164. The Information Collections associated with this rule have been approved by OMB until May 31, 2006.

Federal Assistance Programs

These changes affect the following FSA programs as listed in the Catalog of Federal Domestic Assistance:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans

Discussion of the Final Rule

In response to the proposed rule published June 20, 2002 (67 FR 41869–41872), a total of nine comments were received from FSA employees, farm interest groups, and state government officials. Comments and suggestions focused primarily on the timeframes for DSA application submission and processing. However, most aspects of the proposed rule did receive comments with some commentors disagreeing with all changes. Instead they recommended changes that would expand the program into multiple set-asides on each loan without requiring a designated disaster. All comments were considered and will be addressed. Many of the comments have been adopted. The Agency's obligation to offer and consider eligibility for primary loan servicing, required by statute (section 331D of the Consolidated Farm and Rural Development Act (CONACT)) and 7 CFR part 1951, subpart S, as the applicable method for resolving delinquent account servicing is being considered in the final rule. The public comments are summarized as follows:

Timeframe for Complete DSA Application and Processing of DSA

Since DSA is not required by statute, the Agency must ensure that it does not hinder the statutory primary loan servicing requirements which are codified in 7 CFR part 1951, subpart S. To ensure the future viability of farming operations, save borrower equity and reduce Government losses, FSA proposed to amend the requirements for DSA to require that:

(1) DSA applications must be made prior to the borrower becoming delinquent on the loans;

(2) DSA will not be authorized if the borrower has already submitted an application for primary loan servicing; and

(3) Only primary loan servicing will be considered when a borrower becomes 90 days past due.

All nine commentors indicated that the requirement for a DSA application to be complete prior to the borrower becoming past due allows inadequate time for disaster declarations and borrower consideration of servicing options. One commentor stated that a borrower's need for DSA could span two or more years and that primary loan servicing is cumbersome and time consuming. This respondent did not indicate what timeframe would be appropriate. The Agency notes however, that this amount of time would well exceed all statutory timeframes for the servicing of delinquent loans. Two commentors indicated that the deadline to submit a DSA application should be extended until the borrower is 90 days past due. This suggestion was accepted and adopted in sections 1951.952 and 1951.954(a)(5) of the final rule.

All commentors also felt that some flexibility should be allowed for processing DSA applications after FSA provides delinquent borrowers with initial notification of primary loan servicing and during the processing of the Primary Loan Servicing (PLS) application. It was stated that this would allow the borrower to choose between servicing options and several comments were submitted on this section of the rule. One commentor objected to the affirmative statement made in the rule that the ''DSA will not be used to circumvent the servicing available under subpart S of this part.'' Two comments also indicated that borrowers should have some type of ''safety net'' beyond a strict deadline, if FSA does not meet its time limit for processing a DSA application. One commentor believed that a 120 day time limit should be imposed with SED consideration required beyond that point. In evaluating all the above comments, it must also be considered that PLS is dictated by statute and FSA and the borrower must meet certain timeframes. However, after consideration of these comments, we believe that the extension of the DSA timeframes is warranted. Therefore, to address the PLS processing timeframes and DSA application deadline issues, the final rule provides that DSA consideration may continue until a complete PLS application must be submitted. This will require that DSA consideration and closing be completed prior to the borrower becoming 165 days past due. (FSA notifies a borrower 15 days after the borrower is 90 days past due of all PLS options, and the borrower then has 60 days to submit a complete PLS application. 15 + 90 + 60 = 165). In sections 1951.954(a)(5) and 1951.954(a)(6) of 7 CFR, timeframes for both the borrower and the Agency have been lengthened accordingly beyond those proposed to ensure that adequate time exists for application submission, processing and completion.

Additional Security Requirements

Additional security requirements were proposed to ensure the availability of collateral throughout the term of the loan if the borrower is not current at the time of the DSA. This is consistent with the requirements of 7 CFR 1951.910(b) and, since payments can be set aside for

the full term of the loan (which could be up to 40 years on a real estate loan or 15 years on a chattel loan), it is essential that the Government take all measures possible to ensure the continued adequacy and availability of security during the entire term of the loan.

Three commentors disagreed with the requirement for additional security while five others supported the requirement. Two commentors disagreed because they believed this would add psychological burden on the borrowers in a time of natural disaster. This comment related mainly to the proposed short timeframes which coincided with the occurrence of a disaster. The final rule lengthens these timeframes to allow the borrowers ample time to be considered for DSA without interfering with statutory requirements regarding PLS. However, the same commentors believed that the security requirement would adversely affect other creditors and local communities by circumventing lien priority considerations and payments to other creditors. The Agency believes that the rule has no effect on lien priorities. State laws will continue to govern perfected liens. Also, Agency regulations requiring the release of normal income proceeds for essential family living or farm operating expenses remain unchanged. Finally, commentors felt that local Agency officials would abuse their discretion in the determination of required security. In drafting this rule the Agency included specific security requirements in section 1951.957(b)(4) which lessen the possibility that local offices will abuse their discretion. However, the rule allows enough flexibility in security requirements to minimize disruptions to the farm operation while protecting the Agency from an inordinate amount of financial risk.

Two of the supportive commentors advocated reducing the additional security requirement to a maximum of 150 percent of the outstanding loan amount (although one of the two thought the requirement for additional security should include non-delinquent borrowers). Another supporter wanted to use the 150 percent requirement but increase the amount required to 150 percent of the total debt (including prior liens) on the residence instead of just the FSA debt. After considering these comments, the additional security requirements contained in section 1951.957(b)(4) will not be revised. These requirements are the same as the existing security requirements for delinquent borrowers serviced under the primary loan servicing program contained in 7 CFR 1951.910(b). That regulation requires that delinquent borrowers provide the best lien obtainable on all assets that the borrower owns but adopts the exclusions contained in 7 CFR 1941.19(c). Generally items excluded from the FLP security are real or chattel property which would prevent the borrower from obtaining credit from other sources; could subject the Agency to additional costs as creditor; or are used for subsistence purposes. These security requirements and their exceptions have been contained in FPL's regulations since 1992 and are well understood by borrowers and FLP employees. Adopting these security requirements in the 1951–T process will assure consistency in FPL's loan servicing programs.

Submission of Historical Information

While two commentors supported the historical information requirements and development of a farm business plan, three other commentors disagreed with the requirement for submission of 5 years of financial records, including records from the time period of the disaster. Although clarified, these requirements were contained in the previous regulation by 7 CFR 1951.953(c)(2) and 1951.954(a)(6). Section 1951.953(c)(2) of the proposed rule simply clarified these requirements, which ensures that cash flow projections are supported by adequate historical data. This policy is consistent with FSA's current loan making (7 CFR 1910.4(b)(6)) and loan servicing regulations (7 CFR 1951.906, definition of a feasible plan) which generally require production and expense records for the previous five years, if the borrower has been farming during that time period.

Submission of Information as Required for Agency Consideration

Two commentors do not agree with the requirement that the borrower provide ''any documentation required to support the cash flow projection.'' However, this language is in section 1951.954(a)(6) of the current regulation. It is essential for the development of an accurate farm business plan, as the Agency has no way to foresee any and all financial and production aspects of all operations that could need assistance. This language simply allows FSA to obtain documentation on aspects of an operation that are unique and cannot be foreseen or codified in the regulation. In order to ensure the future viability of the farming operation, save borrower equity, and reduce government losses, eligibility requirements for DSA continue to require borrowers to develop a cash flow projection. The authority to request applicable documentation will, therefore, be retained.

Elimination of Legacy Language Regarding Low Commodity Prices and Second DSA

The proposed rule stated that language referring to past authority which allowed DSA due to low commodity prices and a second DSA for that purpose would be removed. Two commentors believe that this authority should be retained. One commentor supported the removal of the low commodity price language but preferred that the use of the words ''natural disaster'' be changed to ''disaster'' to allow FSA discretion on its use for economic disasters. FSA's current regulation at 7 CFR 1951.953 provides authorization for the DSA program for economic disasters based on low commodity prices through 1999 only, and requires that applications for that program be received by August 31, 2000. Because this aspect of the DSA program has expired, FSA in implementing the final rule will be deleting an expired authority. FSA believes that adverse economic conditions are more appropriately serviced through the statutorily mandated loan servicing program contained in 7 CFR part 1951, subpart S. That regulation, in section 1951.909(c)(1)(iv), authorizes a sequenced loan servicing program, starting with the least costly rescheduling/reamortization program through the most costly debt writedown program which allows debt restructuring of the present value of the loans to the net recovery value of the security and any non-essential assets, when adverse economic factors, not limited to an individual case, such as low market prices for agricultural commodities as compared to production costs reduce repayment ability. If FSA believes an additional regulatory program for economic disasters is required in future years, it will reactivate the 1951–T authority through the rulemaking process.

Limitation of Installments on Which DSA Can Be Used

The proposed rule stated that the amount that may be setaside would be limited to the amount the borrower is unable to pay the Agency from the production and marketing period in which the disaster occurred. It further limited DSA to the first scheduled annual installment due immediately after the disaster occurred. Three

commentors disagreed with this provision and stated that this would not always allow a borrower to get a DSA if the disaster occurred late in the year or the disaster declaration was delayed. Because the process of declaring a disaster can be lengthy, FSA has modified the final rule in section 1951.954(b)(3) to allow the set-aside of either the first or second installment due after the disaster occurred.

Limitation of DSA to Borrowers Who Are Unable To Pay FSA Debt

The proposed rule stated that the amount set-aside would be limited to the amount that the borrower is unable to pay the Agency. Payments to other creditors were not considered. Three commentors disagreed with this provision and stated that this could cause a borrower to wait until the last minute to pay the FSA debt as the amount of other debt could not be set aside. However, as noted above, provisions of 7 CFR part 1962, subpart A, require the release of normal income security proceeds for essential family living and farm operating expenses until the account is accelerated. Lien priorities remain unchanged. Thus, funds due FSA can be released to other creditors for these purposes. Therefore, this limitation will be retained. It further insures that the amount of debt that is set-aside is minimized, and the resulting balloon payment and interest accrual to the borrowers account are also minimized.

Elimination of Cost Recoverable Set-Aside

The proposed rule would eliminate the set-aside of cost recoverable items. These costs, such as property taxes, are the borrower's responsibility but may have been paid by the Government to protect its lien position. Non-payment of such costs is a violation of loan agreements, including the Promissory Note, and places the account in nonmonetary default, requiring the account to be serviced in accordance with 7 CFR 1951.907(d). Two commentors disagreed with this proposal and stated that farm advocates are concerned that it can take over a year for a non-monetary default to be ''removed from a borrower's record'' even after it is paid. Failure to comply with borrower training requirements was stated as an example. However, the proposed rule deals specifically with cost recoverables, and cost recoverables do not include borrower training requirements. One commentor agreed with the proposal and suggested it be made part of the eligibility requirements instead of the limitations.

Based on the adverse affect on the Agency caused by a borrower's failure to pay the recoverable cost item, and the Agency's continuing need to service these items either by payment or costly servicing under 7 CFR 1951, subpart S, the final rule adopts the proposed rule.

Elimination of Language Regarding Interest Accrual

Two commentors indicated that the last sentence in section 1951.954(b)(5) as proposed duplicates the language already in sections 1951.957(b)(2) and 1951.957(b)(3). However, they preferred the due date being expressed as ''with the final installment'' instead of the current language ''on or before the final due date.'' The duplicative language is removed. However, the Agency believes that all borrowers with a DSA would be well served to pay the set-aside as soon as possible to eliminate additional interest and reduce the final balloon payment even if this occurs prior to the final installment coming due. Therefore, the current language in section 1951.957(b)(3) is retained.

Eligibility Regarding Post-Disaster Primary Loan Servicing

Presently, section 1951.954(a)(11) limits set-aside to those borrowers who have not been restructured using primary loan servicing since the disaster. One commentor indicated that the criteria should be changed to limit eligibility to those who have not been restructured since the disaster designation. Since PLS restructures debt using the latest information from a borrower, and any recent disaster, whether designated or not, would be considered in restructuring loans if it impacted the borrower's operations, no change from existing policy is required.

DSA Notification

While borrower notification of DSA is not contained in the CFR (it is addressed in the Agency internal Instruction section 1951.953), four comments were received indicating some interest in the topic. At present, the Agency provides notification, to any non-accelerated borrower who has not been restructured after a disaster and who may be eligible for DSA, of all disaster designations in effect in that county or a contiguous county in any quarter in which a new designation is established. Two commentors appeared to favor regular quarterly notification to the public about all designations in effect, and stated that the Agency's notification process should be codified in the CFR. However, one of the other commentors stated that an initial notification with no quarterly notification would be adequate. Another commentor favored the initial notification but did not express any opinion regarding the quarterly notification requirements. Based on the range of the four comments received, the Agency has decided that this procedural requirement will not be published in the CFR. The Agency's notification policy is available upon request at any local office. Also, a fact sheet on the DSA program including the notification, is contained on the FSA webpage at: *http://www.fsa.usda.gov/pas/publications/facts/html/debtset02.htm.* Additional guidance to Agency employees on notification will be considered when the Agency instruction is revised.

DSA Expansion

While not specifically addressed in the proposed rule, two commentors indicated that they would favor multiple set-asides on each loan without restructuring and a DSA program for guaranteed loans. The Agency understands the commentors desire to have as many avenues as possible to correct defaults. However, these suggestions exceed the scope of what FSA considered in the proposed rule, and adopting these comments would increase the risk of loss on direct loans. Guaranteed loans are serviced by private lenders under 7 CFR 762 and not by FSA. Lenders utilize the guaranteed program because servicing actions are the lenders' option. FSA does not dictate to lenders how to service the loans, and current guaranteed loan regulations already provide many options including deferral and debt writedown. Further, our experience with lenders indicates that these options provide all the tools that commercial lenders would realistically ever use in servicing the account. Thus, these changes are not under consideration, and they will not be included in the final rule.

Second Set-Aside Payment Application

Two commentors stated that the instructions on payment application when a borrower has obtained two set-asides should be retained for those borrowers that have received two set-asides in the past. As some existing borrowers do have two set-asides, this language will be retained in section 1951.957(b)(7). However, section 1951.954(a)(2) makes it clear that present authority is limited to setting aside one installment on each loan.

List of Subjects in 7 CFR Part 1951

Accounting, Credit, Disaster assistance, Loan programs-agriculture,

Loan programs-housing and community development, Low and moderate income housing.

■ Accordingly, 7 CFR part 1951 is amended as follows:

PART 1951–SERVICING AND COLLECTIONS

■ 1. The authority citation for part 1951 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1932 Note; 7 U.S.C. 1989; 31 U.S.C. 3716; 42 U.S.C. 1480.

Subpart T—Disaster Set-Aside Program

■ 2. Amend § 1951.951 by revising the second sentence to read as follows:

§ 1951.951 Purpose.

* * * The DSA program is available to Farm Loan Program (FLP) borrowers, as defined in subpart S of this part, who suffered losses as a result of a natural disaster. * * *

■ 3. Revise § 1951.952 to read as follows:

§ 1951.952 General.

DSA is a program whereby borrowers who are current or less than 90 days past due on all FLP loans, may apply to move the scheduled annual installment for each eligible FLP loan to the end of the loan term. The intent of this program is to relieve some of the borrower's immediate financial stress caused by a natural disaster. DSA will not be used to circumvent the servicing available under subpart S of this part.

■ 4. Revise § 1951.953 to read as follows:

§ 1951.953 Notification and request for DSA.

(a) [Reserved]

(b) *Deadline to apply.* Subject to § 1951.954(a)(5), all FLP borrowers liable for the debt must request DSA within 8 months from the date the natural disaster was designated in accordance with 7 CFR part 1945, subpart A.

(c) *Information needed for a complete application.* (1) A written request for DSA signed by all parties liable for the debt;

(2) Actual production, income, and expense records for the past five years, including the production and marketing period in which the natural disaster occurred; and

(3) Other information requested by the servicing official when needed to make an eligibility determination.

■ 5. Revise § 1951.954 to read as follows:

§ 1951.954 Eligibility and loan limitation requirements.

(a) *Eligibility requirements.* The following requirements must be met to be eligible for DSA:

(1) The borrower must have:

(i) Operated a farm or ranch in a county designated a natural disaster area or a contiguous county as provided in 7 CFR part 1945, subpart A, and

(ii) Been a borrower and operated the farm or ranch at the time of the disaster period.

(2) A borrower cannot have more than one installment set aside under the DSA program on each loan. If all previously approved set-asides are paid in full, or cancelled through restructuring under subpart S of this part, the set-aside will no longer exist and the loan may again be considered for DSA.

(3) The borrower must have acted in good faith as defined in § 1951.906 of subpart S of this part and the borrowers inability to make the upcoming scheduled FSA payments must be for reasons which are not within the borrower's control.

(4) All nonmonetary defaults must have been resolved. This means that even though the borrower has acted in good faith, the borrower may still be in default for reasons, such as, but not limited to: no longer farming; prior lienholder foreclosure; bankruptcy or under court jurisdiction; not properly maintaining chattel and real estate security; not properly accounting for the sale of security; or not carrying out any other agreement made with the Agency.

(5) The borrower must be current or less than 90 days past due on all FLP loans at the time the application for DSA is complete. Borrowers paying under a debt settlement adjustment agreement in accordance with subpart B of part 1956 of this chapter are not eligible.

(6) The borrower must not be 165 or more days past due when Exhibit A of Agency Instruction 1951–T (available in any FSA office) is executed.

(7) As a direct result of the designated natural disaster, the borrower does not have sufficient income available to pay all family living and operating expenses, other creditors, and FSA. This determination will be based on the borrower's actual production, income and expense records for the disaster or affected year and any other records required by the servicing official. Compensation received for losses shall be considered as well as increased expenses incurred because of the disaster.

(8) For the next business accounting year, the borrower must develop a positive cash flow projection showing that the borrower will at least be able to pay all operating expenses and taxes due during the year, essential family living expenses and meet scheduled payments on all debts, including FLP debts. The cash flow projection must be prepared in accordance with 7 CFR 1924.56. The borrower will provide any documentation required to support the cash flow projection.

(9) After the amount for each loan is set-aside, all FLP and NP farm type loans of the borrower must be current.

(10) The borrower's FLP loans have not been accelerated.

(11) The borrower's FLP loans have not been restructured under subpart S of this part since the natural disaster occurred.

(b) *Loan limitation requirements.* (1) The loan must have been outstanding at the time of the natural disaster.

(2) The term remaining on the loan receiving DSA equals or exceeds 2 years from the due date of the installment being set-aside.

(3) The installment that may be set-aside is limited to the first or second scheduled annual installment due after the disaster occurred and the amount may not exceed the installment set-aside.

(4) The amount set-aside may not exceed the amount the borrower was unable to pay FSA due to the disaster. Borrowers are required to pay any portion of an installment that they are able to pay.

(5) The amount set-aside will equal the unpaid balance remaining on the installment at the time the borrower signs Exhibit A of Agency Instruction 1951–T (available in any FSA office.) This amount will include the unpaid interest and any principal that would be credited to the account as if the installment were paid on the due date taking into consideration any payments applied to principal and interest since the due date. Recoverable cost items may not be set aside and the account must be serviced in accordance with § 1951.907(d).

■ 6. Amend § 1951.957 by revising paragraphs (a) and (b)(4) to read as follows.

§ 1951.957 Eligibility determination and processing.

(a) *Eligibility determination.* (1) Within 30 days of a complete DSA application, the Agency official will determine if the borrower meets the requirements set forth in § 1951.954. Approval shall be contingent upon the borrower's continuing eligibility through the signing of Exhibit A of Agency Instruction 1951–T (available in any FSA office).

(2) The borrower has 45 days to sign Exhibit A of Agency Instruction 1951–T (available in any FSA office) for each loan installment set-aside approved. Subject to § 1951.954(a)(6), the Agency may provide for a longer period of time under extenuating circumstances, such as where the Agency's approval is contingent upon the borrower paying a portion of the FLP payments from proceeds that may not be immediately available.

(b) * * *

(4) If the borrower is not current on all FLP loans when Exhibit A of Agency Instruction 1951–T (available in any FSA office) is executed, the borrower, and all obligors in the case of an entity, must execute and provide to the Agency a best lien obtainable on all of their assets except:

(i) When taking a lien on such property will prevent the borrower from obtaining credit from other sources;

(ii) When the property could have significant environmental problems or costs;

(iii) When the Agency cannot obtain a valid lien;

(iv) When the property is the borrower's personal residence and appurtenances; provided:

(A) They are located on a separate parcel; and

(B) The real estate that serves as collateral for the Agency loan plus crops and chattels are valued at greater than or equal to 150 percent of the unpaid balance due on the loan.; or

(v) When the property is subsistence livestock, cash, special collateral accounts the borrower uses for the farming operation or for necessary living expenses, retirement accounts, personal vehicles necessary for family living or farm operating purposes, household goods and small tools and small equipment such as hand tools and lawn mowers, and other similar items.

* * * * *

§ 1951.1000 [Removed and reserved]

■ 7. Remove and reserve § 1951.1000.

Signed in Washington, DC, on September 17, 2003.

J.B. Penn,

Under Secretary for Farm and Foreign Agricultural Services.

[FR Doc. 03–24177 Filed 9–24–03; 8:45 am]

BILLING CODE 3410–05–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AH20

List of Approved Spent Fuel Storage Casks: NAC–MPC Revision, Confirmation of Effective Date

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule: Confirmation of effective date.

SUMMARY: The Nuclear Regulatory Commission (NRC) is confirming the effective date of October 1, 2003, for the direct final rule that was published in the **Federal Register** on July 18, 2003 (68 FR 42570). This direct final rule amended the NRC's regulations to revise the NAC–MPC cask system listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 3 to Certificate of Compliance (CoC) No. 1025.

EFFECTIVE DATE: The effective date of October 1, 2003, is confirmed for this direct final rule.

ADDRESSES: Documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. These same documents may also be viewed and downloaded electronically via the rulemaking Web site (*http://ruleforum.llnl.gov*). For information about the interactive rulemaking website, contact Ms. Carol Gallagher (301) 415–5905; e-mail *CAG@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6219, e-mail: *jmm2@nrc.gov.*

SUPPLEMENTARY INFORMATION: On July 18, 2003 (68 FR 42570), the NRC published a direct final rule amending its regulations in 10 CFR part 72 to revise the NAC–MPC cask system listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 3 to CoC No. 1025. This amendment incorporates changes in support of the Yankee Nuclear Power Station (Yankee Rowe) fuel loading campaign and makes corrections to the Connecticut Yankee technical specifications. Specifically, the amendment incorporates fuel enrichment tolerances; incorporates fuel assemblies with up to 20 damaged fuel rods, recaged assemblies, the Yankee Rowe damaged fuel can, and assembly weights up to 432 kilograms (950 pounds); revises the average surface dose rate limits for the concrete cask; incorporates administrative changes in the ASME Code Alternatives; corrects the Connecticut Yankee tables for fuel assembly limits and intact fuel assembly characteristics; and incorporates editorial and administrative changes in the CoC. In the direct final rule, NRC stated that if no significant adverse comments were received, the direct final rule would become final on October 1, 2003. The NRC did not receive any comments that warranted withdrawal of the direct final rule. Therefore, this rule will become effective as scheduled.

Dated at Rockville, Maryland, this 17th day of September, 2003.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 03–24205 Filed 9–24–03; 8:45 am]

BILLING CODE 7590–01–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 422

[Regulation No. 22]

RIN 0960–AF05

Evidence Requirements for Assignment of Social Security Numbers (SSNs); Assignment of SSNs for Nonwork Purposes

AGENCY: Social Security Administration (SSA).

ACTION: Final rules.

SUMMARY: We are revising our enumeration processes for assigning Social Security Numbers (SSNs). By changing evidence requirements for assignment of SSNs and by defining ''valid nonwork reasons,'' the opportunity for fraud through misuse and/or improper attainment of SSNs will be reduced, and the integrity of our enumeration processes will be enhanced.

We are clarifying our rules regarding when we will assign an SSN to an alien not under authority of law permitting him or her to work in the U.S. We are now defining a ''valid nonwork purpose'' as those instances when a Federal statute or regulation requires an alien to have an SSN in order to receive a federally-funded benefit to which the alien has otherwise established entitlement, or when a State or local law requires an alien who is legally in the U.S. to have an SSN in order to receive general public assistance benefits (*i.e.*, a

public benefit that is means-tested) to which the alien has otherwise established entitlement.

These rules also change the age at which a mandatory in-person interview is required for original applications for an SSN. In addition, these rules eliminate the waiver of evidence of identity for children under age 7 who are applying for an original SSN card. We will now require an in-person interview with all individuals age 12 or older who are applying for an original SSN, and we will no longer waive the requirement to provide evidence of identity in original applications for a child under age 7. We are clarifying that evidence of identity must contain sufficient biographical or physical information to identify the individual. Additionally, we are eliminating reference to a pilot that we are no longer conducting, pertaining to the processing of replacement SSN cards for U.S. citizens.

EFFECTIVE DATE: The rule is effective October 27, 2003.

FOR FURTHER INFORMATION CONTACT: Arthur La Veck or Karen Cool, Social Insurance Specialists, Office of Income Security Programs, 157 RRCC, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, ((410) 966–5665, *arthur.laveck@ssa.gov* or (410) 966–7094, *karen.r.cool@ssa.gov*) or TTY (410) 966–5609. For information on eligibility or filing for benefits, call our national toll-free numbers, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet Web site, Social Security Online, at *http://www.socialsecurity.gov.*

Electronic Version: The electronic file of this document is available on the date of publication in the **Federal Register** at *http://www.access.gpo.gov/su_docs/aces/aces140.html.* It is also available on the Internet site for SSA (*i.e.*, Social Security Online) at *http://www.socialsecurity.gov/regulations/.*

SUPPLEMENTARY INFORMATION:

Explanation of Changes

Who Can Be Assigned a Social Security Number

We are changing § 422.104 of our regulations to define what we consider to be a valid ''nonwork reason'' for assigning an SSN to an alien who does not have evidence of authority permitting him or her to work. The only valid nonwork reasons for assigning an SSN to such an alien are:

- To satisfy a Federal statute or regulation that requires the alien to have an SSN in order to receive a federally-funded benefit (such as Temporary Assistance to Needy Families) to which the alien has otherwise established entitlement; or
- To satisfy a State or local law that requires an alien who is legally in the U.S. to have an SSN in order to receive public assistance benefits (such as State-funded General Assistance) to which the alien has otherwise established entitlement.

Thus, under this clarification, State and local entities will be permitted to continue to require individuals to disclose their already assigned SSNs for purposes of receiving benefits or services. However, we will no longer assign an SSN to an alien for any nonwork purpose other than to receive Federal, State or local benefits as described in § 422.104.

In-Person Interview

We are changing § 422.107 of our regulations to require an individual age 12 or older be present at an in-person interview before assignment of an original SSN. The current threshold is age 18. As part of this interview, we will attempt to determine if an SSN had been previously assigned by asking additional questions of the applicant and, if a previously assigned SSN cannot be located, why an SSN was not obtained at an earlier time.

This measure offers necessary additional protection against fraud while minimizing the burden on the public because:

- At age 12, a child may have photo identification, such as a student identification card, which can be used for comparison purposes. If photo identification is not available, there should be other convincing documentary evidence of identity available.
- Although the parent or other adult authorized to act on behalf of the child will be in attendance and may be the primary respondent, we believe that requiring SSN applicants age 12 or older to be interviewed in person will significantly reduce opportunities for fraudulent applications. We believe that requiring the child to appear in person provides an additional measure of security when reviewing the evidence submitted in support of the application.
- A 12-year old may be able to provide answers to some questions without parental assistance.
- Few individuals will be affected by this measure as it is rare for a person to obtain an SSN for the first time as late as 12 years of age.

Today, most children need an SSN well before age 12. Section 11111 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) amended the Internal Revenue Code (IRC) section 32 (concerning the earned income credit). The amendment requires individuals filing tax returns after December 31, 1991 to include the taxpayer identification number—usually the SSN—of each qualifying child age 1 or older. The Uruguay Round Agreements Act (Pub. L. No. 103–465) amended IRC section 6109 to generally require that individuals include the taxpayer identification number of each dependent for whom an exemption is claimed, regardless of age, for taxable years beginning after December 31, 1994. Additionally, SSNs generally are required for the receipt of government aid or assistance. Children who have not been claimed on tax returns or have not received any government assistance may have needed SSNs for medical insurance purposes, savings accounts or other financial instruments, often within a short time after birth. Because most children generally will have an SSN before their first birthday, lowering the age for a mandatory interview is in accord with our goals for fraud prevention because additional interviewing will be done when a child does not obtain an SSN at a very early age.

Furthermore, our available data suggest that some individuals assigned SSNs prior to age 18 have obtained those SSNs fraudulently because we sought no additional development and documentation before assigning an SSN. This issue is addressed in two audits by our Inspector General, the May 28, 1999 ''Management Advisory Report: Using Social Security Numbers to Commit Fraud #A–08–99–42002, which can be found at *http://www.socialsecurity.gov/oig/office_of_audit/audit1999.htm* and ''Procedures for Verifying Evidentiary Documents Submitted with Original Social Security Number Applications'' which can be accessed at *http://www.socialsecurity.gov/oig/ADOBEPDF/A–08–98–41009.pdf.* Lowering the age at which additional documentation is required should limit further occurrences of fraudulently obtained SSNs for children. This form of SSN misuse can impact all levels of government in the form of illegal employment and fraudulent entitlement to government benefits and services. In addition, an SSN improperly assigned could be used to defraud creditors and other businesses.

Although children generally need an SSN at an early age, we rejected setting the threshold at an age younger than 12 because requiring the presence of younger children at in-person interviews would be overly burdensome on the children and unproductive for

SSA, even with the parent in attendance.

Evidence of Identity

We are changing § 422.107 of our regulations to eliminate the provision to waive the requirement for evidence of identity for children under age 7 when an original application for an SSN is filed. Evidence of identity is required for all SSN applicants, regardless of age. Thus, an SSN will not be assigned to a child under age 7 without all the evidentiary requirements being met. Such evidence requirements also have a direct correlation with the prevention of fraud. Through convincing documentary evidence of identity, the individual's continued existence is established in our records, thus limiting opportunities for fraud such as identity theft.

We are clarifying that the identity document should contain sufficient biographical or physical information to identify the applicant (*e.g.*, contain the applicant's name plus age, date of birth, or parents' names and/or a photograph or physical description). Identity documents containing biographical or physical data can be used for comparison with data we already have or with other documents the applicant may submit in connection with the application for an SSN card. A birth record is not sufficient evidence to establish identity. In a 2000 audit, ''Procedures for Verifying Evidentiary Documents Submitted with Original Social Security Number Applications (#A–08–98–41009),'' SSA's Inspector General indicated that SSA assigned SSNs to individuals whose U.S. birth certificates were counterfeit. Individuals typically posed as the mothers of nonexistent children and presented counterfeit birth certificates as evidence. This audit can be found at *http://www.socialsecurity.gov/oig/ADOBEPDF/A–08–98–41009.pdf.* Requiring an identity document other than a birth certificate will make it harder for fraudulent applicants to obtain SSNs under a fictitious identity because they must obtain additional evidence. This requirement should not unduly burden legitimate applicants because sufficient proof of identity, such as a medical record or school record, will normally exist, even for very young children.

The pilot project on providing replacement SSN cards by telephone, which we were conducting on the issuance of duplicate SSN cards for U.S. citizens, has been completed. Therefore, we are removing from § 422.107(c) the rules pertaining to this pilot.

Public Comments and Responses

On March 26, 2003, we published a notice of proposed rulemaking in the **Federal Register** (68 FR 14563) that led to these final rules. We provided a 60 day comment period. During this period, we received over 60 comments from interested individuals, organizations, two States and a foreign government. We carefully considered all of the comments we received and provide our responses to those comments below. While we have condensed, summarized, or paraphrased the comments, we have tried to present all views adequately and to respond to all the relevant issues raised by the commenters.

Valid Nonwork Reason

Comment: Several commenters expressed their concern that the elimination of the need for a driver's license as a ''valid nonwork reason'' for obtaining an SSN presents a hardship for spouses of employment-authorized aliens and for States that rely on the SSN as a unique identifier. Specifically, these commenters indicated that, because some States still require an SSN from all drivers' license applicants, the need for a drivers'' license should remain a ''valid nonwork reason'' for the assignment of an SSN. These commenters include numerous members of the general public as well as representatives from the State of Illinois, the State of Pennsylvania, the Government of Japan, the American Immigration Lawyers Association, the National Council of La Raza, the American Council on International Personnel, the Brazilian Immigrant Center, and three Japanese Chambers of Commerce in the U.S., and other organizations, and counsel for the plaintiffs in *Sonali Iyengar* v. *Jo Anne B. Barnhart,* Civil Action No. 02–0825 (ESH) in the U.S. District Court for the District of Columbia.

Response: We are changing our policy based on the guidance provided by investigative authorities that show that some non-citizens assigned SSNs for nonwork purposes misuse those SSNs. Our experience has revealed that fraud and misuse regarding SSNs for nonwork purposes has been almost exclusively in relation to SSNs issued for driver licensing. SSN misuse can impact all levels of government in the form of illegal employment in the U.S., fraudulent entitlement to Federal and State benefits and services, and identity theft. It may also help illegal aliens, including those who are lawfully admitted but overstay the period of their lawful entry, to integrate into U.S. society.

Moreover, the primary use of SSNs is for SSA to track earnings over a worker's lifetime. As steward of the SSN, one of our chief concerns is to do all we can to prevent SSN fraud and misuse. This rule change will help prevent this type of SSN fraud and misuse, and in doing so, help protect the American public by enhancing homeland security.

Meanwhile, we do plan to continue assigning SSNs for entitlement to federally-funded benefits (as required by Federal statute) and to State and local public assistance programs for non-citizens in lawful status in deference to State and local statutes requiring SSNs. Our experience shows that the SSNs assigned for these programs have not been misused.

We acknowledge that our definition of a ''valid nonwork reason'' may present a challenge to some aliens without work authorization. We have encouraged States to develop an alternative identifier for several years, and our efforts have been met with considerable success as many States that previously required an SSN for all drivers' license applicants no longer do. In 1997, there were 17 States that required an SSN from all applicants for a driver's license. Currently, there are only seven States that have laws requiring an SSN for all drivers' license applicants. Furthermore, four of those States were previously able to implement systems of alternative identification during the period of March 1, 2002 through December 6, 2002 when SSA was not assigning SSNs for driver's license purposes. Additionally, we have, with the assistance of the American Association of Motor Vehicle Administrators and the support of the U.S. Department of Transportation, combined efforts to assist States that require SSNs for driver licensing and motor vehicle registration purposes to develop alternative identifier systems to accommodate individuals not authorized to work in the U.S. As issuing drivers' licenses is a State function, we continue to urge those few remaining States that require an SSN from all drivers' license applicants to develop an alternative identifier for those individuals affected by this rule change.

Finally, we believe that while section 466(a)(13) of the Social Security Act, 42 U.S.C. 666(a)(13) concerning the recording of SSNs on driver's licenses and other documents, does require that States have procedures which require recording an individual's SSN that he or she may have, this section of the Act does not require that an individual be

issued an SSN if the person is not otherwise eligible for one as a condition of receiving a license. This interpretation of 42 U.S.C. 666(a)(13) is also held by the Department of Health and Human Services, Office of Child Support Enforcement (OCSE), which enforces this statutory provision. See the memorandum from the Commissioner of OCSE, dated July 14, 1999 at *http://www.acf.dhhs.gov/programs/cse/pol/piq-9905.htm.*

Comment: Numerous commenters expressed their concerns that aliens without work authorization often have difficulties obtaining goods or services without an SSN. Specific concerns mentioned by commenters include difficulty in obtaining cell phones, credit cards, mortgages, bank accounts, marriage and professional licenses, various forms of insurance, admission to academic institutions and financial aid for student loans.

Response: None of the concerns raised by these commenters are affected by this rule change, as none of these examples previously represented a ''valid nonwork reason'' for obtaining an SSN.

We understand that some States and private entities sometimes request or require an SSN for the various services mentioned by the commenters. However, as described in our response to the previous set of comments above, the primary use of SSNs is for SSA to track earnings over a worker's lifetime.

In-Person Interview

Comment: One individual commented that age 12 is too young for a child to appear for a personal interview. The commenter indicated that the Bureau of Citizenship and Immigration Services does not require children under age 14 to be fingerprinted. In addition, the Legal Aid Foundation of Los Angeles said that the proposal to require minors age 12 and up to appear for an in-person interview was inappropriate because a minor was unlikely to have personal knowledge as to why an SSN was not issued earlier or to otherwise properly represent themselves in an interview setting. Additionally the Legal Aid Foundation of Los Angeles indicated that not all children had photo identification or other documents that could be used as evidence of identity.

Response: We are lowering the mandatory interview age because our data suggest that some SSNs assigned prior to age 18 are at higher risk for fraud. By establishing the need for additional development and documentation at an earlier age, we will eliminate this opportunity for fraud.

SSN fraud can impact all levels of government in the form of illegal employment and fraudulent entitlement to government benefits and services. In addition, an SSN improperly assigned could be used to defraud creditors and other businesses.

We believe that the proposed age 12 threshold for in-person interviews provides a balance between allowing us to screen effectively for a prior SSN without being overly burdensome on the children or their parents. In setting the age 12 threshold, we considered that it was rare for individuals to obtain an SSN for the first time as late as 12 years of age because children must have SSNs to be shown as dependents on Federal Income Tax Returns and to receive most Federal and State benefits. However, we rejected setting the threshold at a younger age because we felt that requiring the presence of younger children at in-person interviews would have been overly burdensome on the children and unproductive for SSA, even with the parent in attendance. Furthermore, while the commenter states that a child would not have the knowledge to answer these questions, we anticipate that these interviews will be conducted with the parent/authorized representative and the child.

We acknowledge that children are not required to appear in person when applying for a U.S. passport when they are under age 14. However, a U.S. passport is generally not required to function in U.S. society, while an SSN is generally needed shortly after birth to be listed as a dependent on a Federal Income Tax Return or to obtain general public assistance benefits. Therefore, we believe that it is appropriate to require additional screening when a 12-year-old has not obtained an SSN previously.

Relative to evidence of identity, we agree that not all children will have photo identification. We do not require that individuals provide photo identification to obtain an SSN. Very young children may have clinic or hospital records, church or daycare records or records from a social services organization which can be used to establish identity. Furthermore, parents are offered the opportunity to apply for the SSN during the birth registration process at the hospital or with the mid-wife. In this scenario, the parent does not have to do or provide anything other than his or her acceptance for an SSN to be assigned.

Other Comments

In response to one comment suggesting that our proposed language in § 422.104(a)(3)(i) and (ii) lacked specificity, we added the word ''otherwise'' prior to the phrase ''established entitlement.'' This change clarifies that the alien requires an SSN to fully establish entitlement and that merely meeting the other established criteria is not sufficient to receive the benefit. Additionally, we rewrote some of the language in § 422.104(a)(3) to improve clarity but did not change the substance. We also added the phrase ''such as'' prior to ''NOT VALID FOR EMPLOYMENT'' in § 422.104(a)(3)(b) to allow for future changes in the precise language of the legend. We also changed the name ''Immigration and Naturalization Service'' to ''Department of Homeland Security'' to reflect the new organization that administers immigration matters. Finally, we added information throughout the preamble to more fully explain our proposed rule changes.

Changes in the Final Rules

Other than the changes described under ''Other Comments'' above we have made no changes from the proposed rules.

Regulatory Procedures

Executive Order 12866, as Amended by Executive Order 13258

The Office of Management and Budget (OMB) has reviewed these rules in accordance with Executive Order 12866 as amended. We have also determined that these rules meet the plain language requirement of Executive Order 12866.

Regulatory Flexibility Act

We certify that these rules would not have a significant economic impact on a substantial number of small entities because they would affect only individuals. Thus, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Federalism

We have reviewed these regulations under the threshold criteria of Executive Order 13132 and have determined that they would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. As noted above, we will continue assigning SSNs for State general assistance benefit-related purposes. The impact is limited to those States that have not developed an alternative system for identifying individuals who are seeking drivers' licenses and are not eligible for SSNs.

Paperwork Reduction Act

These rules contain reporting requirements in § 422.107. We have been collecting this information under

Office of Management and Budget (OMB) Number 0960–0066, using Form SS–5 (Application for SSN Card) and from State Bureaus of Vital Statistics (BVS) through the enumeration at birth process. However, the changed reporting requirements in § 422.107, described above, and the revised form will require clearance from OMB under the Paperwork Reduction Act of 1995. An Information Collection Request has been submitted to OMB for clearance.

We solicited comments on: The burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance; and 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 422

Administrative practice and procedure, Blind, Disability benefits, Old-age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social security.

Dated: June 19, 2003.

Jo Anne B. Barnhart,

Commissioner of Social Security.

■ For the reasons set out in the preamble, we are amending part 422, subpart B, chapter III of title 20, Code of Federal Regulations as follows:

PART 422—ORGANIZATION AND PROCEDURES

Subpart B—[Amended]

■ 1. The authority citation for subpart B of part 422 continues to read as follows:

Authority: Secs. 205, 232, 702(a)(5), 1131, and 1143 of the Social Security Act (42 U.S.C. 405, 432, 902(a)(5), 1320b–1, and 1320b–13).

■ 2. Revise § 422.104 to read as follows:

§ 422.104 Who can be assigned a social security number.

(a) *Persons eligible for SSN assignment.* We can assign you a social security number if you meet the evidence requirements in § 422.107 and you are:

(1) A United States citizen; or

(2) An alien lawfully admitted to the United States for permanent residence or under other authority of law permitting you to work in the United States (§ 422.105 describes how we determine if a nonimmigrant alien is permitted to work in the United States); or

(3) An alien who cannot provide evidence of alien status showing lawful admission to the U.S., or an alien with evidence of lawful admission but without authority to work in the U.S., if the evidence described in § 422.107(e) does not exist, but only for a valid nonwork reason. We consider you to have a valid nonwork reason if:

(i) You need a social security number to satisfy a Federal statute or regulation that requires you to have a social security number in order to receive a Federally-funded benefit to which you have otherwise established entitlement and you reside either in or outside the U.S.; or

(ii) You need a social security number to satisfy a State or local law that requires you to have a social security number in order to receive public assistance benefits to which you have otherwise established entitlement, and you are legally in the United States.

(b) *Annotation for a nonwork purpose.* If we assign you a social security number as an alien for a nonwork purpose, we will indicate in our records that you are not authorized to work. We will also mark your social security card with a legend such as ''NOT VALID FOR EMPLOYMENT.'' If earnings are reported to us on your number, we will inform the Department of Homeland Security of the reported earnings.

■ 3. Section 422.107 is amended by revising paragraphs (a) and (c) to read as follows:

§ 422.107 Evidence requirements.

(a) *General.* An applicant for an original social security number card must submit documentary evidence that the Commissioner of Social Security regards as convincing evidence of age, U.S. citizenship or alien status, and true identity. An applicant for a duplicate or corrected social security number card must submit convincing documentary evidence of identity and may also be required to submit convincing documentary evidence of age and U.S. citizenship or alien status. An applicant for an original, duplicate, or corrected social security number card is also required to submit evidence to assist us in determining the existence and identity of any previously assigned number(s). A social security number will not be assigned, or an original, duplicate, or corrected card issued, unless all the evidence requirements are met. An in-person interview is required of an applicant who is age 12 or older applying for an original social security number except for an alien who requests a social security number as part of the immigration process as described in § 422.103(b)(3). An in-person interview may also be required of other applicants. All documents submitted as evidence must be originals or copies of the original documents certified by the custodians of the original records and are subject to verification.

* * * * *

(c) *Evidence of identity.* An applicant for an original social security number or a duplicate or corrected social security number card is required to submit convincing documentary evidence of identity. Documentary evidence of identity may consist of a driver's license, identity card, school record, medical record, marriage record, passport, Department of Homeland Security document, or other similar document serving to identify the individual. The document must contain sufficient information to identify the applicant, including the applicant's name and (1) the applicant's age, date of birth, or parents' names; and/or (2) a photograph or physical description of the individual. A birth record is not sufficient evidence to establish identity for these purposes.

* * * * *

[FR Doc. 03–24221 Filed 9–24–03; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Ivermectin and Praziquantel Paste

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Virbac AH, Inc. The NADA provides for use of an ivermectin and praziquantel oral paste for the treatment and control of various species of internal parasites in horses.

DATES: This rule is effective September 25, 2003.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7543, e-mail: *mberson@cvm.fda.gov.*

SUPPLEMENTARY INFORMATION: Virbac AH, Inc., 3200 Meacham Blvd., Ft. Worth, TX 76137, filed NADA 141–215 for use of EQUIMAX (ivermectin 1.87%/praziquantel 14.03%) Paste in horses for the treatment and control of various species of internal parasites. The NADA is approved as of July 11, 2003, and the regulations in 21 CFR 520.1198 are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval qualifies for 3 years of marketing exclusivity beginning July 11, 2003.

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

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

List of Subjects in 21 CFR Part 520

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

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

■ 2. Section 520.1198 is revised to read as follows:

§ 520.1198 Ivermectin and praziquantel paste.

(a) *Specifications*. Each milligram (mg) of paste contains:

(1) 0.0155 mg (1.55 percent) ivermectin and 0.0775 mg (7.75 percent) praziquantel.

(2) 0.0187 mg (1.87 percent) ivermectin and 0.1403 mg (14.03 percent) praziquantel.

(b) *Sponsors*. See sponsors in § 510.600(c) of this chapter for uses as in paragraph (d) of this section.—(1) No. 050604 for use of product described in paragraph (a)(1) of this section as in paragraphs (d)(1)(i), (d)(2)(i) and (d)(3) of this section.

(2) No. 051311 for use of product described in paragraph (a)(2) of this section as in paragraphs (d)(1)(ii), (d)(2)(ii), and (d)(3) of this section.

(c) *Special considerations.* See § 500.25 of this chapter.

(d) *Conditions of use in horses*—(1) *Amount*—(i) 200 micrograms (mcg) per kilogram (/kg) ivermectin (91 mcg per pound (/lb)) and 1 mg/kg praziquantel (454 mcg/lb) body weight.

(ii) 200 mcg/kg ivermectin (91 mcg/lb) and 1.5 mg/kg praziquantel (681 mcg/lb) body weight.

(2) *Indications for use*. For treatment and control of:

(i) Tapeworms (*Anoplocephala perfoliata*); large strongyles (adults) (*Strongylus vulgaris* (also early forms in blood vessels), *S. edentatus* (also tissue stages), *S. equinus*; *Triodontophorus* spp., including *T. brevicauda* and *T. serratus*; and *Craterostomum acuticaudatum*); small strongyles including those resistant to some benzimidazole class compounds (adults and fourth-stage larvae) (*Coronocyclus spp.*, including *C. coronatus*, *C. labiatus*, and *C. labratus*; *Cyathostomum* spp., including *C. catinatum* and *C. pateratum*; *Cylicocyclus spp.*, including *C. insigne*, *C. leptostomum*, *C. nassatus*, and *C. brevicapsulatus*; *Cylicodontophorus* spp.; *Cylicostephanus* spp., including *C. calicatus*, *C. goldi*, *C. longibursatus*, and *C. minutus*; and *Petrovinema poculatum*); pinworms (adults and fourth-stage larvae) (*Oxyuris equi*); ascarids (adults and third- and fourth-stage larvae) (*Parascaris equorum*); hairworms (adults) (*Trichostrongylus axei*); large-mouth stomach worms (adults) (*Habronema muscae*); bots (oral and gastric stages) (*Gasterophilus* spp., including *G. intestinalis* and *G. nasalis*); lungworms (adults and fourth-stage larvae) (*Dictyocaulus arnfieldi*); intestinal threadworms (adults) (*Strongyloides westeri*); summer sores caused by *Habronema* and *Draschia* spp. cutaneous third-stage larvae; and dermatitis caused by neck threadworm microfilariae, *Onchocerca* sp.

(ii) Tapeworms (*Anoplocephala perfoliata*); large strongyles (adults) (*Strongylus vulgaris* (also early forms in blood vessels), *S. edentatus* (also tissue stages), *S. equinus*, *Triodontophorus* spp.); small strongyles including those resistant to some benzimidazole-class compounds (adults and fourth-stage larvae) (*Cyathostomum* spp., *Cylicocyclus spp.*, *Cylicostephanus* spp., *Cylicodontophorus* spp.); pinworms (adults and fourth-stage larvae) (*Oxyuris equi*); ascarids (adults and third- and fourth-stage larvae) (*Parascaris equorum*); hairworms (adults) (*Trichostrongylus axei*); large-mouth stomach worms (adults) (*Habronema muscae*); bots (oral and gastric stages) (*Gasterophilus* spp.); lungworms (adults and fourth-stage larvae) (*Dictyocaulus arnfieldi*); intestinal threadworms (adults) (*Strongyloides westeri*); summer sores caused by *Habronema* and *Draschia* spp. cutaneous third-stage larvae; and dermatitis caused by neck threadworm microfilariae, *Onchocerca* sp.

(3) *Limitations*. For oral use only. Do not use in horses for food purposes.

Dated: September 8, 2003.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 03–23995 Filed 9–24–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

31 CFR Part 1

RIN 1506–AA62

Financial Crimes Enforcement Network; Freedom of Information Act, Privacy Act of 1974; Implementation

AGENCY: Department of the Treasury.

ACTION: Final Rule.

SUMMARY: This document amends the Department of the Treasury's regulations on the disclosure of records under the Freedom of Information Act (FOIA) and its regulations concerning the Privacy Act of 1974 (Privacy Act), by creating new appendices to this subpart setting forth the administrative procedures by which the Financial Crimes Enforcement Network (''FinCEN'') will process requests for records made under the FOIA, and setting forth the administrative procedures by which FinCEN will implement the Privacy Act.

EFFECTIVE DATE: September 25, 2003.

FOR FURTHER INFORMATION CONTACT: Christine Schuetz, Attorney-Advisor, Office of Chief Counsel, FinCEN, at (703) 905–3590.

SUPPLEMENTARY INFORMATION: Prior to October 26, 2001, the date of enactment of the Uniting and Strengthening America by Providing Appropriate

Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, Pub. L. 107–56, FinCEN was a Departmental Office of the Department of the Treasury. As a result, FinCEN's FOIA procedures were incorporated under Appendix A to 31 CFR part 1, subpart A, and its Privacy Act procedures were incorporated under Appendix A to 31 CFR part 1, subpart C. However, section 361 of the USA Patriot Act created a new Section 310 in Subchapter I of chapter 3 of Title 31, United States Code, making FinCEN a Treasury Bureau. *See* Treasury Order 180–01, dated September 26, 2002. The FOIA and Privacy Act procedures of bureaus of the Department of the Treasury are set out separately from the procedures of Treasury's Departmental Offices in the Appendices to subparts A and C of 31 CFR part 1. Therefore, this document amends 31 CFR part 1 in order to reflect FinCEN's new status as a Treasury Bureau.

In addition to several conforming changes, this document creates two new appendices. Appendix M, setting forth FinCEN's FOIA procedures, is added to 31 CFR part 1, subpart A. Appendix N, setting forth FinCEN's Privacy Act procedures, is added to 31 CFR part 1, subpart C. The new appendices do not substantively amend the procedures relating to the way in which FinCEN currently handles FOIA and PA obligations as a Treasury Departmental Office. However, the addresses, names and titles of deciding officials have been amended to reflect FinCEN information.

FinCEN's three Privacy Act systems of records, previously named ''DO .200—FinCEN Database,'' ''DO .212—Suspicious Activity Reporting System,'' and ''DO .213—Bank Secrecy Act Reports System,'' have been re-numbered in order to properly identify the systems. This document removes these systems of records from the table found at 31 CFR 1.36(c)(1), and creates a new table at new section (c)(xii) under the heading ''Financial Crimes Enforcement Network.'' In the new table, these re-numbered systems of records now read: ''FinCEN .001—FinCEN Database,'' ''FinCEN .002—Suspicious Activity Reporting System,'' and ''FinCEN .003—Bank Secrecy Act Reports System.'' The contents of these systems of records remain unchanged.

For the same reasons described above, in the table following paragraph (e) of 31 CFR 1.36, is being amended by removing ''Departmental Offices'' as the table heading and substituting ''Financial Crimes Enforcement Network'' and the system number has been changed to ''FinCEN .001.'' Finally, this document removes the listing of FinCEN's Privacy Act systems of records from the table appearing at 31 CFR 1.36(g)(i) and creates a new table, containing the re-numbered systems of records, at new section (g)(xiii) under the heading ''Financial Crimes Enforcement Network.'' The Privacy Act exemptions previously claimed with respect to the FinCEN systems of records continue to be claimed. The exemptions pertaining to FinCEN.001—FinCEN DataBase, FinCEN .002—Suspicious Activity Reporting System (SARS), and FinCEN .003—Bank Secrecy Act Reports were last published on November 21, 2000, beginning at 65 FR 69865.

These regulations are being published as a final rule because the amendments do not impose any requirements on any member of the public. These amendments are the most efficient means for the Treasury Department to implement its internal requirements for complying with the FOIA and the Privacy Act. Accordingly, pursuant to 5 U.S.C. 553(b)(B) and (d)(3), the Department of the Treasury finds good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary and finds good cause for making this rule effective on the date of publication in the **Federal Register**.

In accordance with Executive Order 12866, it has been determined that this final rule is not a ''significant regulatory action'' and, therefore, does not require a Regulatory Impact Analysis.

The regulation 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.

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

In accordance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Department of the Treasury has determined that this final rule will not impose new recordkeeping, application, reporting, or other types of information collection requirements.

List of Subjects in 31 CFR Part 1

Freedom of Information; Privacy.

■ Part 1 of Title 31 of the Code of Federal Regulations is amended as follows:

PART 1—[AMENDED]

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

Authority: 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also is issued under 5 U.S.C. 552, as amended. Subpart C also is issued under 5 U.S.C. 552a.

Subpart A—Freedom of Information Act

■ 2. Section 1.1 is amended by revising paragraphs (a)(1)(i)(k) and (a)(2) and by adding paragraph (a)(1)(xiii) to read as follows:

§ 1.1 General.

(a) * * *

(1) * * *

(i) * * *

(k) The General Counsel and all offices reporting to such official, including immediate staff; except legal counsel to the components listed in paragraphs (a)(1)(i)(L), and (a)(1)(i)(S), and (a)(1)(ii) through (xiii) of this section;

* * * * *

(xiii) The Financial Crimes Enforcement Network.

(2) For purposes of this subpart, the office of the legal counsel for the components listed in paragraphs (a)(1)(ii) through (xiii) of this section are to be considered a part of their respective bureaus. Any office which is now in existence or may hereafter be established, which is not specifically listed or known to be a component of any of those listed in paragraphs (a)(1)(i) through (xiii) of this section, shall be deemed a part of the Departmental Offices for the purpose of making requests for records under this subpart.

* * * * *

■ 3. Subpart A of 31 CFR part 1 is amended by adding Appendix M:

Appendix M—Financial Crimes Enforcement Network

1. *In general.* This appendix applies to the Financial Crimes Enforcement Network (FinCEN).

2. *Public Reading Room.* FinCEN will provide a room on an ad hoc basis when necessary. Contact Office of Regulatory Programs, FinCEN, (202) 354–6400.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(h) as to whether to grant requests for records of FinCEN will be made by the Freedom of Information Act/Privacy Act Officer, FinCEN. Requests for records may be mailed to: Freedom of Information Act/Privacy Act Request, Financial Crimes Enforcement Network, Post Office Box 39, Vienna, VA 22183.

4. *Administrative appeal of initial determinations to deny records.* Appellate determinations under 31 CFR 1.5(i) with

respect to the records of FinCEN will be made by the Director of FinCEN or the delegate of the Director. Appeals should be mailed to: Freedom of Information Appeal, Post Office Box 39, Vienna, VA 22183.

5. *Delivery of process.* Service of process will be received by the Chief Counsel of FinCEN and shall be delivered to: Chief Counsel, Financial Crimes Enforcement Network, Post Office Box 39, Vienna, VA 22183.

Subpart C—Privacy Act

■ 4. Section 1.20 is amended as follows:
■ a. Paragraph (a)(11) is revised.
■ b. Paragraph (m) is amended by removing the words ''The Office of Thrift Supervision'' and adding in their place ''The Financial Crimes Enforcement Network.''
■ c. The first sentence of the undesignated paragraph is revised.

The revisions to § 1.20 read as follows:

§ 1.20 Purpose and scope of regulations.

* * * * *

(a) * * *

(11) The General Counsel and all offices reporting to such official, including immediate staff; except legal counsel to the components listed in paragraphs (a)(17) and (b) through (m) of this section;

* * * * *

For purposes of this subpart, the office of the legal counsel for the components listed in paragraphs (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m) of this section are to be considered a part of such components. * * *

■ 7. Section 1.36 is amended as follows:
■ a. Paragraph (c)(1)(i) is amended by removing ''DO .200—FinCEN Database; DO .212—Suspicious Activity Reporting System (SARS), and DO. 213—Bank Secrecy Act Reports System'' from the table.
■ b. Paragraph (c)(1)(xiii) is added.
■ c. Paragraph (c)(2) is revised.
■ d. Paragraph (e)(1) is amended by removing ''Departmental Offices'' from the table heading and adding in its place ''Financial Crimes Enforcement Network.'' Paragraph (e)(1) is further amended by removing the entry ''DO .200'' and adding in its place ''FinCEN .001'' to the table.
■ e. Paragraph (g)(1)(i) is amended by removing ''DO .200-FinCEN Database; DO .212—Suspicious Activity Reporting System (SARS), and DO. 213—Bank Secrecy Act Reports System'' from the table.
■ f. Paragraph (g)(1)(xiii) is added.
■ g. Paragraph (g)(2) is revised.
■ h. Paragraph (m)(1)(xiii) is added.
■ i. Paragraph (m)(2) is revised.

The amendments to § 1.36 read as follows:

§ 1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 522a and this part.

* * * * *

(c) * * *

(1) * * *

(xiii) Financial Crimes Enforcement Network:

Number	Name of System
FinCEN .001	FinCEN DataBase.
FinCEN .002	Suspicious Activity Reporting System.
FinCEN .003	Bank Secrecy Act Reports System.

(2) The Department hereby exempts the systems of records listed in paragraphs (c)(1)(i) through (xiii) of this section from the following provisions of 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(j)(2): 5 U.S.C. 552a(c)(3) and (4), 5 U.S.C. 552a(d)(1), (2), (3), (4), 5 U.S.C. 552a(e)(1), (2) and (3), 5 U.S.C. 552a(e)(4)(G), (H), and (I), 5 U.S.C. 552a(e)(5) and (8), 5 U.S.C. 552a(f), and 5 U.S.C. 552a(g).

* * * * *

(g) * * *

(1) * * *

(xiii) Financial Crimes Enforcement Network:

Number	Name of System
FinCEN .001	FinCEN Database.
FinCEN .002	Suspicious Activity Reporting System.
FinCEN .003	Bank Secrecy Act Reports System.

(2) The Department hereby exempts the systems of records listed in paragraphs (g)(1)(i) through (xiii) of this section from the following provisions of 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(k)(2): 5 U.S.C. 552a(c)(3), 5 U.S.C. 552a(d)(1), (2), (3), (4), 5 U.S.C. 552a(e)(1), 5 U.S.C. 552a(e)(4)(G), (H), and (I), and 5 U.S.C. 552a(f).

* * * * *

(m) * * *

(1) * * *

(xiii) Financial Crimes Enforcement Network:

(2) The Department hereby exempts the systems of records listed in paragraph (m)(1)(i) through (xiii) of this section from the following provisions of 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(k)(5): 5 U.S.C. 552a(c)(3), 5 U.S.C. 552a(d)(1), (2), (3), and (4), 5 U.S.C. 552a(e)(1), 5 U.S.C. 552a(e)(4)(G), (H), and (I), and 5 U.S.C. 552a(f).

* * * * *

■ 7a. Subpart C of 31 CFR part 1 is amended by adding Appendix N:

Appendix N—Financial Crimes Enforcement Network

1. *In general.* This appendix applies to the Financial Crimes Enforcement Network (FinCEN). It sets forth specific notification and access procedures with respect to particular systems of records, and identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom ''Statements of Disagreement'' may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(4) and (11) and published biennially by the Office of the Federal Register in ''Privacy Act Issuances.''

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for FinCEN will be made by the Freedom of Information/Privacy Act officer, FinCEN. Requests may be mailed to: Privacy Act Request, Financial Crimes Enforcement Network, Post Office Box 39, Vienna, VA 22183.

3. *Requests for amendments of records.* Initial determinations under 31 CFR 1.27(a) through (d) whether to grant requests to amend records maintained by FinCEN will be made by the Freedom of Information/Privacy Act officer, FinCEN. Requests may be mailed to: Privacy Act Request, Financial Crimes Enforcement Network, Post Office Box 39, Vienna, VA 22183.

4. *Verification of Identity.* An individual seeking notification or access to records, or seeking to amend a record, or seeking an accounting of disclosures, must satisfy one of the following identification requirements before action will be taken by FinCEN on any such request:

(i) An individual may establish identity through the mail by a signature, address, and one other identifier such as a photocopy of a driver's license or other official document bearing the individual's signature.

(ii) Notwithstanding this paragraph (4)(i), an individual may establish identity by providing a notarized statement, swearing or affirming to such individual's identity and to the fact that the individual understands the penalties provided in 5 U.S.C. 552a(i)(3) for requesting or obtaining access to records under false pretenses.

(iii) Notwithstanding this paragraph (4)(i) and (ii), the Freedom of Information Act/Privacy Act Officer or other designated official may require additional proof of an

individual's identity before action will be taken on any request, if such official determines that it is necessary to protect against unauthorized disclosure of information in a particular case. In addition, a parent of any minor or a legal guardian of any individual will be required to provide adequate proof of legal relationship before such person may act on behalf of such minor or such individual.

5. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal with respect to the records of FinCEN will be made by the Director of FinCEN or the delegate of the Director. Appeals should be addressed to: Privacy Act Amendment Appeal, Financial Crimes Enforcement Network, Post Office Box 39, Vienna, VA 22183.

6. *Statements of Disagreement.* ''Statements of Disagreement'' as described in 31 CFR 1.27(e)(4) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

7. *Service of Process.* Service of process will be received by the Chief Counsel of FinCEN and shall be delivered to the following location: Office of Chief Counsel, Financial Crimes Enforcement Network, Post Office Box 39, Vienna, VA 22183.

8. *Biennial notice of systems of records.* The biennial notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled ''Privacy Act Issuances.'' Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 and paragraph 4 of this appendix are indicated in the notice for the pertinent system.

Dated: September 8, 2003.

W. Earl Wright, Jr.,

Acting Chief Management and Administrative Programs Officer.

[FR Doc. 03–24227 Filed 9–24–03; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP San Francisco Bay 03–003]

RIN 1625–AA00

Security Zones; San Francisco Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; change in effective period.

SUMMARY: The Coast Guard is revising the effective period of the temporary security zones extending 25 yards in the U.S. navigable waters around all piers, abutments, fenders and pilings of the Golden Gate Bridge and the San Francisco-Oakland Bay Bridge, San Francisco Bay, California. These security zones are needed for national security reasons to protect the public and ports from potential subversive acts. Entry into these security zones is prohibited, unless doing so is necessary for safe navigation, to conduct official business such as scheduled maintenance or retrofit operations, or unless specifically authorized by the Captain of the Port San Francisco Bay, or his designated representative.

DATES: The amendment to 33 CFR 165.T11–078(f) in this rule is effective September 30, 2003. Section 165.T11–078, added at 68 FR 13230, March 19, 2003, effective from 11 a.m. PST on February 13, 2003, to 11:59 p.m. PDT on September 30, 2003, as amended in this rule, is extended in effect to 11:59 p.m. PST on March 31, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [COTP San Francisco Bay 03–003] and are available for inspection or copying at Coast Guard Marine Safety Office San Francisco Bay, Coast Guard Island, Alameda, California, 94501, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Doug Ebbers, Waterways Branch U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437–3073.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On March 19, 2003, we published a temporary final rule (TFR) for the Golden Gate and San Francisco-Oakland Bay bridges entitled ''Security Zones; San Francisco Bay, CA'' in the **Federal Register** (68 FR 13228) under 33 CFR 165.T11–078. It has been in effect since February 13, 2003, and is set to expire 11:59 p.m. PDT on September 30, 2003.

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. In addition, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**, for the following reasons. The threat of maritime attacks is real as evidenced by the October 2002 attack of a tank vessel off the coast of Yemen and the continuing threat to U.S. assets as described in the President's finding, found at Executive Order 13273 of August 21, 2002 (67 FR 56215, September 3, 2002) that the security of the U.S. is endangered as evidenced by the September, 11, 2001 attacks and that such disturbances continue to endanger the international relations of the United States. See also Continuation of the National Emergency with Respect to Certain Terrorist Attacks, (67 FR 58317, September 13, 2002); Continuation of the National Emergency With Respect To Persons Who Commit, Threaten To Commit, Or Support Terrorism, (67 FR 59447, September 20, 2002). Additionally, a Maritime Advisory was issued to: Operators of U.S. Flag and Effective U.S. controlled Vessels and other Maritime Interests, detailing the current threat of attack, MARAD 02–07 (October 10, 2002). Consequently, a heightened level of security has been established around all high visibility targets in San Francisco Bay and Delta ports. The measures contemplated by this rule are intended to prevent future terrorist attacks against individuals and facilities on or adjacent to the Golden Gate or San Francisco-Oakland Bay bridges. Any delay in the effective date of this TFR is impractical and contrary to the public interest.

The original temporary final rule was urgently required to prevent possible terrorist strikes against the United States and more specifically the people, waterways, and properties on and near the Golden Gate or San Francisco-Oakland Bay bridges. It was anticipated that we would assess the security environment at the end of the enforcement period to determine whether continuing security precautions were required and, if so, propose regulations responsive to existing conditions. We have determined that the need for continued security regulations exists.

The measures contemplated by this extension to the original temporary final rule are intended to facilitate ongoing response efforts and prevent future terrorist attack. The Coast Guard will utilize the extended enforcement period created by this TFR to confer with the bridge owners to determine if permanent fixed security zones around all piers, abutments, fenders and pilings of the Golden Gate Bridge and the San Francisco-Oakland Bay Bridge are appropriate. If a threat assessment confirms the need for permanent zones, we will publish a notice of proposed rulemaking (NPRM) that will allow for a public comment period and develop permanent regulations tailored to the present and foreseeable security environment with the Captain of the Port (COTP) San Francisco Bay. This

revision preserves the status quo within the Ports while threat assessments are conducted and—if it is determined they are necessary—permanent regulations are developed.

Background and Purpose

Since the September 11, 2001 terrorist attacks on the World Trade Center in New York, the Pentagon in Arlington, Virginia, and Flight 93, the Federal Bureau of Investigation (FBI) has issued several warnings concerning the potential for additional terrorist attacks within the United States. In addition, the ongoing hostilities in Afghanistan and Iraq have made it prudent for U.S. ports to be on a higher state of alert because the Al-Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

In its effort to thwart terrorist activity, the Coast Guard has increased safety and security measures on U.S. ports and waterways. As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99–399), Congress amended section 7 of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1226, to allow the Coast Guard to take actions, including the establishment of security and safety zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures. The Coast Guard also has authority to establish security zones pursuant to the Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 et seq.), and implementing regulations promulgated by the President in subparts 6.01 and 6.04 of part 6 of title 33 of the Code of Federal Regulations.

In this particular rulemaking, to address the aforementioned security concerns and to take steps to prevent the catastrophic impact that a terrorist attack against the Golden Gate Bridge or the San Francisco-Oakland Bay Bridge would have on the public, the Coast Guard is revising the enforcement period of the temporary security zones extending 25 yards in the U.S. navigable waters around all piers, abutments, fenders and pilings of the Golden Gate Bridge and the San Francisco-Oakland Bay Bridge, San Francisco Bay, California. These security zones help the Coast Guard to prevent vessels or persons from engaging in terrorist actions against these two bridges.

As of today, the need for security zones around the Golden Gate Bridge and the San Francisco-Oakland Bay Bridge still exists. This temporary final rule will extend the enforcement period of security zones that were set to expire September 30, 2003, for and additional 6 months. The amended effective dates will be from September 30, 2003, to March 31, 2004. This period will allow the bridge owners to conduct a threat assessment to determine if permanent security zones are appropriate. In addition, if permanent security zones are deemed appropriate, this period will allow the Coast Guard time to publish a notice of proposed rulemaking (NPRM) in the **Federal Register**, which will include a public comment period, and for a final rule to be put into effect without there being an interruption in the protection provided by these security zones.

Discussion of Rule

On March 19, 2003, we published the temporary final rule [COTP San Francisco Bay 03–003] titled ''Security Zones; San Francisco Bay, CA'' in the **Federal Register** (68 FR 13228). That rule established fixed security zones extending from the surface to the sea floor, 25 yards in the waters around all piers, abutments, fenders and pilings of the Golden Gate Bridge and the San Francisco-Oakland Bay Bridge, San Francisco Bay, California.

The Coast Guard will utilize the extended enforcement period of these security zones to work with bridge owners to determine if permanent security zones are appropriate and, if so, to engage in notice-and-comment rulemaking to develop permanent regulations tailored to the present and foreseeable security environment with the Captain of the Port (COTP) San Francisco Bay.

In this regulation, the Coast Guard is extending the enforcement period of the current security zones for the Golden Gate Bridge and the San Francisco-Oakland Bay Bridge, San Francisco Bay, California. These security zones will encompass all waters, extending from the surface to the sea floor, within 25 yards around all piers, abutments, fenders and pilings of the two bridges. Vessels and people may be allowed to enter an established security zone on a case-by-case basis with authorization from the Captain of the Port.

Vessels or persons violating this section will be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192. Pursuant to 33 U.S.C. 1232, any violation of the security zone described herein, is punishable by civil penalties (not to exceed $27,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment up to 6 years and a maximum fine of $250,000), and in rem liability against the offending vessel. Any person who violates this section using a dangerous weapon or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation will also face imprisonment up to 12 years. Vessels or persons violating this section are also subject to the penalties set forth in 50 U.S.C. 192: seizure and forfeiture of the vessel to the United States, a maximum criminal fine of $10,000, and imprisonment up to 10 years as well as a civil penalty of not more than $25,000 for each day of a continuing violation.

The Captain of the Port will enforce these zones and may enlist the aid and cooperation of any Federal, State, county, municipal, and private agency to assist in the enforcement of the regulation. This regulation is proposed under the authority of 33 U.S.C. 1226 in addition to the authority contained in 50 U.S.C. 191 and 33 U.S.C. 1231.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

Although this regulation restricts access to the zones, the effect of this regulation will not be significant because: (i) The zones will encompass only a small portion of the waterway; (ii) vessels will be able to pass safely around the zones; and (iii) vessels may be allowed to enter these zones on a case-by-case basis with permission of the Captain of the Port or his designated representative.

The sizes of the zones are the minimum necessary to provide adequate protection for the bridges and the nearby public. The entities most likely to be affected are commercial vessels transiting the main ship channel en route to the San Francisco Bay and Delta ports and pleasure craft engaged in recreational activities and sightseeing.

Small Entities

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

governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor near the Golden Gate Bridge or the San Francisco-Oakland Bay Bridge. The security zones will not have a significant economic impact on a substantial number of small entities for several reasons: small vessel traffic can pass safely around the area and vessels engaged in recreational activities, sightseeing and commercial fishing have ample space outside of the security zones to engage in these activities. Small entities and the maritime public will be advised of these security zones via public notice to mariners.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because we are establishing a security zone.

A final ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise paragraph (f) of temporary § 165.T11–078, to read as follows:

§ 165.T11–078 Security Zones; Golden Gate Bridge and the San Francisco-Oakland Bay Bridge, San Francisco Bay, California.

* * * * *

(f) *Effective period.* This section is effective at 11 a.m. PST on February 13, 2003, and will terminate at 11:59 p.m. PST on March 31, 2004.

Dated: September 8, 2003.

Gerald M. Swanson,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco Bay, California.

[FR Doc. 03–23771 Filed 9–24–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AD12

New River Gorge National River Hunting Regulation

AGENCY: National Park Service (NPS), Interior.

ACTION: Interim final rule.

SUMMARY: The National Park Service (NPS) is promulgating this interim final rule to authorize the continuation of hunting as it presently exists at New River Gorge National River (the park) in West Virginia. The park's 1978 enabling legislation gives the NPS discretionary authority to permit hunting in the park. An NPS regulation adopted in 1983 requires us to adopt an individual, or special, regulation for parks that have been authorized by Congress to permit hunting as a discretionary activity. This rulemaking creates such a regulation for the park. The rule assimilates the existing West Virginia State hunting program and applicable laws. The adoption of this rule will result in no changes to the way hunting has taken place since the park was authorized in 1978. The NPS is publishing this rule without a prior proposal because we believe this action is not controversial and we do not expect any significant opposition to this procedural action.

DATES: Effective: September 25, 2003. There is no deadline for sending comments on this interim final rule.

ADDRESSES: Comments should be sent to the Superintendent by mail to National Park Service, Park Headquarters, New River Gorge NR, P.O. Box 246, Glen Jean, West Virginia 25846; or by e-mail to *neri_hunting@nps.gov*; or by fax to (304) 465–6559.

FOR FURTHER INFORMATION CONTACT: Gary Hartley, Chief Ranger, National Park Service, New River Gorge NR, P.O. Box 246, Glen Jean, West Virginia, 25846. Telephone: (304) 465–0508. Fax: (304) 465–6559. Email: *neri_hunting@nps.gov*

SUPPLEMENTARY INFORMATION:

Background

A. Why Is This Rule Necessary?

Congress specifies the appropriate uses for units of the national park system as they are created. Of the 388 units of the national park system, 57 allow hunting and 331 do not. Congress specifically authorized hunting as a discretionary activity when it authorized the New River Gorge National River in 1978. Hunting has been a popular recreational and subsistence pastime since then, managed by the park in consultation with, and under the laws of, the State of West Virginia.

Part 2 of the NPS general regulations (36 CFR Part 2) concerns resource protection, public use and recreation. As amended in 1983, Section 2.2(b)(2) requires that, in cases where Congress has authorized (but not mandated) hunting within the boundaries of a national park area, the park superintendent must determine that the activity is consistent with public safety and enjoyment, and sound resource management principles for that particular park. With publication of this special regulation the park will be in compliance with that requirement.

B. Where Does This Rule Apply?

This rule applies only to hunting on lands within the boundaries of New River Gorge National River. The two other national park system units in West Virginia (*i.e.*, Gauley River National Recreation Area and Bluestone National Scenic River) are mandated to allow hunting and do not require a special regulation in order for it to occur.

C. What Decisions Has the NPS Made in This Rule?

This rule:

(1) Puts into regulation what has been occurring in practice since before the park was authorized in 1978.

(2) Assures compliance with NPS general regulations concerning hunting.

(3) Specifies that hunting, where allowed, will be conducted in accordance with the laws of the State of West Virginia.

(4) Does not add new Federal requirements to the State hunting regulation for the New River Gorge National River.

(5) Continues to allow the Superintendent to exercise discretion in how lands within the park boundary are managed.

D. Why Does the NPS Want To Allow Hunting To Continue at New River Gorge National River?

(1) Hunting has a long tradition and a popular following within West Virginia. Some residents depend on hunting as a source of food for themselves and their families.

(2) The park General Management Plan, adopted in 1982, had wide public input. At that time, a determination was made that hunting was an appropriate activity and consistent with the purposes of the park. If public comments on this rule raise issues about the appropriateness of hunting, they will be considered during the development of a new General Management Plan, scheduled to begin this Fall.

(3) Hunting has occurred for the past two decades without significant safety problems and has not had unacceptable impacts on other visitor or management activities.

(4) Hunting has not caused unacceptable impacts to hunted species nor to other species in the park.

E. What Is the Effect of This Interim Final Rule?

This rule allows hunting to continue in the park. We do not expect the addition of this Part 7 regulation to change hunting within the park in any substantive way. The regulation does not impose any new requirements, such as a separate permit, license, or fee, nor does it affect West Virginia's authority to otherwise regulate hunting practices. It satisfies the requirement for the park to have a special regulation that recognizes hunting as an activity allowed within the park's boundaries.

F. Why Wasn't There a Proposed Rule Before Today's Interim Final Rule?

The NPS recognizes that new rules are ordinarily afforded a comment period before going into effect. For this interim regulation, however, we have determined under 5 U.S.C. 553(b)(B) and 318 DM 5.3 that it would be unnecessary and contrary to the public interest to delay the effective date to accommodate notice and comment procedures. This decision is based on the following reasons:

(1) This rule simply codifies existing practice. It is necessary in order to comply with an NPS procedural requirement, but it will not result in any substantive changes in the existing hunting or other programs at New River Gorge National River.

(2) No particular public interest in the content of this rule is expected. Though the NPS has received one comment letter alerting it to the procedural need for this rulemaking, neither that letter nor any other source has suggested any public interest in the content of this special regulation. We believe this action is not controversial and do not expect any significant opposition to it.

(3) Delaying implementation of this rule could prevent it from being in place in time for the opening of the regular hunting season in West Virginia. If the lands normally open to hunting within the boundary of the National River are not available for the upcoming hunting season, it will adversely affect a popular and successful hunting program and create confusion as to the status of

hunting at New River Gorge and surrounding areas. The harm to the public from such a procedural delay should be avoided, given the probable lack of public interest in the content of this rule. The NPS still welcomes comments on this interim final rule, and will consider them as part of our update of the National River's General Management Plan (GMP), which is scheduled to begin in Fall 2003. The update of the GMP will consider a full range of park management issues, including hunting. If we determine that it is necessary to change this rule, the changes will be proposed as part of the GMP process, and the public will have further opportunity to comment.

G. When Does This Rule Go Into Effect?

This rule is effective immediately. The NPS recognizes that new rules ordinarily go into effect thirty days after publication in the **Federal Register**. For this interim regulation, however, we have determined under 5 U.S.C. 553(d) and 318 DM 6.25 that this rule should be effective immediately. This rule relieves the ordinary restrictions on hunting and does not require a delay in its effective date. In addition, good cause exists for an immediate effective date for the following reasons:

(1) Normally, the purpose of a delayed effective date is to give affected parties a chance to learn about a new regulation and how to comply with it. Such a delay is not needed here because this rule simply maintains the status quo and does not change anything for the affected parties (hunters).

(2) As discussed above, delaying implementation of this rule could prevent it from being in place in time for the opening of regular hunting season in West Virginia, and would thus adversely affect the public. The harm to the public from such a procedural delay should be avoided, given the lack of any benefit to the public in delaying the effective date.

Compliance With Laws, Executive Orders and Department Policy

Regulatory Planning and Review (Executive Order 12866)

This rule is not significant and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This action authorizes the continued application of State requirements for the purpose of hunting within the New River Gorge National River. It imposes no additional requirements beyond those already imposed by State law.

(2) This rule will not create inconsistencies with other agencies' actions or otherwise interfere with an action taken or planned by another agency. It follows other land management agencies and other national park areas in recognizing the role of the State in the management of hunting.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs, or the rights or obligations of their recipients. This rule does not impose any new requirements or in any way change the existing program.

(4) This rule does not raise novel legal or policy issues. This rule is consistent with the park legislation and NPS general regulations.

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*). The overall economic effects of this rulemaking will be negligible, since there will be no change to longstanding practices. This action authorizes pre-existing requirements under Federal and State law for the purpose of hunting within the boundaries of New River Gorge National River. It does not impose any enforceable duty beyond that required by existing Federal and State law. There are no expected increases in costs or prices for consumers, individual industries, or State or local governments.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(1) Does not have an annual effect on the economy of $100 million or more.

(2) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(3) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required. This action will not have substantial direct effects on the State, on the relationship between the national government and the State, or on the distribution of power and responsibilities among the various levels of government.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings assessment is not required. This rule will not alter property rights.

Federalism (Executive Order 12612)

In accordance with Executive Order 12612, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. A Federalism Assessment is not required since this rule applies only to the State of West Virginia and does not alter the State's authority to develop and implement a hunting program.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. This rule will not impose a new burden on the judicial system.

Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83–I is not required.

National Environmental Policy Act

The 1982 New River Gorge National River General Management Plan and Environmental Assessment (GMP) considered the issue of hunting within the boundary of the park, and found that it was appropriate to have this traditional use continue.

Subsequent to the approval of the GMP, the NPS promulgated a regulation that requires parks to pass special regulations to permit hunting, where it is authorized and where the

superintendent has determined that such activity is consistent with public safety and enjoyment, and sound resource management principles. The NPS has reviewed the previous GMP/EA and the environmental impacts associated with implementing this regulation and has analyzed whether environmental changes since the original issuance of the environmental assessment would trigger additional compliance activities under the National Environmental Policy Act of 1969. Based on that review, the NPS has determined that the regulation is not in conflict with the Final GMP and that there have been no changes to conditions that would require additional NEPA compliance. In addition, when viewed in the context of current Department of the Interior and NPS standards of review, the regulation is covered by a categorical exclusion (516 DM 6, Appendix 7.4 A.10; RM 12.3.4.A(8)), and no exceptions to categorical exclusions (516 DM 2, Appendix 2; RM–12.3.5) apply to the regulation. As a result, the NPS is not legally required to prepare, and has not prepared, either an additional environmental assessment or an Environmental Impact Statement.

Government-to-Government Relationship With Tribes

In accordance with Executive Order 13175 ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249), the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), and 512 DM 2 we have evaluated potential effects on Federally recognized Indian tribes and have determined that there are no potential effects; the rule will simply continue an activity that has been ongoing since before the NPS.

Public Comment Solicitation

If you wish to comment, you may submit your comments by any one of several methods. You may:

(1) Mail or hand deliver comments to the park Superintendent at National Park Service, Park Headquarters, New River Gorge NR, P.O. Box 246, Glen Jean, West Virginia 25846.

(2) Send comments by e-mail to *neri_hunting@nps.gov;* or by fax to (304) 465–6559.

(3) Comment via the Internet to *neri_hunting@nps.gov.*

Please include ''NERI Hunting Rule'' in the subject line and your name and return address in the body of your message. Our practice is to make comments, including names and 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 which we will honor to the extent 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 or organizations or businesses, available for public inspection in their entirety.

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 read 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 § 7.89 New River Gorge National River.) (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.*

Drafting Information: The primary authors of this regulation were Patricia Sheehan, NPS Northeast Regional Office; Chick Fagan, NPS Office of Policy and Regulations; Calvin Hite, Superintendent, New River Gorge National River; and Jason Waanders, Office of the Solicitor, Department of the Interior.

List of Subjects in 36 CFR Part 7

District of Columbia, National parks, Reporting and recordkeeping requirements.

The Interim Final Rule

■ For the reasons stated in the preamble, the NPS amends the Special Regulations, Areas of the National Park System (36 CFR part 7) to read as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

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

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8–137 (1981) and D.C. Code 40–721 (1981).

■ 2. Add § 7.89 to read as follows:

§ 7.89 New River Gorge National River.

(a) *Hunting.* (1) *May I hunt within New River Gorge National River?* Yes, you may hunt if you:

(i) Possess a valid West Virginia State hunting license or permit, or are exempt under provisions of West Virginia law.

(ii) Comply with the hunting seasons, harvest limits, and any other conditions established by the State of West Virginia.

(iii) Do not violate any closures or limitations established by the Superintendent for reasons of public safety, resource protection, or other management considerations.

(2) *Do West Virginia state hunting laws apply within New River Gorge National River?* Yes, non-conflicting State hunting laws are adopted as part of the regulations in this section and apply within New River Gorge National River.

(b) [Reserved]

Dated: September 9, 2003.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 03–24174 Filed 9–24–03; 8:45 am]

BILLING CODE 4310–16–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 1

RIN 2900–AL40

Eligibility for an Appropriate Government Marker for a Grave Already Marked at Private Expense

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: This document amends Department of Veterans Affairs (VA) regulations to reflect changes made by the Veterans Education and Benefits

Expansion Act of 2001 and the Veterans Benefits Act of 2002. Those changes allow VA to furnish an appropriate Government marker for the grave of an eligible veteran buried in a private cemetery, regardless of whether the grave is already marked with a privately purchased marker. Pursuant to the Veterans Benefits Act of 2002, the provisions of this interim final rule shall apply to requests to mark graves or memorialize eligible veterans whose deaths occurred on or after September 11, 2001.

DATES: *Effective Date:* September 25, 2003.

Comment Date: VA must receive comments on or before November 24, 2003.

Applicability Date: The provisions of 38 CFR 1.631 apply to deaths occurring on or after September 11, 2001.

ADDRESSES: Mail or hand-deliver written comments to: Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room, 1068, Washington, DC 20420; or fax comments to (202) 273–9026; or e-mail comments to *OGCRegulations@mail.va.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AL40.'' All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: David K. Schettler, Director of Memorial Programs Service (MPS), National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Telephone: (202) 501–3100 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: VA's National Cemetery Administration (NCA) is responsible for administering VA's headstone and marker program. In fiscal year 2002, NCA furnished 348,866 markers for eligible veterans' graves located around the world.

The original purpose of the program, which began over 140 years ago, during the Civil War, was based on the principle that no veteran should lie in an unmarked grave. Before the Veterans Education and Benefits Expansion Act of 2001, Public Law 107–103, was passed, VA was restricted by statute from furnishing a marker for an already marked grave. VA considers a grave marked if there is a marker on the site that displays the decedent's name and dates of birth and death. Under prior law, families had to choose between ordering a Government or a private marker. As amended by Public Law 107–103, the statute now allows VA to furnish an appropriate Government marker to commemorate an individual's military service, regardless of whether the grave is already marked with a non-Government marker. Pursuant to the Veterans Benefits Act of 2002, Public Law 107–330, this expanded authority applies to markers for the graves of individuals who die on or after September 11, 2001.

Although the statute specifies that an appropriate marker furnished under this authority must be placed on the veteran's grave, VA is interpreting this requirement broadly to accommodate ''burials'' that do not leave room for a second marker. For instance, when cremated remains are inurned in the ground or placed within a columbarium or similar structure, there often is no space for the placement of more than one marker. The current trend in burials is that cremation rates are rising—the Cremation Association of North America estimates that the cremation rate in the United States was 26 percent in 2000. This is an increase from 21 percent in 1996, and the Association projects that the cremation rate will rise to almost 40 percent by 2010.

VA believes that Congress did not intend VA to deny a request for a Government marker for an eligible veteran who was cremated. Therefore, for those gravesites that cannot physically accommodate an additional marker, VA will furnish a marker under the condition that it is placed as close to the grave as possible within the grounds of the private cemetery where the grave is located.

The law also specifies that any marker furnished under this authority shall be delivered directly to the cemetery where the veteran's grave is located. When an applicant completes an application (VA Form 40–1330), he or she must indicate the location of the cemetery where the deceased is interred, as well as the name and address of the person, cemetery representative or official (consignee) who will accept prepaid delivery of the marker. In many cases, particularly at smaller private cemeteries, no one is available to receive the marker. Currently, in these cases, the marker is delivered to a funeral home or mortuary, the town hall, a veterans' service office or, in some cases, a family member. VA will continue this practice for markers furnished under the new authority if delivery directly to a private cemetery is not possible or practicable.

VA does not pay the cost to install a Government marker. VA has no jurisdiction over policies established by private cemeteries; therefore, the applicant must obtain certification on VA Form 40–1330 from a cemetery representative that the type and placement of the marker requested adheres to the policies and guidelines of the selected private cemetery. Lastly, VA will offer its full product line of marble, granite, and bronze markers to eligible applicants requesting benefits under this amendment.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This rule would have no such effect on State, local, or tribal governments, or the private sector.

Paperwork Reduction Act

This document does not contain new provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521). The Office of Management and Budget has approved the existing information collection under control number 2900–0222.

Administrative Procedure Act Provisions

Under the Veterans Education and Benefits Expansion Act of 2001 (Pub. L. 107–103) Congress created a 5-year pilot program requiring the VA Secretary to furnish, under specific conditions, an appropriate Government marker to those families who request one for a privately marked grave in a private cemetery. The Veterans Benefits Act of 2002 (Pub. L. 107–330) extended eligibility to veterans whose deaths occurred on or after September 11, 2001. The authority to furnish a marker under this statute expires on December 31, 2006. Congress mandated VA to submit a report not later than February 1, 2006, to the Senate and House Committees on Veterans' Affairs on the use of this authority. The report will provide the number of Government markers, by fiscal year, that were provided; and an assessment of markers delivered to cemeteries and placed on grave sites during this 5-year pilot program. The determination to extend or repeal this program will be based on the data gathered during this period. Under these circumstances, we have concluded that there is good cause for dispersing with prior notice and comment and a delayed effective date based on the conclusion that such procedure is impracticable,

unnecessary, and contrary to public interest.

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

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

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance program number for this document is 64.202.

List of Subjects in 38 CFR Part 1

Administrative practice and procedure, Cemeteries, Veterans.

Approved: August 4, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

■ For the reasons set out in the preamble, 38 CFR part 1 is amended as set forth below:

PART 1—GENERAL PROVISIONS

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

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

■ 2. Add a new § 1.631 to read as follows:

§ 1.631 Appropriate markers for graves already marked at private expense.

(a) VA will furnish an appropriate Government marker for the grave of a decedent described in paragraph (b) of this section, but only if the individual requesting the marker certifies on VA Form 40–1330 that it will be placed on the grave for which it is requested or, if placement on the grave is impossible or impracticable, as close to the grave as possible within the grounds of the private cemetery where the grave is located.

(b) The decedent referred to in paragraph (a) of this section is one who:

(1) Died on or after September 11, 2001;

(2) Is buried in a private cemetery; and

(3) Was eligible for burial in a national cemetery, but is not an individual described in 38 U.S.C. 2402(4), (5), or (6).

(c) VA will deliver the marker directly to the cemetery where the grave is located or to a receiving agent for delivery to the cemetery.

(d) VA will not pay the cost of installing a Government marker in a private cemetery.

(e) The applicant must obtain certification on VA Form 40–1330 from a cemetery representative that the type and placement of the marker requested adheres to the policies and guidelines of the selected private cemetery.

(f) VA will furnish its full product line of Government markers for private cemeteries.

(g) The authority to furnish a marker under this section expires on December 31, 2006.

(Authority: 38 U.S.C. 501, 2306)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0222.)

[FR Doc. 03–24214 Filed 9–24–03; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 01–146; RM–9966; FCC 03–35]

Applications and Licensing of Low Power Operations in the Private Land Mobile Radio 450–470 MHz Band; Corrections

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission published a document in the **Federal Register** on April 21, 2003, (68 FR 19444), a document revising Commission rules inadvertently listed frequencies in § 90.35(b)(3) as 462/467.23152, also it changes the limit of the maximum antenna height from 23 meters (75 feet) in § 90.267(d)(2) and finally it corrects the listing of frequency pairs in 90.267(d)(4). This document revises these sections.

DATES: Effective September 25, 2003.

FOR FURTHER INFORMATION CONTACT: Brian Marenco, Electronics Engineer, *bmarenco@fcc.gov*, or Genevieve Ross, Esquire, *gaugusti@fcc.gov*, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418–0680.

SUPPLEMENTARY INFORMATION: This is a summary of the FCC's Erratum, FCC 03–35, released on March 11, 2003. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the FCC's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov*. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365 or at *bmillin@fcc.gov*.

In the FR Doc. 03–9667 published in the **Federal Register** on April 21, 2003, (68 FR 19444), § 90.35(b)(3) make the following correction.

1. On page 19456 in the table please correct the frequency ''462.23152'' to read as ''462.23125'' and

2. On page 19459 in the table please correct the frequency ''467.23152'' to read as ''467.23125''.

3. On page 19462 in § 90.267 in paragraph (d)(2) of column three please correct the maximum antenna height from ''23 meters (75 feet)'' for Group B channels to ''7 meters (20 ft).''

4. On page 19462 in § 90.267 in paragraph (d)(3) of the table in column one please correct the frequency pair ''462/467.23152'' to read as ''462/467.23125''.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–23795 Filed 9–24–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 585

[Docket No. NHTSA–03–15067]

Advanced Air Bag Phase-In Reporting Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; correcting amendment.

SUMMARY: This document contains a correction to the final rule published May 5, 2003, that amended the definition of limited line manufacturer for the purposes of the advanced air bag regulations phase-in.

DATES: The effective date of this final rule is September 25, 2003.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration:

For non-legal issues: Mr. Louis Molino of the NHTSA Office of Crashworthiness Standards, NVS–112, telephone (202) 366–2264, facsimile (202) 493–2739.

For legal issues: Mr. Christopher Calamita of the NHTSA Office of Chief Counsel, NCC–112, telephone (202) 366–2992, facsimile (202) 366–3820.

You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

The standards that are subject to these corrections are 49 CFR part 585, *Advanced Air Bag Phase-In Reporting Requirements,* and Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant Crash Protection.* In May 2000, we published a rule requiring advanced air bags in light vehicles in order to reduce the risk of serious air bag-induced injuries, particularly for small women and young children, and provide improved frontal crash protection for all occupants (65 FR 30680). The requirements of that rule are being phased in during two stages, the first of which extends from September 1, 2003 to August 31, 2006.

During the first phase-in, increasing percentages of motor vehicles will be required to meet requirements for minimizing air bag risks, primarily by either automatically turning off the air bag when young children are present or deploying the air bag more benignly so that it is much less likely to cause serious or fatal injury to out-of-position occupants. The May 2000 final rule permitted limited line manufacturers, *i.e.*, those defined in FMVSS No. 208 as producers of no more than two vehicle lines for sale in the United States, the option of opting out of the advanced air bag requirements for the first year of the phase-ins as long as 100 percent of the vehicles produced for the U.S. market were fully compliant in the second year of the phase-ins and thereafter.

In May 2003, we published a final rule amending the advanced air bag regulation to address how to treat limited line manufacturers in the first phase-in. (68 FR 23614; May 5, 2003.) The May 2003 final rule amended the definition of limited line manufacturer, for the first phase-in only, to a manufacturer that produces no more than three vehicle lines. Additionally, we provided limited line manufacturers with an additional year to comply with the new advanced air bag requirements. We determined that the amended definition provided relief to manufacturers of only a few carlines that are required to ensure that each of its carlines is fully compliant.

Need for Correction

As published, the May 2003 final rule contained an error that needs correction. The May 2003 final rule expanded the definition of limited line manufacturer in FMVSS No. 208 for the first stage of the advanced air bag phase-in, but the final rule failed to amend the definition of limited line manufacturer contained in 49 CFR part 585. Part 585 establishes the reporting requirements for the advanced air bag phase-ins. Under the May 2000 and May 2003 final rules, § 585.4(g) defines limited line manufacturer as a ''manufacturer that sells two or fewer carlines, as that term is defined in 49 CFR 583.4, in the United States during a production year.''

This correction amends the definition of limited line manufacture in § 585.4 to include manufacturers of three or fewer carlines for the first stage of the phase-in.

Correction of Publication

List of Subjects in 49 CFR Part 585

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 49 CFR part 585 is amended as follows:

PART 585—ADVANCED AIR BAG PHASE-IN REPORTING REQUIREMENTS

■ 1. The authority citation for part 585 of title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

■ 2. Section 585.4 is amended by revising paragraph (g) to read as follows:

* * * * *

§ 585.4 Definitions.

* * * * *

(g) *Limited line manufacturer* for phase one, means a manufacturer that sells three or fewer carlines, as that term is defined in 49 CFR 583.4, in the United States during a production year; and for phase two, a manufacturer that sells two or fewer carlines, as that term is defined in 49 CFR 583.4, in the United States during a production year.

* * * * *

Issued on: September 16, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–24146 Filed 9–24–03; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 68, No. 186
Thursday, September 25, 2003

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–58–AD]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited (Jetstream) Model 4101 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 BAE Systems (Operations) Limited (Jetstream) Model 4101 airplanes. This proposal would require repetitively inspecting the seat rails located in the passenger cabin for evidence of damage and corrosion, repairing any damage or corrosion, and replacing any floor panels found to be ''soft'' due to ingress of moisture. This action is necessary to detect and correct corrosion on the seat rails for the passenger seats, which could result in the reduced structural integrity of the passenger seats, detachment of the seats from the seat rails, and injury to passengers. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 27, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–58–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 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. 2002–NM–58–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 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

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 2002–NM–58–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. 2002–NM–58–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on all BAE Systems (Operations) Limited (Jetstream) Model 4101 airplanes. The CAA advises that corrosion has been found on seat rails located in the passenger cabin. The corrosion has been attributed to fluid spillage and collection of debris inside the tracks of the seat rails. Such corrosion, if not corrected, could result in the reduced structural integrity of the passenger seats, detachment of the seats from the seat rails, and injury to passengers.

Explanation of Relevant Service Information

BAE Systems (Operations) Limited has issued Service Bulletin J41–53–050, dated January 25, 2002, which describes procedures for repetitively inspecting the seat rails located in the passenger cabin, two above and two below the floor panels, for evidence of damage (missing paint from the frames or support angles) or corrosion; repairing any damage or corrosion; and replacing any floor panels found to be ''soft'' due to ingress of moisture. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The CAA classified this service bulletin as mandatory and issued British airworthiness directive 005–01–2002 to ensure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

This airplane model is manufactured in the United Kingdom 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 CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, 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 an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between the Proposed AD and the Service Information

Although the service bulletin specifies that operators may contact the manufacturer for disposition of certain repair conditions, this proposal would require operators to repair those conditions per a method approved by either the FAA or the CAA (or its delegated agent). In light of the type of repair that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this proposed AD, a repair approved by either the FAA or the CAA would be acceptable for compliance with this proposed AD.

Changes to 14 CFR Part 39/Effect on the Proposed AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance (AMOCs). Because we have now included this material in part 39, only the office authorized to approve AMOCs is identified in each individual AD.

Change to Labor Rate Estimate

We have reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we find it necessary to increase the labor rate used in these calculations from $60 per work hour to $65 per work hour. The cost impact information, below, reflects this increase in the specified hourly labor rate.

Cost Impact

The FAA estimates that 57 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 30 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $111,150, or $1,950 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Docket 2002–NM–58–AD.

Applicability: All Model Jetstream 4101 airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct corrosion on the seat rails for the passenger seats, which could result in the reduced structural integrity of the passenger seats, detachment of the seats from the seat rails, and injury to passengers, accomplish the following:

Inspection and Corrective Actions

(a) Within 1 year after the effective date of this AD, do a detailed inspection of the seat rails located in the passenger cabin, two above and two below the floor panels, for evidence of damage (missing paint from the frames or support angles) or corrosion, in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Service Bulletin J41–53–050, dated January 25, 2002.

Note 1: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(1) If no damage (missing paint from the frames or support angles) or corrosion is found, repeat the detailed inspections thereafter at intervals not to exceed 2 years.

(2) If any damage (missing paint from the frames or support angles) is found, before further flight, re-protect the area per the Accomplishment Instructions of the service bulletin.

(3) If any corrosion is found, before further flight, repair in accordance with the Accomplishment Instructions of the service

bulletin. Where the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, repair per a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Civil Aviation Authority (or its delegated agent).

(b) If any floor panels are found to be ''soft'' due to ingress of moisture, before further flight, replace them in accordance with the Accomplishment Instructions of the service bulletin.

Submission of Information to the Manufacturer Not Required

(c) Although the service bulletin referenced in this AD specifies to submit information to the manufacturer, this AD does not include such a requirement.

Alternative Methods of Compliance

(d) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, is authorized to approve alternative methods of compliance for this AD.

Note 2: The subject of this AD is addressed in British airworthiness directive 005–01–2002.

Issued in Renton, Washington, on September 19, 2003.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–24286 Filed 9–24–03; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404, 408 and 416

[Regulation Nos. 4, 8, and 16]

RIN 0960–AF83

Representative Payment Under Titles II, VIII and XVI of the Social Security Act

AGENCY: Social Security Administration (SSA).

ACTION: Proposed rules.

SUMMARY: We propose to revise our regulations explaining the procedures we follow in determining the need for a representative payee, the procedures we follow in selecting a representative payee, the responsibilities of a representative payee, and restitution of benefits where SSA is negligent under titles II, VIII and XVI of the Social Security Act (the Act). This regulation codifies SSA's long-standing enacted representative payee policy based on statutory changes made since 1990. This regulation sets forth our rules applicable to claims for special veteran's benefits (SVB) under title VIII of the Act. We began making payments under the SVB program in May 2000. We propose to add new rules on Representative Payment for the SVB program.

The proposed changes to the representative payee provisions of the regulations will reflect several statutory changes that provide protection for beneficiaries who need representative payees. These proposed changes include representative payment procedures for investigating payee applicants, identifying unsuitable applicants, making direct payment in some circumstances, providing advance notice of our determination to make representative payment, and providing affected beneficiaries with the opportunity to appeal our determinations. Also included are procedures for making restitution of benefits where a payee has misused a beneficiary's payments and SSA was negligent in investigating or monitoring the payee, and representative payee policies and procedures for the title VIII program.

DATES: To consider your comments, we must receive them no later than November 24, 2003.

ADDRESSES: You may give us your comments by: using our Internet site facility (*i.e.*, Social Security Online) at *http://policy.ssa.gov/pnpublic.nsf/LawRegs;* e-mail to *regulations@ssa.gov;* telefax to (410) 965–2830; or letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, MD 21235–7703. You may also deliver them to the Office of Regulations, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, between 8 a.m. and 4:30 p.m. on regular business days. Comments are posted on our Internet site for your review, or you may inspect them physically on regular business days by making arrangements with the contact person shown in this preamble.

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** on the Internet site for the Government Printing Office, *http://www.gpoaccess.gov/fr/index.html.* It is also available on the Internet site for SSA (*i.e.*, Social Security Online) at *http://policy.ssa.gov/pnpublic.nsf/LawRegs.*

FOR FURTHER INFORMATION CONTACT: Regarding this **Federal Register** document—Robert Augustine, Social Insurance Specialist, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–0020 or TTY (410) 966–5609; regarding eligibility or filing for benefits—our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778 or visit our internet web site, Social Security Online at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Background

We are withdrawing the Notice of Proposed Rulemaking (NPRM) we published in the **Federal Register** on March 15, 1994 (59 FR 11949). This notice, which includes proposed changes that reflect legislation affecting representative payment policies enacted since 1990, replaces it.

Subpart U of part 404 and subpart F of part 416 of our regulations explain the principles and procedures that we follow in determining whether to make representative payment and in selecting a representative payee under the title II and title XVI programs. These subparts also describe the responsibilities of a representative payee regarding the use of funds the payee receives on behalf of the beneficiary. Under the authority provided in sections 205(j) and 1631(a)(2) of the Act and these regulations, we select a representative payee for a person receiving Social Security benefits under title II or supplemental security income (SSI) benefits under title XVI of the Act if we believe that representative payment rather than direct payment of benefits is in the interest of that person.

In selecting a representative payee, we choose the person, agency, or organization that we believe will best serve the interest of a beneficiary. Any person or organization chosen as a representative payee must use benefits and accept all payee responsibilities as required under the Act and our regulations.

A. Changes Required by Public Law 101–508

Section 5105(a)(1) and (2), and (c) of Public Law (Pub. L.) 101–508, the Omnibus Budget Reconciliation Act of 1990 (OBRA 90) enacted November 5, 1990, amended sections 205(j) and 1631(a)(2) of the Act. These sections of OBRA 90 made numerous modifications and additions to the representative payee provisions of the Act and were intended to provide additional safeguards and protection for beneficiaries who need representative payees. These modifications and additions include:

- Investigating representative payee applicants;
- Identifying unsuitable representative payee applicants;
- Making direct payment to some beneficiaries while we try to find a representative payee;

• Allowing a delay or suspension of direct payment for one month (or longer under certain exceptions) when searching for a representative payee where direct payment would cause substantial harm to the beneficiary;

• Providing advance notice to the beneficiary of determinations to make representative payment and selections of representative payees;

• Providing beneficiaries with the opportunity to appeal our determination to make representative payment or to select a particular representative payee;

• Making restitution (in some instances) to beneficiaries of benefits misused by representative payees; and

• Making a good faith effort in those instances to obtain restitution from terminated representative payees who have misused benefits.

The restitution provision of section 5105(c) of OBRA 90 contained in these proposed regulations was effective November 5, 1990—the date OBRA 90 was enacted. The other OBRA 90 representative payee provisions addressed by these proposed rules were effective with respect to determinations regarding payment of benefits to representative payees made on or after July 1, 1991.

B. Changes Required by Public Law 103–296

Section 201 of Public Law 103–296, the Social Security Independence and Program Improvements Act of 1994 (SSIPIA 94), enacted August 15, 1994:

• Extends the authority for qualified organizations to collect fees for representative payee services beyond the July 1, 1994 sunset date;

• Included state or local government agencies as qualified organizations for purposes of collecting fees; and

• Required an annual adjustment (beginning with December 1996) to the limit on the fee collected by qualified organizations for providing payee services.

C. Changes Required by Public Law 104–121

Section 105 of Public Law 104–121, the Contract With America Advancement Act of 1996, enacted March 29, 1996, eliminated disability benefits based on drug addiction and/or alcoholism (DAA). However, individuals are considered to have a DAA condition when there is medical evidence of DAA, but the DAA is not material to the disability determination. Under Public Law 104–121, individuals with a DAA condition (as determined by the Commissioner), who are eligible for Social Security or SSI benefits based on a disability other than DAA and who are also found to be incapable of managing their own benefits, must have a representative payee if the Commissioner determines that representative payment would serve the interests of the individual. The statute also provided an exception to the one-month limit on suspension of benefit payment while we are looking for a representative payee for an individual with a DAA condition. Appointment of organizational representative payees for incapable individuals with a DAA condition is preferred; however, in certain cases we can select a family member.

D. Changes Required By Public Law 105–33 and Public Law 106–170

Section 5525(b) of Public Law 105–33, the Balanced Budget Act of 1997, enacted August 5, 1997, provided technical amendments to the title XVI portions of Public Law 104–121 relating to the effective date of provisions concerning representative payees. Effective July 1, 1996 or later, certain individuals with a DAA condition who were found to be incapable of managing their benefits would be paid through a representative payee. In addition, section 401 of Public Law 106–170, the Ticket to Work and Work Incentives Improvement Act of 1999, provided technical amendments to Public Law 104–121 to change the effective date of the title II representative payee and referral provisions applicable to individuals with a DAA condition.

E. Changes Required by Public Law 106–169

Section 251 of Public Law 106–169, the Foster Care Independence Act of 1999, enacted on December 14, 1999, added a new title VIII program to the Act—Special Benefits for Certain World War II Veterans. Title VIII requires SSA to pay SVB to certain World War II Veterans. Section 807 of the Act authorizes SSA to pay SVB to a representative payee when we determine that would be in the beneficiary's interest. We propose to add a new subpart F—Representative Payment to part 408 of our regulations to set forth the representative payment rules applicable to the SVB program.

Explanation of Proposed Regulations

We are proposing the following changes in our regulations to reflect the amendments to the Act made by sections 5105(a)(1) and (2), and (c) of OBRA 90; section 201 of Public Law 103–296; section 105 of Public Law 104–121; section 5525(b) of Public Law 105–33; section 251 of Public Law 106–169 and section 401 of Public Law 106–170.

A. Restitution

We propose to amend §§ 404.902 and 416.1402 to include a determination on restitution as an initial determination subject to the administrative review process. This change reflects our view that our determination regarding a person's right to restitution is a decision covered by sections 205(b)(1) and 1631(c)(1) of the Act, and is an initial determination subject to the administrative review process.

B. Substantial Harm

We propose to add new §§ 404.2011 and 416.611 to explain that when we have determined a beneficiary needs to be paid through a representative payee and a representative payee is not immediately available:

1. We would pay monthly benefits directly to a beneficiary who we determine should have a representative payee until a suitable representative payee is selected, unless we determine that direct payment of these benefits would result in substantial harm to the beneficiary.

2. Findings of substantial harm would be made on a case-by-case basis. We would find substantial harm in cases where direct payment of benefits is expected to result in physical or mental injury to the beneficiary (such as instances when the beneficiary cannot deal with the stress associated with handling his or her own financial affairs). We also would find substantial harm to exist when the beneficiary is legally incompetent, under age 15, or is receiving disability payments and we have determined that he or she has a DAA condition. However, we would allow these individuals to provide evidence that direct payment would not cause substantial harm. If we find upon review of this evidence that direct payment would not result in substantial harm, then we will make direct payment to the individual.

3. Findings of substantial harm are not considered initial determinations subject to appeal rights. This is because a finding of substantial harm will not materially affect the beneficiary since delay or suspension of direct payment is temporary. Beneficiaries who have their benefits temporarily suspended can challenge the determination to make representative payment (§§ 404.902(o) and 416.1402(d)).

4. If we find that direct payment to an individual would cause substantial harm, we may delay or suspend benefits up to 1 month. If the beneficiary who needs a representative payee is legally

incompetent, under age 15, or receiving disability payments and determined by us to have a DAA condition and is incapable, we may delay payments for more than 1 month.

5. Payment of any benefits which were deferred or suspended pending selection of a representative payee will be made to the beneficiary or the representative payee as a single sum, or in installments when we determine that installments are in the best interest of the beneficiary.

C. Unsuitable Representative Payees

We propose to add new §§ 404.2022 and 416.622 to explain that:

1. A representative payee applicant convicted of a violation under section 208, 811 or 1632 of the Act may never serve as a representative payee. This prohibition was in sections 208 and 1632 of the Act prior to enactment of section 5105(a)(2) of OBRA 90 but was never included in our regulations. We added section 811 violations because of the enactment of the new SVB program (section 807 of the Act).

2. A representative payee applicant receiving Social Security, SVB or SSI benefits through a representative payee may not serve as a representative payee. These individuals have already been determined to be incapable of managing their own benefits.

3. A representative payee applicant whose prior certification or appointment as representative payee was revoked or terminated for misusing title II, VIII or XVI benefits generally may not be appointed as a representative payee. We may make an exception to this prohibition on a case-by-case basis if:

- Direct payment is not possible,
- No suitable alternative payee is available,
- Payment to the payee applicant would serve the best interest of the beneficiary,
- The information we have indicates the applicant is now suitable to serve as payee and
- The applicant has repaid the misused benefits or has a plan to repay them.

If such an applicant is appointed, evaluation(s) of the applicant's performance as representative payee will be conducted periodically at intervals not to exceed 3 months until we are satisfied that the payee poses no risk to the beneficiary and is likely to perform in the beneficiary's best interest.

4. Payment will not be certified to a representative payee applicant who is a creditor of the beneficiary, *i.e.*, someone who provides the beneficiary with goods or services for monetary consideration, unless the creditor is:

- A relative of the beneficiary living in the same household as the beneficiary;
- A legal guardian or legal representative of the beneficiary;
- A facility that is licensed or certified as a care facility under State or local law, or an administrator, owner, or employee of such a facility and the selection of the facility or such person is made only after we have attempted to locate an alternative representative payee who would better serve the interests of the beneficiary;
- An individual we determine to be acceptable to serve as a representative payee because we have determined that the individual poses no risk to the beneficiary, the financial relationship of the applicant to the beneficiary poses no substantial conflict of interest, and a more suitable representative payee cannot be found; or
- A qualified organization authorized to collect a monthly fee from the beneficiary for expenses incurred by the organization in providing services performed as the individual's representative payee.

D. Investigation of Representative Payee Applicants

We propose to add new §§ 404.2024 and 416.624 to explain that before certifying payment to a representative payee applicant, we will conduct an investigation of the payee applicant to determine the applicant's suitability. A face-to-face interview will be included as part of the investigation unless it is impracticable to do so. A face-to-face interview may be considered impracticable if it would cause the representative payee applicant undue hardship. Undue hardship exists when the applicant cannot reasonably make arrangements to visit the Social Security field office. During the investigation, we will:

- Require the payee applicant to submit documented proof of identity, unless such information has been submitted with an application for titles II, VIII or XVI benefits;
- Verify the payee applicant's Social Security account number or employer identification number;
- Determine whether the payee applicant has been convicted of a violation under section 208, 811, or 1632 of the Act;
- Determine whether the payee applicant previously served as a representative payee and had his or her certification revoked or terminated because of misuse of title II, VIII or XVI benefits.

E. Notice of Appointment of Representative Payee

We propose to amend existing §§ 404.2030 and 416.630 to explain that whenever we intend to make representative payment or to appoint a particular representative payee, we will provide written notice to the beneficiary (or the legal guardian or the legal representative of the beneficiary) in advance of actually appointing the payee and certifying payment. This will allow the beneficiary the opportunity to appeal the proposed representative payee appointment. The advance notice will:

- Be clearly written in language that is easily understandable to the reader;
- Identify the person to be designated as representative payee;
- Explain the right of the beneficiary (or the legal guardian or legal representative of the beneficiary) to appeal our determination that a representative payee is necessary;
- Explain the right to appeal the designation of a particular person to serve as the representative payee of the beneficiary; and
- Explain the right to review the evidence upon which the payee designation is based, and to submit additional evidence.

If the beneficiary, or his or her legal guardian or legal representative, appeals and the appeal is received before the appointment of the representative payee is effective, the appointment will not be processed until the appeal has been resolved in accordance with subpart J of part 404 or subpart N of part 416. We will pay current monthly benefits directly to the beneficiary, where appropriate, in accordance with proposed §§ 404.2011 and 416.611, until we select a payee.

F. Organizational Representative Payees

We propose to amend existing §§ 404.2040a and 416.640a to remove the requirement that the organization must have been in existence prior to October 1, 1988. We propose to include State or local government agencies as qualified organizations for purposes of collecting fees. We also propose to revise paragraph (g), *Limitation on fees,* to reflect that the limit on fees collected by such organizations increases annually by the same percentage as the cost of living adjustment.

G. Liability for Misused Benefits

We propose to amend §§ 404.2041 and 416.641 to explain that:

- The representative payee is liable for misuse of the beneficiary's benefits and is responsible for paying back

misused benefits to us. We will always make every reasonable effort to obtain restitution of misused benefits;

• We will be liable for repayment of misused benefits if such misuse by a representative payee results from our negligent failure to investigate or monitor the representative payee. The term ''negligent failure'' as used in the proposed regulation means that we failed to investigate or monitor a representative payee or that we did investigate or monitor a representative payee but were negligent in that effort;

• For title XVI purposes, when we find that our negligent failure to investigate or monitor a representative payee results in misuse of SSI benefits which involve federally administered State supplementary payments, our repayment of misused funds will include any portion of misused SSI benefits which are State supplementary payments.

• If we determine that repayment of misused benefits is appropriate, we will certify for payment to the beneficiary or the beneficiary's new representative payee an amount equal to such misused benefits.

H. When a New Representative Payee Will Be Selected

We propose to amend §§ 404.2050 and 416.650 to reflect changes made by section 5105(a)(1) of OBRA 90 requiring that we will promptly stop payment to a representative payee and make payment directly to the beneficiary or to a new payee if we, or a court of competent jurisdiction, determine that the representative payee has misused the beneficiary's benefits. We may make exceptions to this rule on a case-by-case basis if the requirements discussed in C.3. above are met.

I. Annual Accounting of Benefits

We propose to amend §§ 404.2065 and 416.665 to show that an annual accounting of benefits is required from all representative payees except for certain State institutions, and to clarify the types of questions included in the accounting report. We also clarify that payees must keep records and make them available to us upon request.

J. Other Changes

We propose to amend existing §§ 404.2025 and 416.625 to change the title of the sections to ''What information must a representative payee report to us?'', move existing paragraph (a) of these sections with minor revisions to new §§ 404.2024 and 416.624 as new paragraph (a)(8) and keep existing paragraph (b) as an undesignated paragraph under §§ 404.2025 and 416.625.

We also propose to amend §§ 404.902 and 416.1402, paragraphs (o) and (d), respectively, to remove the reference to DAA being a contributing factor material to the disability determination. We included a new paragraph (x) and (o), respectively, to include misuse of benefits by a representative payee when we were negligent in failing to investigate or monitor the payee as an initial determination subject to judicial review.

K. Representative Payment of SVB

Section 807 of the Act authorizes SSA to pay your SVB benefits to a representative payee when we determine that would be in your interest. The title VIII provisions on representative payment closely parallel the representative payment provisions in titles II and XVI of the Act (although not all title II/XVI provisions apply to the title VIII program). We are therefore proposing a new subpart F to part 408 which includes an introductory section on representative payment in the title VIII program followed by sections (with the exception of § 408.630) that refer users to the sections in part 404 that deal with the appropriate topics. Proposed subpart F would consist of the following sections:

• Section 408.601 introduces subpart F.

• Section 408.610 provides a cross-reference to § 404.2010(a), which explains the circumstances under which we will make representative payment.

• Section 408.611 provides a cross-reference to § 404.2011, which explains what happens to your monthly benefits while we are finding a suitable representative payee.

• Section 408.615 provides a cross-reference to § 404.2015, which explains the kinds of information we consider in determining whether to make representative payment.

• Section 408.620 provides a cross-reference to § 404.2020, which explains the information we consider in determining an appropriate representative payee for you.

• Section 408.621 provides a cross-reference to § 404.2021(a), which provides a list of the payees that we prefer to serve your interests.

• Section 408.622 provides a cross-reference to § 404.2022, which contains a list of individuals whom we generally will not select as your representative payee.

• Section 408.624 provides a cross-reference to § 404.2024, which explains how we investigate whether an individual is suitable to serve as a representative payee, including the requirement that we conduct a face-to-face interview with the payee applicant unless it is impracticable to do so.

• Section 408.625 provides a cross-reference to § 404.2025, which explains the information a representative payee or payee applicant must give us.

• Section 408.630 explains how we will notify you when we decide you need a representative payee.

• Section 408.635 provides a cross-reference to § 404.2035, which explains the responsibilities of a representative payee.

• Section 408.640 provides a cross-reference to § 404.2040, which explains how a representative payee may use the SVB payments he or she receives on your behalf.

• Section 408.641 provides a cross-reference to § 404.2041, which explains who is liable when a representative payee misuses the benefits he or she receives on your behalf.

• Section 408.645 provides a cross-reference to § 404.2045, which explains the rules your representative payee must follow to conserve or invest excess benefits, contains a list of preferred investments, and explains that any interest and dividends that result from an investment is your property, not the property of your payee.

• Section 408.650 provides a cross-reference to § 404.2050, which explains when we will select a new representative payee for you.

• Section 408.655 provides a cross-reference to § 404.2055, which explains when we will stop representative payment and begin making payment directly to you.

• Section 408.660 provides a cross-reference to § 404.2060, which explains what happens to accumulated funds when your representative payee changes.

• Section 408.665 provides a cross-reference to § 404.2065, which explains how we require your representative payee to verify that he or she used your benefits on your behalf.

Clarity of These Regulations

Executive Order 12866, as amended by Executive Order 13258, requires each agency to write all rules in plain language. In addition to comments you may have on the substance of these proposed rules, we also invite your comments on how to make these rules easier to understand. For example:

• Have we organized the material to suit your needs?

• Are the requirements in the rules clearly stated?

• Do the rules contain technical language or jargon that is not clear?

- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules meet the criteria for a significant regulatory action under Executive Order 12866, as amended by Executive Order 13258. Thus, they were reviewed by OMB. However, the estimated amounts of the savings or costs involved do not cross the threshold for an economically significant regulation as defined in Executive Order 12866, as amended by Executive Order 13258.

Executive Order 13132 (Federalism) and the Unfunded Mandates Reform Act of 1995

We have reviewed the proposed rules for compliance with Executive Order 13132 and the Unfunded Mandates Reform Act of 1995 (UMRA of 1995). We have determined that the proposed rules are not significant within the meaning of the UMRA of 1995 nor will they have any 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 within the meaning of Executive Order 13132.

The provision regarding restitution of misused benefit payments will not significantly impact the States. Even though the States would be responsible for the supplementary payments portion of the restitution, there should only be a small number of cases involved. There is a very small number of representative payees who are found to misuse benefit payments and of that number, misuse involving SSI payments is even smaller. The number of cases where ''negligent failure'' might potentially be involved would be much smaller still. In addition, SSA will seek restitution of misused funds from the terminated representative payee and, if the restitution is obtained, the State will be reimbursed for any State supplementary payment involved.

Regulatory Flexibility Act

We certify that these proposed regulations will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These proposed rules contain reporting requirements as shown in the table below. Where the public reporting burden is accounted for in Information Collection Requests for the various forms that the public uses to submit the information to SSA, a 1-hour placeholder burden is being assigned to the specific reporting requirement(s) contained in these rules; we are seeking clearance of these burdens because they were not considered during the clearance of the forms.

CFR section	Number of respondents	Frequency of response	Average burden per response	Estimated annual burden hours
404.2011(a)(1)	250	1	15 Minutes	62.5
416.611(a)(1)				
404.2024(a)(2)		1	1 Hour	1
408.624				
416.624(a)(2)				
404.2024(a)(8)		1	1 Hour	1
408.624				
416.624(a)(8)				
404.2025	3,000	1	6 Minutes	300
408.625				
416.625				
404.2040a(a)–(d)	60	1	15 Minutes	15
416.640a(a)–(d)				
404.2040a(e)	8	1	1 Hour	8
416.640a(e)				
404.2065		1	1 Hour	1
408.665				
416.665				

An Information Collection Request has been submitted to OMB for clearance. We are soliciting comments on the burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. Comments should be submitted and/or faxed to OMB and the Social Security Administration at the following addresses/numbers:

Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW., Washington, DC 20530, Fax Number: 202–395–6974.

Social Security Administration, Attn: SSA Reports Clearance Officer, Rm. 1338 Annex Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, Fax Number: 410–965–6400.

Comments can be received for up to 60 days after publication of this notice and will be most useful if received by SSA within 30 days of publication. To receive a copy of the OMB clearance package, you may call the SSA Reports Clearance Officer on 410–965–0454.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income; 96–020, Special Benefits for Certain World War II Veterans)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors and Disability Insurance; Reporting and recordkeeping requirements, Social Security.

20 CFR Part 408

Administrative practice and procedure, Aged; Reporting and recordkeeping requirements, Social Security; Special Veterans benefits; Veterans.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental security income (SSI).

Dated: June 19, 2003.

Jo Anne B. Barnhart,

Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend subparts J and U of part 404, add subpart F to part 408, and amend subparts F and N of part 416 of Title 20 of the Code of Federal Regulations as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

1. The authority citation for subpart J continues to read as follows:

Authority: Secs. 201(j), 204(f), 205(a), (b) and (d)–(h), and (j), 221, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a), (b), (d)–(h), and (j), 421, 425, and 902(a)(5)); 31 U.S.C. 3720A; sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 *note*); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 *note*).

2. Amend § 404.902 by revising paragraph (o), removing the word ''and'' at the end of paragraph (v), revising the period at the end of paragraph (w) to read ''; and'' and adding paragraph (x) to read as follows:

§ 404.902 Administrative actions that are initial determinations.

* * * * *

(o) Whether the payment of your benefits will be made, on your behalf, to a representative payee;

* * * * *

(x) Whether we were negligent in failing to investigate or monitor your representative payee, which resulted in the misuse of benefits by your representative payee.

3. The authority citation for subpart U of part 404 continues to read as follows:

Authority: Secs. 205(a), (j), and (k), and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), (j), and (k), and 902(a)(5)).

4. Add § 404.2011 to read as follows:

§ 404.2011 What happens to your monthly benefits while we are finding a suitable representative payee for you?

(a) *We may pay you directly.* We will pay current monthly benefits directly to you while finding a suitable representative payee unless we determine that paying you directly would cause substantial harm to you. We determine substantial harm as follows:

(1) If you are receiving disability payments and we have determined that you have a drug addiction or alcoholism condition, or you are legally incompetent, or you are under age 15, we will presume that substantial harm exists. However, we will allow you to dispute this presumption by presenting evidence that direct payment would not cause you substantial harm.

(2) If you do not fit any of these categories, we make findings of substantial harm on a case-by-case basis. We consider all matters that may affect your ability to manage your benefits in your own best interest. We decide that substantial harm exists if both of the following conditions exist:

(i) Directly receiving benefits can be expected to cause you serious physical or mental injury.

(ii) The possible effect of the injury would outweigh the effect of having no income to meet your basic needs.

(b) *We may delay or suspend your payments.* If we find that direct payment will cause substantial harm to you, we may delay (in the case of initial entitlement to benefits) or suspend (in the case of existing entitlement to benefits) payments for as long as 1 month while we try to find a suitable representative payee for you. If we do not find a payee within one month, we will pay you directly. If you are receiving disability payments and we have determined that you have a drug addiction and alcoholism condition, or you are legally incompetent, or you are under age 15, we will withhold payment until a representative payee is appointed even if it takes longer than one month. We will, however, as noted in paragraph (a)(1) of this section, allow you to present evidence to dispute the presumption that direct payment would cause you substantial harm. See § 404.2001(b)(3) for our policy on suspending benefits if you are currently receiving benefits directly.

Example 1: Substantial Harm Exists. We are unable to find a representative payee for Mr. X, a 67-year-old retirement beneficiary who is an alcoholic. Based on contacts with the doctor and beneficiary, we determine that Mr. X was hospitalized recently for his drinking. Paying him directly will cause injury, so we may delay payment for as long as one month based on substantial harm while we locate a suitable representative payee.

Example 2: Substantial Harm Does Not Exist. We approve a claim for Mr. Y, a title II claimant who suffers from a combination of mental impairments but who is not legally incompetent. We determine that Mr. Y needs assistance in managing his benefits, but we have not found a representative payee. Although we believe that Mr. Y may not use the money wisely, there is no indication that receiving funds directly would cause him substantial harm (*i.e.*, physical or mental injury). We must pay current benefits directly to Mr. Y while we locate a suitable representative payee.

(c) *How we pay delayed or suspended benefits.* Payment of benefits, which were delayed or suspended pending appointment of a representative payee, can be made to you or your representative payee as a single sum or in installments when we determine that installments are in your best interest.

5. Amend § 404.2021 by revising the heading and paragraph (a) introductory text, redesignating paragraph (b) as paragraph (c) and adding new paragraph (b) to read as follows:

§ 404.2021 What is our order of preference in selecting a representative payee for you?

* * * * *

(a) For beneficiaries 18 years old or older (except those described in paragraph (b) of this section), our preference is—

* * * * *

(b) For individuals who are disabled and who have a drug addiction or alcoholism condition our preference is—

(1) A community-based nonprofit social service agency which is licensed by the State, or bonded;

(2) A Federal, State, or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities;

(3) A State or local government agency with fiduciary responsibilities;

(4) A designee of an agency (other than a Federal agency) referred to in paragraphs (b)(1), (2), and (3) of this section, if appropriate; or

(5) A family member.

* * * * *

6. Add § 404.2022 to read as follows:

§ 404.2022 Who may not serve as a representative payee?

A representative payee applicant may not serve if he/she:

(a) Has been convicted of a violation under section 208, 811 or 1632 of the Social Security Act.

(b) Receives title II, VIII, or XVI benefits through a representative payee.

(c) Previously served as a representative payee and was found by us, or a court of competent jurisdiction, to have misused title II, VIII or XVI benefits. However, if we decide to make an exception to this prohibition, we must evaluate the payee's performance at least every 3 months until we are satisfied that the payee poses no risk to the beneficiary's best interest. Exceptions are made on a case-by-case basis if all of the following are true:

(1) Direct payment of benefits to the beneficiary is not in the beneficiary's interest.

(2) No suitable alternative payee is available.

(3) Selecting the payee applicant as representative payee would be in the best interest of the beneficiary.

(4) The information we have indicates the applicant is now suitable to serve as a representative payee.

(5) The payee applicant has repaid the misused benefits or has a plan to repay them.

(d) Is a creditor. A creditor is someone who provides you with goods or services for consideration. This restriction does not apply to the creditor who poses no risk to you and whose financial relationship with you presents no substantial conflict of interest, and who is any of the following:

(1) A relative living in the same household as you do.

(2) Your legal guardian or legal representative.

(3) A facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State.

(4) A qualified organization authorized to collect a monthly fee from you for expenses incurred in providing representative payee services for you, under § 404.2040a.

(5) An administrator, owner, or employee of the facility in which you live and we are unable to locate an alternative representative payee.

(6) Any other individual we deem appropriate based on a written determination.

Example 1: Sharon applies to be representative payee for Ron who we have determined cannot manage his benefits. Sharon has been renting a room to Ron for several years and assists Ron in handling his other financial obligations, as needed. She charges Ron a reasonable amount of rent. Ron has no other family or friends willing to help manage his benefits or to act as representative payee. Sharon has demonstrated that her interest in and concern for Ron goes beyond her desire to collect the rent each month. In this instance, we may select Sharon as Ron's representative payee because a more suitable payee is not available, she appears to pose no risk to Ron and there is minimal conflict of interest. We will document this decision.

Example 2: In a situation similar to the one above, Ron's landlord indicates that she is applying to be payee only to ensure receipt of her rent. If there is money left after payment of the rent, she will give it directly to Ron to manage on his own. In this situation, we would not select the landlord as Ron's representative payee because of the substantial conflict of interest and lack of interest in his well being.

7. Add § 404.2024 to read as follows:

§ 404.2024 How do we investigate a representative payee applicant?

Before selecting an individual or organization to act as your representative payee, we will perform an investigation.

(a) *Nature of the investigation.* As part of the investigation, we do the following:

(1) Conduct a face-to-face interview with the payee applicant unless it is impracticable as explained in paragraph (b) of this section.

(2) Require the payee applicant to submit documented proof of identity, unless information establishing identity has recently been submitted with an application for title II, VIII or XVI benefits.

(3) Verify the payee applicant's Social Security account number or employer identification number.

(4) Determine whether the payee applicant has been convicted of a violation of section 208, 811 or 1632 of the Social Security Act.

(5) Determine whether the payee applicant has previously served as a representative payee and if they had an appointment as payee revoked or terminated for misusing title II, VIII or XVI benefits.

(6) Use our records to verify the payee applicant's employment and/or direct receipt of title II, VIII, or XVI benefits.

(7) Verify the payee applicant's concern for the beneficiary with the beneficiary's custodian or other interested person.

(8) Require the applicant to provide adequate information showing his or her relationship to the beneficiary and describe his or her responsibility for the care of the beneficiary.

(9) Determine whether the payee applicant is a creditor of the beneficiary (*see* § 404.2022(d)).

(b) *A face-to-face interview.* We may consider a face-to-face interview impracticable if it would cause the payee applicant undue hardship. For example, the payee applicant cares for children or disabled individuals in the home and no alternative caregiver is available, or is employed and cannot arrange for time off from work, or would have to travel a great distance to the field office. In this situation, we may conduct the investigation to determine the payee applicant's suitability to serve as a representative payee without a face-to-face interview. We may decide subsequent face-to-face interviews are impracticable for an organizational representative payee applicant when the organization is known by the field office as a suitable payee. We base this decision on the organization's past performance, recent contacts, and its knowledge of and compliance with reporting requirements.

8. Revise § 404.2025 to read as follows:

§ 404.2025 What information must a representative payee report to us?

Anytime after we select a representative payee for you, we may ask your payee to give us information showing a continuing relationship with you, a continuing responsibility for your care, and how he/she used the payments on your behalf. If your representative payee does not give us the requested information within a reasonable period of time, we may stop sending your benefit payment to him/her—unless we determine that he/she had a satisfactory reason for not meeting our request and we subsequently receive the requested information. If we decide to stop sending your payment to your representative payee, we will consider paying you directly (in accordance with § 404.2011) while we look for a new payee.

9. Revise § 404.2030 to read as follows:

§ 404.2030 How will we notify you when we decide you need a representative payee?

(a) We notify you in writing of our determination to make representative payment. This advance notice explains that we have determined that representative payment is in your interest, and it provides the name of the representative payee we have selected. We send this notice before we actually appoint the payee and allow you 10 days from the receipt of the notice to protest the proposed payee appointment before we certify payment to the payee. If you are under age 15, an unemancipated minor under the age of 18, or legally incompetent, our written notice goes to your legal guardian or legal representative. The advance notice:

(1) Contains language that is easily understandable to the reader.

(2) Identifies the person designated as your representative payee.

(3) Explains that you, your legal guardian, or your legal representative can appeal our determination that you need a representative payee.

(4) Explains that you, your legal guardian, or your legal representative can appeal our designation of a particular person or organization to serve as your representative payee.

(5) Explains that you, your legal guardian, or your legal representative can review the evidence upon which our designation of a particular representative payee is based and submit additional evidence.

(b) If you, your legal guardian, or your legal representative objects to representative payment or to the designated payee, we will handle the objection as follows:

(1) If you disagree with the decision and wish to file an appeal, we will process it under subpart J of this part.

(2) If you file the appeal before the decision takes effect, we will delay the action until we make a decision.

10. Revise § 404.2040a to read as follows:

§ 404.2040a Compensation for qualified organizations serving as representative payees.

(a) *Organizations that can request compensation.* A qualified organization can request us to authorize it to collect a monthly fee from your benefit payment. A qualified organization is:

(1) Any State or local government agency with fiduciary responsibilities or whose mission is to carry out income maintenance, social service, or health care-related activities; or

(2) Any community-based nonprofit social service organization founded for religious, charitable or social welfare purposes which is licensed in the State in which it serves as representative payee or bonded.

(b) *What requirements must qualified organizations meet?* Organizations that are qualified under paragraphs (a)(1) or (a)(2) of this section must also meet the following requirements before we can authorize them to collect a monthly fee.

(1) A qualified organization must regularly provide representative payee services concurrently to at least five beneficiaries. An organization which has received our authorization to collect a fee for representative payee services, but is temporarily (not more than 6 months) not a payee for at least five beneficiaries, may request our approval to continue to collect fees for those beneficiaries it currently serves during this short period in which the qualified organization has less than 5 beneficiaries. A qualified organization may not collect a fee unless the conditions in paragraph (g)(3) of this section are met.

(2) A qualified organization must demonstrate that it is not a creditor of the beneficiary. See paragraph (c) of this section for exceptions to the requirement regarding creditors.

(c) *Creditor relationship.* On a case-by-case basis, we may authorize an organization to collect a fee for payee services despite the creditor relationship. (For example, the creditor is the beneficiary's landlord.) To provide this authorization, we will review all of the evidence submitted by the organization and authorize collection of a fee when:

(1) The creditor services (*e.g.*, providing housing) provided by the organization help to meet the current needs of the beneficiary; and

(2) The amount the organization charges the beneficiary for these services is commensurate with the beneficiary's ability to pay.

(d) *Authorization process.* (1) An organization must request in writing and receive an authorization from us before it may collect a fee.

(2) An organization seeking authorization to collect a fee must also give us evidence to show that it is qualified, pursuant to paragraphs (a), (b), and (c) of this section, to collect a fee.

(3) If the evidence provided to us by the organization shows that it meets the requirements of this section, and additional investigation by us proves it suitable to serve, we will notify the organization in writing that it is authorized to collect a fee. If we need more evidence, or if we are not able to authorize the collection of a fee, we will also notify the organization in writing that we have not authorized the collection of a fee.

(e) *Revocation and cancellation of the authorization.* (1) We will revoke an authorization to collect a fee if we have evidence which establishes that an organization no longer meets the requirements of this section. We will issue a written notice to the organization explaining the reason(s) for the revocation.

(2) An organization may cancel its authorization at any time upon written notice to us.

(f) *Notices.* The written notice we will send to an organization authorizing the collection of a fee will contain an effective date for the collection of a fee pursuant to paragraphs (a), (b) and (c) of this section. The effective date will be no earlier than the month in which the organization asked for authorization to collect a fee. The notice will be applicable to all beneficiaries for whom the organization was payee at the time of our authorization and all beneficiaries for whom the organization becomes payee while the authorization is in effect.

(g) *Limitation on fees.* (1) An organization authorized to collect a fee under this section may collect from a beneficiary a monthly fee for expenses (including overhead) it has incurred in providing payee services to a beneficiary. The limit on the fee a qualified organization may collect for providing payee services increases by the same percentage as the annual cost of living adjustment (COLA). The increased fee amount (rounded to the nearest dollar) is taken beginning with the benefit for December (received in January).

(2) Any agreement providing for a fee in excess of the amount permitted shall be void and treated as misuse of your benefits by the organization under § 404.2041.

(3) A fee may be collected for any month during which the organization—

(i) Provides representative payee services;

(ii) Receives a benefit payment for the beneficiary; and

(iii) Is authorized to receive a fee for representative payee services.

(4) Fees for services may not be taken from any funds conserved for the beneficiary by a payee in accordance with § 404.2045.

(5) Generally, an organization may not collect a fee for months in which it does not receive a benefit payment. However, an organization will be allowed to collect a fee for months in which it did not receive a payment if we later issue payment for these months and the organization:

(i) Received our approval to collect a fee for the months for which payment is made;

(ii) Provided payee services in the months for which payment is made; and

(iii) Was the payee when the retroactive payment was paid by us.

(6) An authorized organization can collect a fee for providing representative payee services from another source if the total amount of the fee collected from both the beneficiary and the other source does not exceed the amount authorized by us.

11. Revise § 404.2041 to read as follows:

§ 404.2041 Who is liable if your representative payee misuses your benefits?

(a) A representative payee who misuses your benefits is responsible for paying back misused benefits. We will make every reasonable effort to obtain restitution of misused benefits so that these benefits can be repaid to you.

(b) We will repay benefits in cases when we determine that a representative payee misused benefits and we were negligent in the investigation or monitoring of that representative payee. When we make restitution, we will pay you or your alternative representative payee an amount equal to the misused benefits less any amount repaid by the misuser.

(c) The term ''negligent failure'' used in this subpart means that we failed to investigate or monitor a representative payee or that we did investigate or monitor a representative payee but did not follow established procedures in our investigation or monitoring. Examples of our negligent failure include, but are not limited to, the following:

(1) We did not follow our established procedures in this subpart when investigating, appointing, or monitoring a representative payee;

(2) We did not timely investigate a reported allegation of misuse; or

(3) We did not take the necessary steps to prevent the issuance of payments to the representative payee after it was determined that the payee misused benefits.

(d) Our repayment of misused benefits under these provisions does not alter the representative payee's liability and responsibility as described in paragraph (a) of this section.

12. Revise § 404.2050 to read as follows:

§ 404.2050 When will we select a new representative payee for you?

When we learn that your interest is not served by sending your benefit payment to your present representative payee or that your present payee is no longer able or willing to carry out payee responsibilities, we will promptly stop sending your payment to the payee. We will then send your benefit payment to an alternative payee or directly to you, until we find a suitable payee. We may suspend payment as explained in § 404.2011(c) if we find that paying you directly would cause substantial harm and we cannot find a suitable alternative representative payee before your next payment is due. We will terminate payment of benefits to your representative payee and find a new payee or pay you directly if the present payee:

(a) Has been found by us or a court of competent jurisdiction to have misused your benefits;

(b) Has not used the benefit payments on your behalf in accordance with the guidelines in this subpart;

(c) Has not carried out the other responsibilities described in this subpart;

(d) Dies;

(e) No longer wishes to be your payee;

(f) Is unable to manage your benefit payments; or

(g) Fails to cooperate, within a reasonable time, in providing evidence, accounting, or other information we request.

13. Revise § 404.2065 to read as follows:

§ 404.2065 How does your representative payee account for the use of benefits?

A representative payee must account for the use of benefits. We require written reports from your representative payee no less than annually (except for certain State institutions which participate in a separate onsite review program). We may verify how your representative payee used the funds. Your representative payee should keep records of how benefits were used in order to make accounting reports and make those records available upon our request. We may ask your representative payee to give us the following information:

(a) Where you lived during the accounting period;

(b) Who made the decisions on how your benefits were spent or saved;

(c) How your benefit payments were used; and

(d) How much of your benefit payments were saved and how the savings were invested.

PART 408—SPECIAL BENEFITS FOR CERTAIN WORLD WAR II VETERANS (SVB)

14. Add new subpart F to part 408 to read as follows:

Subpart F—Representative Payment

Sec.

408.601 What is this subpart about?
408.610 When will we send your SVB payments to a representative payee?
408.611 What happens to your monthly benefits while we are finding a suitable representative payee for you?
408.615 What information do we consider in determining whether we will pay your benefits to a representative payee?
408.620 What information do we consider in selecting the proper representative payee for you?
408.621 What is our order of preference in selecting a representative payee for you?
408.622 Who may not serve as a representative payee?
408.624 How do we investigate a representative payee applicant?
408.625 What information must a representative payee report to us?
408.630 How will we notify you when we decide you need a representative payee?
408.635 What are the responsibilities of your representative payee?
408.640 How must your representative payee use your benefits?
408.641 Who is liable if your representative payee misuses your benefits?
408.645 What must your representative payee do with unused benefits?
408.650 When will we select a new representative payee for you?
408.655 When will we stop making your payments to a representative payee?
408.660 What happens to your accumulated funds when your representative payee changes?
408.665 How does your representative payee account for the use of your SVB payments?

Subpart F—Representative Payment

Authority: Secs. 702(a)(5), 807, and 810 of the Social Security Act (42 U.S.C. 902(a)(5), 1007, and 1010).

§ 408.601 What is this subpart about?

(a) *Explanation of representative payment.* This subpart explains the policies and procedures we follow to determine whether to pay your benefits to a representative payee and to select a representative payee for you. It also explains the responsibilities your representative payee has for using the funds he or she receives on your behalf. A representative payee may be either an individual or an organization. We will select a representative payee to receive your benefits if we believe your interests will be better served by paying a representative payee than by paying you directly. Generally, we appoint a representative payee if we determine you are unable to manage or direct the management of your own benefit payments. Because the representative payment policies and procedures we use for the title VIII program closely parallel our title II policies and procedures, we provide cross-references to the appropriate material in our title II representative payment rules in subpart U of part 404 of this chapter.

(b) *Policy we use to determine whether to make representative payment.* For an explanation of the policy we use to determine whether to pay your SVB to a representative payee, see § 404.2001(b) of this chapter.

§ 408.610 When will we send your SVB payments to a representative payee?

In determining when we will pay your benefits to a representative payee, we follow the rules in § 404.2010(a) of this chapter.

§ 408.611 What happens to your monthly benefits while we are finding a suitable representative payee for you?

For an explanation of the policy we use to determine what happens to your monthly benefits while we are finding a suitable representative payee for you, *see* § 404.2011 of this chapter.

§ 408.615 What information do we consider in determining whether we will pay your benefits to a representative payee?

We determine whether to pay your benefits to a representative payee after considering the information listed in § 404.2015 of this chapter.

§ 408.620 What information do we consider in selecting the proper representative payee for you?

To select a proper representative payee for you, we consider the information listed in § 404.2020 of this chapter.

§ 408.621 What is our order of preference in selecting a representative payee for you?

We use the preference list in § 404.2021(a) of this chapter as a guide in selecting the proper representative payee for you.

§ 408.622 Who may not serve as a representative payee?

For a list of individuals who may not serve as a representative payee, *see* § 404.2022 of this chapter.

§ 408.624 How do we investigate a representative payee applicant?

Before selecting an individual or organization as your representative payee, we investigate him or her following the rules in § 404.2024 of this chapter.

§ 408.625 What information must a representative payee report to us?

Your representative payee must report to us information as described in § 404.2025 of this chapter.

§ 408.630 How will we notify you when we decide you need a representative payee?

(a) We notify you in writing of our determination to make representative payment. The notice explains that we have determined that representative payment is in your interest, and it provides the name of the representative payee we have selected. The notice:

(1) Contains language that is easily understandable to the reader.

(2) Identifies the person designated as your representative payee.

(3) Explains that you, your legal guardian, or your legal representative can appeal our determination that you need a representative payee.

(4) Explains that you, your legal guardian, or your legal representative can appeal our designation of a particular person to serve as representative payee.

(b) If you, your legal guardian, or your legal representative objects to representative payment or to the designated payee, you can file a formal appeal.

§ 408.635 What are the responsibilities of your representative payee?

For a list of your representative payee's responsibilities, *see* § 404.2035 of this chapter.

§ 408.640 How must your representative payee use your benefits?

Your representative payee must use your benefits in accordance with the rules in § 404.2040 of this chapter.

§ 408.641 Who is liable if your representative payee misuses your benefits?

For the rules we follow to determine who is liable for repayment of misused benefits, *see* § 404.2041 of this chapter.

§ 408.645 What must your representative payee do with unused benefits?

If your representative payee has accumulated benefits for you, he or she must conserve or invest them as provided in § 404.2045 of this chapter.

§ 408.650 When will we select a new representative payee for you?

We follow the rules in § 404.2050 of this chapter to determine when we will select a new representative payee for you.

§ 408.655 When will we stop making your payments to a representative payee?

To determine when we will stop representative payment for you, we follow the rules in § 404.2055 of this chapter.

§ 408.660 What happens to your accumulated funds when your representative payee changes?

For a description of what happens to your accumulated funds (including the interest earned on the funds) when we change your representative payee or when you begin receiving benefits directly, see § 404.2060 of this chapter.

§ 408.665 How does your representative payee account for the use of your SVB payments?

Your representative payee must account for the use of your benefits as specified in § 404.2065 of this chapter.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND AND DISABLED

15. The authority citation for subpart F continues to read as follows:

Authority: Secs. 702(a)(5), 1631(a)(2) and (d)(1) of the Social Security Act (42 U.S.C. 902(a)(5) and 1383(a)(2) and (d)(1)).

16. Add § 416.611 to read as follows:

§ 416.611 What happens to your monthly benefits while we are finding a suitable representative payee for you?

(a) *We may pay you directly.* We will pay current monthly benefits directly to you while finding a suitable representative payee unless we determine that paying you directly would cause substantial harm to you. We determine substantial harm as follows:

(1) If you are receiving disability payments and we have determined that you have a drug addiction or alcoholism condition, or you are legally incompetent, or you are under age 15, we will presume that substantial harm exists. However, we will allow you to dispute this presumption by presenting evidence that direct payment would not cause you substantial harm.

(2) If you do not fit any of these categories, we make findings of substantial harm on a case-by-case basis. We consider all matters that may affect your ability to manage your benefits in your own best interest. We decide that substantial harm exists if both of the following conditions exist:

(i) Directly receiving benefits can be expected to cause you serious physical or mental injury.

(ii) The possible effect of the injury would outweigh the effect of having no income to meet your basic needs.

(b) *We may delay or suspend your payments.* If we find that direct payment will cause substantial harm to you, we may delay (in the case of initial eligibility for benefits) or suspend (in the case of existing eligibility for benefits) payments for as long as 1 month while we try to find a suitable representative payee. If we do not find a payee within one month, we will pay you directly. If you are receiving disability payments and we have determined that you have a drug addiction or alcoholism condition, or you are legally incompetent, or you are under age 15, we will withhold payment until a representative payee is appointed even if it takes longer than one month. We will, however, as noted in paragraph (a)(1) of this section, allow you to present evidence to dispute the presumption that direct payment would cause you substantial harm. *See* § 416.601(b)(3) for our policy on suspending the benefits if you are currently receiving benefits directly.

Example 1: Substantial Harm Exists. We are unable to find a representative payee for Mr. X, a 67 year old retirement beneficiary

who is an alcoholic. Based on contacts with the doctor and beneficiary, we determine that Mr. X was hospitalized recently for his drinking. Paying him directly will cause injury, so we may delay payment for as long as one month based on substantial harm while we locate a suitable representative payee.

Example 2: Substantial Harm Does Not Exist. We approve a claim for Mr. Y, a title XVI claimant who suffers from a combination of mental impairments but who is not legally incompetent. We determine that Mr. Y needs assistance in managing benefits, but we have not found a representative payee. Although we believe that Mr. Y may not use the money wisely, there is no indication that receiving funds directly would cause him substantial harm (*i.e.*, physical or mental injury). We must pay current benefits directly to Mr. Y while we locate a suitable representative payee.

(c) *How we pay delayed or suspended benefits.* Payment of benefits, which were delayed or suspended pending appointment of a representative payee, can be made to you or your representative payee as a single sum or in installments when we determine that installments are in your best interest.

17. Amend § 416.621 by revising the heading and paragraph (a) introductory text, redesignating paragraph (b) as paragraph (c) and adding new paragraph (b) to read as follows:

§ 416.621 What is our order of preference in selecting a representative payee for you?

* * * * *

(a) For beneficiaries 18 years old or older (except those described in paragraph (b) of this section), our preference is—

* * * * *

(b) For individuals who are disabled and who have a drug addiction or alcoholism condition our preference is—

(1) A community-based nonprofit social service agency licensed by the State, or bonded;

(2) A Federal, State or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities;

(3) A State or local government agency with fiduciary responsibilities;

(4) A designee of an agency (other than a Federal agency) referred to in paragraphs (b)(1), (2), and (3) of this section, if appropriate; or

(5) A family member.

* * * * *

18. Add § 416.622 to read as follows:

§ 416.622 Who may not serve as a representative payee?

A representative payee applicant may not serve if he/she:

(a) Has been convicted of a violation under section 208, 811 or 1632 of the Social Security Act.

(b) Receives title II, VIII, or XVI benefits through a representative payee.

(c) Previously served as a representative payee and was found by us, or a court of competent jurisdiction, to have misused title II, VIII or XVI benefits. However, if we decide to make an exception to the prohibition, we must evaluate the payee's performance at least every 3 months until we are satisfied that the payee poses no risk to the beneficiary's best interest. Exceptions are made on a case-by-case basis if all of the following are true.

(1) Direct payment of benefits to the beneficiary is not in the beneficiary's interest.

(2) No suitable alternative payee is available.

(3) Selecting the payee applicant as representative payee would be in the best interest of the beneficiary.

(4) The information we have indicates the applicant is now suitable to serve as a representative payee.

(5) The payee applicant has repaid the misused benefits or has a plan to repay them.

(d) Applicant is a creditor. A creditor is someone who provides you with goods or services for consideration. This restriction does not apply to the creditor who poses no risk to you and whose financial relationship with you presents no substantial conflict of interest, and is any of the following:

(1) A relative living in the same household as you do.

(2) Your legal guardian or legal representative.

(3) A facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State.

(4) A qualified organization authorized to collect a monthly fee from you for expenses incurred in providing representative payee services for you, under § 416.640a.

(5) An administrator, owner, or employee of the facility in which you live and we are unable to locate an alternative representative payee.

(6) Any other individual we deem appropriate based on a written determination.

Example 1: Sharon applies to be representative payee for Ron who we have determined needs assistance in managing his benefits. Sharon has been renting a room to Ron for several years and assists Ron in handling his other financial obligations, as needed. She charges Ron a reasonable amount of rent. Ron has no other family or friends willing to help manage his benefits or to act as representative payee. Sharon has demonstrated that her interest in and concern for Ron goes beyond her desire to collect the rent each month. In this instance, we may select Sharon as Ron's representative payee because a more suitable payee is not available, she appears to pose no risk to Ron and there is minimal conflict of interest. We will document this decision.

Example 2: In a situation similar to the one above, Ron's landlord indicates that she is applying to be payee only to ensure receipt of her rent. If there is money left after payment of the rent, she will give it directly to Ron to manage on his own. In this situation, we would not select the landlord as Ron's representative payee because of the substantial conflict of interest and lack of interest in his well being.

19. Add § 416.624 to read as follows:

§ 416.624 How do we investigate a representative payee applicant?

Before selecting an individual or organization to act as your representative payee, we will perform an investigation.

(a) *Nature of the investigation.* As part of the investigation, we do the following:

(1) Conduct a face-to-face interview with the payee applicant unless it is impracticable as explained in paragraph (b) of this section.

(2) Require the payee applicant to submit documented proof of identity, unless information establishing identity has recently been submitted with an application for title II, VIII or XVI benefits.

(3) Verify the payee applicant's Social Security account number or employer identification number.

(4) Determine whether the payee applicant has been convicted of a violation of section 208, 811 or 1632 of the Social Security Act.

(5) Determine whether the payee applicant has previously served as a representative payee and if they had an appointment as payee revoked or terminated for misusing title II, VIII or XVI benefits.

(6) Use our records to verify the payee applicant's employment and/or direct receipt of title II, VIII, or XVI benefits.

(7) Verify the payee applicant's concern for the beneficiary with the beneficiary's custodian or other interested person.

(8) Require the applicant to provide adequate information showing his or her relationship to the beneficiary and describe his or her responsibility for the care of the beneficiary.

(9) Determine whether the payee applicant is a creditor of the beneficiary (*see* § 416.622(d)).

(b) *A face-to-face interview.* We may consider a face-to-face interview impracticable if it would cause the payee applicant undue hardship. For example, the payee applicant cares for children or disabled individuals in the home and no alternative caregiver is

available, or is employed and cannot arrange for time off from work, or would have to travel a great distance to the field office. In this situation, we may conduct the investigation to determine the payee applicant's suitability to serve as a representative payee without a face-to-face interview. We may decide subsequent face-to-face interviews are impracticable for an organizational representative payee applicant when the organization is known by the field office as a suitable payee. We base this decision on the organization's past performance, recent contacts, and its knowledge of and compliance with reporting requirements.

20. Revise § 416.625 to read as follows:

§ 416.625 What information must a representative payee report to us?

Anytime after we select a representative payee for you, we may ask your payee to give us information showing a continuing relationship with you, a continuing responsibility for your care, and how he/she used the payments on your behalf. If your representative payee does not give us the requested information within a reasonable period of time, we may stop sending your benefit payment to him/her—unless we determine that he/she had a satisfactory reason for not meeting our request and we subsequently receive the requested information. If we decide to stop sending your benefit payment to your representative payee, we will consider paying you directly (in accordance with § 416.611) while we look for a new payee.

21. Revise § 416.630 to read as follows:

§ 416.630 How will we notify you when we decide you need a representative payee?

(a) We notify you in writing of our determination to make representative payment. This advance notice explains that we have determined that representative payment is in your interest, and it provides the name of the representative payee we have selected. We send this notice before we actually appoint the payee and allow you 10 days from the receipt of the notice to protest the proposed payee appointment before we certify payment to the payee. If you are under age 15, an unemancipated minor under the age of 18, or legally incompetent, our written notice goes to your legal guardian or legal representative. The advance notice:

(1) Contains language that is easily understandable to the reader.

(2) Identifies the person designated as your representative payee.

(3) Explains that you, your legal guardian, or your legal representative can appeal our determination that you need a representative payee.

(4) Explains that you, your legal guardian, or your legal representative can appeal our designation of a particular person to serve as your representative payee.

(5) Explains that you, your legal guardian, or your legal representative can review the evidence upon which our designation of a particular representative payee is based and submit additional evidence.

(b) If you, your legal guardian, or your legal representative objects to representative payment or to the designated payee, we will handle the objection as follows:

(1) If you disagree with the decision and wish to file an appeal, we will process it under subpart N of this part.

(2) If you file the appeal before the decision takes effect, we will delay the action until we make a decision.

22. Revise § 416.640a to read as follows:

§ 416.640a Compensation for qualified organizations serving as representative payees.

(a) *Organizations that can request compensation.* A qualified organization can request us to authorize it to collect a monthly fee from your benefit payment. A qualified organization is:

(1) Any State or local government agency with fiduciary responsibilities or whose mission is to carry out income maintenance, social service, or health care-related activities; or

(2) Any community-based nonprofit social service organization founded for religious, charitable or social welfare purposes which is licensed in the State in which it serves as representative payee or bonded.

(b) *What requirements must qualified organizations meet?* Organizations that are qualified under paragraphs (a)(1) or (a)(2) of this section must also meet the following requirements before we can authorize them to collect a monthly fee.

(1) A qualified organization must regularly provide representative payee services concurrently to at least five beneficiaries. An organization which has received our authorization to collect a fee for representative payee services, but is temporarily (not more than 6 months) not a payee for at least five beneficiaries, may request our approval to continue to collect fees.

(2) A qualified organization must demonstrate that it is not a creditor of the beneficiary. *See* paragraph (c) of this section for exceptions to the requirement regarding creditors.

(c) *Creditor relationship.* On a case-by-case basis, we may authorize an organization to collect a fee for payee services despite the creditor relationship. (For example, the creditor is the beneficiary's landlord.) To provide this authorization, we will review all of the evidence submitted by the organization and authorize collection of a fee when:

(1) The creditor services (*e.g.*, providing housing) provided by the organization help to meet the current needs of the beneficiary; and

(2) The amount the organization charges the beneficiary for these services is commensurate with the beneficiary's ability to pay.

(d) *Authorization process.* (1) An organization must request in writing and receive an authorization from us before it may collect a fee.

(2) An organization seeking authorization to collect a fee must also give us evidence to show that it is qualified, pursuant to paragraphs (a), (b), and (c) of this section, to collect a fee.

(3) If the evidence provided to us by the organization shows that it meets the requirements of this section, and additional investigation by us proves it suitable to serve, we will notify the organization in writing that it is authorized to collect a fee. If we need more evidence, or if we are not able to authorize the collection of a fee, we will also notify the organization in writing that we have not authorized the collection of a fee.

(e) *Revocation and cancellation of the authorization.* (1) We will revoke an authorization to collect a fee if we have evidence which establishes that an organization no longer meets the requirements of this section. We will issue a written notice to the organization explaining the reason(s) for the revocation.

(2) An organization may cancel its authorization at any time upon written notice to us.

(f) *Notices.* The written notice we will send to an organization authorizing the collection of a fee will contain an effective date for the collection of a fee pursuant to paragraphs (a), (b) and (c) of this section. The effective date will be no earlier than the month in which the organization asked for authorization to collect a fee. The notice will be applicable to all beneficiaries for whom the organization was payee at the time of our authorization and all beneficiaries for whom the organization becomes payee while the authorization is in effect.

(g) *Limitation on fees.* (1) An organization authorized to collect a fee

under this section may collect from a beneficiary a monthly fee for expenses (including overhead) it has incurred in providing payee services to a beneficiary. The limit on the fee a qualified organization may collect for providing payee services increases by the same percentage as the annual cost of living adjustment (COLA). The increased fee amount (rounded to the nearest dollar) is taken beginning with the payment for January.

(2) Any agreement providing for a fee in excess of the amount permitted shall be void and treated as misuse of your benefits by the organization under § 416.641.

(3) A fee may be collected for any month during which the organization—

(i) Provides representative payee services;

(ii) Receives a benefit payment for the beneficiary; and

(iii) Is authorized to receive a fee for representative payee services.

(4) Fees for services may not be taken from any funds conserved for the beneficiary by a payee in accordance with § 416.645.

(5) Generally, an organization may not collect a fee for months in which it does not receive a benefit payment. However, an organization will be allowed to collect a fee for months in which it did not receive a payment if we later issue payment for these months and the organization:

(i) Received our approval to collect a fee for the months for which payment is made;

(ii) Provided payee services in the months for which payment is made; and

(iii) Was the payee when the retroactive payment was paid by us.

(6) An authorized organization can collect a fee for providing representative payee services from another source if the total amount of the fee collected from both the beneficiary and the other source does not exceed the amount authorized by us.

23. Revise § 416.641 to read as follows:

§ 416.641 Who is liable if your representative payee misuses your benefits?

(a) A representative payee who misuses your benefits is responsible for paying back misused benefits. We will make every reasonable effort to obtain restitution of misused benefits so that these benefits can be repaid to you.

(b) We will repay benefits in cases when we determine that a representative payee misused benefits and we were negligent in the investigation or monitoring of that representative payee. When we make restitution, we will pay you or your alternative representative payee an amount equal to the misused benefits less any amount repaid by the misuser.

(c) The term ''negligent failure'' used in this subpart means that we failed to investigate or monitor a representative payee or that we did investigate or monitor a representative payee but did not follow established procedures in our investigation or monitoring. Examples of our negligent failure include, but are not limited to, the following:

(1) We did not follow our established procedures in this subpart when investigating, appointing, or monitoring a representative payee;

(2) We did not investigate timely a reported allegation of misuse; or

(3) We did not take the steps necessary to prevent the issuance of payments to the representative payee after it was determined that the payee misused benefits.

(d) Our repayment of misused benefits under these provisions does not alter the representative payee's liability and responsibility as described in paragraph (a) of this section.

24. Revise § 416.650 to read as follows:

§ 416.650 When will we select a new representative payee for you?

When we learn that your interest is not served by sending your benefit payment to your present representative payee or that your present payee is no longer able or willing to carry out payee responsibilities, we will promptly stop sending your payment to the payee. We will then send your benefit payment to an alternative payee or directly to you, until we find a suitable payee. We may suspend payment as explained in § 416.611(c) if we find that paying you directly would cause substantial harm and we cannot find a suitable alternative representative payee before your next payment is due. We will terminate payment of benefits to your representative payee and find a new payee or pay you directly if the present payee:

(a) Has been found by us or a court of competent jurisdiction to have misused your benefits;

(b) Has not used the benefit payments on your behalf in accordance with the guidelines in this subpart;

(c) Has not carried out the other responsibilities described in this subpart;

(d) Dies;

(e) No longer wishes to be your payee;

(f) Is unable to manage your benefit payments; or

(g) Fails to cooperate, within a reasonable time, in providing evidence, accounting, or other information we request.

25. Revise § 416.665 to read as follows:

§ 416.665 How does your representative payee account for the use of benefits?

A representative payee must account for the use of benefits. We require written reports from your representative payee no less than annually (except for certain State institutions which participate in a separate onsite review program). We may verify how your representative payee used the funds. Your representative payee should keep records of how benefits were used in order to make accounting reports and make those records available upon our request. We may ask your representative payee to give us the following information:

(a) Where you lived during the accounting period;

(b) Who made the decisions on how your benefits were spent or saved;

(c) How your benefit payments were used; and

(d) How much of your benefit payments were saved and how the savings were invested.

26. The authority citation for subpart N continues to read as follows:

Authority: Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383(b)); 31 U.S.C. 3720A.

27. Amend § 416.1402 by revising paragraph (d), removing the word ''and'' at the end of paragraph (m), replacing the period at the end of paragraph (n) with ''; and,'' and adding paragraph (o) to read as follows:

§ 416.1402 Administrative actions that are initial determinations.

* * * * *

(d) Whether the payment of your benefits will be made, on your behalf, to a representative payee;

* * * * *

(o) Whether we were negligent in failing to investigate or monitor your representative payee, which resulted in the misuse of benefits by your representative payee.

[FR Doc. 03–24017 Filed 9–24–03; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA28

Customer Identification Programs for Financial Institutions

AGENCY: Departmental Offices, Treasury.

ACTION: Disposition of comments and termination of inquiry.

SUMMARY: The Department of the Treasury is announcing the results of its July 1, 2003, Notice of Inquiry that sought comment on two aspects of the final rules issued pursuant to section 326 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (the Act). Following a review of comments and a careful analysis of the issues, Treasury has determined that no changes to the final rules are warranted.

FOR FURTHER INFORMATION CONTACT: Office of the General Counsel, (202) 622–1927.

SUPPLEMENTARY INFORMATION:

I. Background

On May 9, 2003, the Department of the Treasury (Treasury), through the Financial Crimes Enforcement Network (FinCEN), together with the federal functional regulators, jointly issued final rules implementing section 326 of the Act.[1] The final rules require banks, securities broker-dealers, mutual funds, and futures commission merchants and introducing brokers to establish reasonable procedures for the identification and verification of new accountholders. These rules became effective on June 9, 2003, although financial institutions have until October 1, 2003 to come into compliance.

On July 1, 2003, Treasury published a Notice of Inquiry seeking additional comment on two discrete aspects of the final rules: (i) Whether and under what circumstances financial institutions should be required to retain photocopies of identification documents relied on to verify customer identity; and (ii) whether there are situations when the regulations should preclude reliance on certain forms of foreign government-issued identification to verify customer identity.[2]

II. Summary of Comments

Treasury received over 34,000 comments in response to the Notice of Inquiry.[3] All comments have been reviewed. Treasury received comments from a wide variety of individuals and entities, including members of Congress, the Department of Justice, representatives and officials of State and local governments, the financial services industry (including the banking, securities, mutual fund, and insurance industries), faith-based organizations, advocacy groups, and interested citizens.

The Photocopy Issue: Treasury received approximately 10,700 comments relating to the question of whether the final rules should require financial institutions to make and retain photocopies of identification documents relied upon to verify identity. As issued, the final regulations do not require financial institutions to photocopy identification documents. Although it is not dispositive of the issue, Treasury notes that the great majority of those submitting comments, nearly 90 percent, did not believe that the rules should be amended to require financial institutions to make and retain photocopies of identification documents.

The Foreign Identification Documents Issue: Treasury received approximately 24,000 comments relating to the question of whether the final rules should preclude financial institutions from relying on certain forms of identification issued by a foreign government. As issued, the final rules neither endorse nor preclude reliance on particular forms of foreign government issued identification. Virtually all comments were directed toward encouraging Treasury either to allow financial institutions to accept, or to preclude them from accepting, the Mexican consular identification document, the Matricula Consular. Indeed, many of the comments addressed questions of immigration policy, rather than the security of such documents. Again, although not dispositive of the issue, the vast majority of those submitting comments, nearly 83 percent, did not believe that the final rules should be changed to preclude reliance on certain forms of identification issued by a foreign government.

III. Resolution

Treasury issued the Notice of Inquiry to enhance the administrative record with respect to the two issues outlined above. The addition of over 34,000 comments has done precisely that. Despite the volume of comments received, the comments presented no new arguments or information relative to the requirements of the final rules that Treasury and the financial regulators did not already consider in developing the final rules.

Treasury remains persuaded, as it was at the conclusion of the rulemaking process, that requiring photocopies of identification documents is not an appropriate requirement to impose. While individual financial institutions may well determine that it is prudent to photocopy identification documents in some instances, an across-the-board requirement is inconsistent with the risk-based approach of the final rules and is not warranted.

The divergence of opinion concerning the relative security of consular identification cards demonstrates the difficulties associated with drafting a rule that would purport to specify ''unacceptable'' documents. And, given the wide array of identity documents available, the security and reliability of which is constantly changing, it makes little sense from a regulatory perspective to specify individual types of documents that cannot be used within the regulation itself. Any such list would inevitably be quickly out of date and may provide financial institutions with an unwarranted sense of security about documents that are not prohibited. Treasury is committed to protecting the financial system from abuse by those seeking to finance terrorism or commit financial crimes. This commitment includes providing financial institutions with information relating to the security and reliability of identification cards. Treasury will use appropriate methods, both formal and informal, to ensure that such information is collected and shared with the financial community to assist them in verifying the identity of their customers.

IV. Compliance Deadline

Numerous commenters from the financial community requested that Treasury extend the October 1, 2003 deadline for complying with the customer identification regulations in light of the Notice of Inquiry. The implementation deadline will not be extended. Treasury expects all financial institutions covered by the customer identification regulations to have their customer identification program drafted and approved by October 1, 2003.

[1] *See* 68 FR 25089–25162. The Federal functional regulators include the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, the Securities and Exchange Commission, and the Commodity Futures Trading Commission. In addition to the joint rules, FinCEN also issued separately a rule applicable to various state chartered institutions lacking a Federal functional regulator.

[2] 68 FR 39039.

[3] Treasury received over 27,000 comment letters, e-mails, and web postings. Many of the comment letters offered separate opinions on the two issues, thus raising the total number of comments received on the two issues to over 34,000.

Dated: September 17, 2003.

Wayne A. Abernathy,

Assistant Secretary of the Treasury.

[FR Doc. 03–24226 Filed 9–24–03; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

[Air Force Instruction 33–332]

Privacy Act; Implementation

AGENCY: Department of the Air Force, DoD.

ACTION: Proposed rule.

SUMMARY: The Department of the Air Force proposes to revise the Privacy Act Program Instruction. The revision moves responsibility for the Air Force Privacy Program from AFCIC to AF–CIO; prescribes AFVA 33–276, Privacy Act Label as optional; adds the E-Gov Act of 2002 requirement for a Privacy Impact Assessment for all information systems that are new or have major changes; changes appeal processing from AFCIC to Air Force Legal Services Agency (AFLSA/JACL); adds Privacy Act warning language to use on information systems subject to the Privacy Act, includes guidance on sending personal information via e-mail; adds procedures on complaints; and provides guidance on recall rosters; social rosters; consent statements, systems of records operated by a contractor, and placing information on shared drives.

DATES: Submit comments on or before October 27, 2003.

ADDRESSES: Address all comments concerning this proposed rule to Mrs. Anne Rollins, Office of the Air Force Chief Information Officer, AF–CIO/P, 1155 Air Force Pentagon, Washington, DC 20330–1155.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins, 703–601–4043.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 806b

Privacy.

For the reasons set forth in the preamble, the Department of the Air Force is revising 32 CFR part 806b as follows:

PART 806b—PRIVACY ACT PROGRAM

Subpart A—Overview of the Privacy Act Program

Sec.
806b.1. Summary of Revisions.
806b.2. Basic Guidelines.
806b.3. Violation Penalties.
806b.4. Privacy Act Complaints.
806b.5. Personal Notes.
806b.6. Systems of Records Operated by a Contractor.
806b.7. Responsibilities.

Subpart B—Obtaining Law Enforcement Records and Confidentiality Promises

806b.8. Obtaining Law Enforcement Records.
806b.9. Confidentiality Promises.

Subpart C—Collecting Personal Information

806b.10. How to Collect Personal Information.
806b.11. When to Give Privacy Act Statements (PAS).
806b.12. Requesting the Social Security Number (SSN).

Subpart D—Giving Access to Privacy Act Records

806b.13. Making a Request for Access.
806b.14. Processing a Request for Access.
806b.15. Fees.
806b.16. Denying or Limiting Access.
806b.17. Special Provision for Certain Medical Records.
806b.18. Third Party Information in a Privacy Act System of Records.
806b.19. Information Compiled in Anticipation of Civil Action.
806b.20. Denial Authorities.

Subpart E—Amending the Record

806b.21. Amendment Reasons.
806b.22. Responding to Amendment Requests.
806b.23. Approving or Denying a Record Amendment.
806b.24. Seeking Review of Unfavorable Agency Determinations.
806b.25. Contents of PA Case Files.

Subpart F—Appeals

806b.26. Appeal Procedures.

Subpart G—Privacy Act Notifications

806b.27. When to Include a Privacy Act Warning Statement in Publications.
806b.28. Warning Banners.
806b.29. Sending Personal Information Over Electronic Mail.

Subpart H—Privacy Impact Assessments

806b.30. Evaluating Information Systems for Privacy Act Compliance.

Subpart I—Preparing and Publishing System Notices for the Federal Register

806b.31. Publishing System Notices.
806b.32. Submitting Notices for Publication in the **Federal Register**.
806b.33. Reviewing Notices.

Subpart J—Protecting and Disposing of Records

806b.34. Protecting Records.
806b.35. Balancing Protection.
806b.36. Disposing of Records.

Subpart K—Privacy Act Exemptions

806b.37. Exemption Types.
806b.38. Authorizing Exemptions.
806b.39. Requesting an Exemption.
806b.40. Approved Exemptions.

Subpart L—Disclosing Records to Third Parties

806b.41. Disclosure Considerations.
806b.42. Social Rosters.
806b.43. Placing Personal Information on Shared Drives.
806b.44. Personal Information that Requires Protection.
806b.45. Releasable Information.
806b.46. Disclosing Other Information.
806b.47. Rules for Releasing Privacy Act Information Without the Consent of the Subject.
806b.48. Disclosing the Medical Records of Minors.
806b.49. Disclosure Accountings.
806b.50. Computer Matching.
806b.51. Privacy and the Web.

Subpart M—Training

806b.52. Who Needs Training.
806b.53. Training Tools.
806b.54. Information Collections, Records, and Forms or Information Management Tools (IMT).
Appendix A to Part 806b—References
Appendix B to Part 806b—Abbreviations and Acronyms
Appendix C to Part 806b—Terms
Appendix D to Part 806b—Preparing a System Notice
Appendix E to Part 806b—General and Specific Exemptions
Appendix F to Part 806b—Privacy Impact Assessment

Authority: 5 U.S.C. 552a.

Subpart A—Overview of the Privacy Act Program

§ 806b.1 Summary of Revisions.

This part moves responsibility for the Air Force Privacy Program from AFCIC to AF–CIO; prescribes AFVA 33–276, Privacy Act Label as optional; adds the E-Gov Act of 2002 requirement for a Privacy Impact Assessment for all information systems that are new or have major changes; changes appeal processing from AFCIC to Air Force Legal Services Agency (AFLSA/JACL); adds Privacy Act warning language to use on information systems subject to the Privacy Act, includes guidance on sending personal information via e-mail; adds procedures on complaints; and provides guidance on recall rosters; social rosters; consent statements, systems of records operated by a contractor, and placing information on shared drives.

§ 806b.2 Basic Guidelines.

This part implements the Privacy Act of 1974 and applies to records on living U.S. citizens and permanent resident aliens that are retrieved by name or personal identifier. This part also provides guidance on collecting and disseminating personal information in general.

(a) Records that are retrieved by name or personal identifier are subject to Privacy Act (PA) requirements and are referred to as PA systems of records. The Air Force must publish notices in the **Federal Register**, describing the collection of information for new, changed or deleted systems to inform the public and give them an opportunity to comment before implementing or changing the system. (see Appendix D to this part).

(b) An official system of records is:

(1) Authorized by law or Executive Order.

(2) Needed to carry out an Air Force mission or function.

(3) Published in the **Federal Register**.

(c) The Air Force will not:

(1) Keep records on how a person exercises First Amendment rights. EXCEPTIONS are when: The Air Force has the permission of that individual or is authorized by Federal statute; or the information pertains to an authorized law enforcement activity.

(2) Penalize or harass an individual for exercising rights guaranteed under the PA. We must reasonably help individuals exercise their rights under the PA.

(d) Air Force members will:

(1) Keep paper and electronic records that are retrieved by name or personal identifier only in approved PA systems published in the **Federal Register**.

(2) Collect, maintain, and use information in such systems, for purposes described in the published notice, to support programs authorized by law or Executive Order.

(3) Safeguard the records in the system and keep them the minimum time required.

(4) Ensure records are timely, accurate, complete, and relevant.

(5) Amend and correct records on request.

(6) Allow individuals to review and receive copies of their own records unless the Secretary of the Air Force approved an exemption for the system; or the Air Force created the records in anticipation of a civil action or proceeding.

(7) Provide a review of decisions that deny individuals access to or amendment of their records through appellate procedures.

§ 806b.3 Violation Penalties.

An individual may file a civil law suit against the Air Force for failing to comply with the PA. The courts may find an individual offender guilty of a misdemeanor and fine that individual offender not more than $5,000 for:

(a) Willfully maintaining a system of records that doesn't meet the public notice requirements.

(b) Disclosing information from a system of records to someone not entitled to the information.

(c) Obtaining someone else's records under false pretenses.

§ 806b.4 Privacy Act Complaints.

Process PA complaints or allegations of PA violations through the appropriate base or MAJCOM PA office, to the local systems manager. The base or MAJCOM PA officer directs the process and provides guidance to the system manager. The local systems manager will investigate complaints, or allegations of PA violations; will establish and review the facts when possible; interview individuals as needed; determine validity of the complaint; take appropriate corrective action; and ensure a response is sent to the complainant through the PA Officer. In cases where no system manager can be identified, the local PA officer will assume these duties. Issues that cannot be resolved at the local level will be elevated to the MAJCOM Privacy Office. When appropriate, local system managers will also: refer cases for more formal investigation, refer cases for command disciplinary action, and consult the servicing SJA. In unified combatant commands, process component unique system complaints through the respective component chain of command.

§ 806b.5 Personal Notes.

The Privacy Act does not apply to personal notes on individuals used as memory aids. Personal notes may become Privacy Act records if they are retrieved by name or other personal identifier and at least one of the following three conditions apply:

(a) Keeping or destroying the records is not at the sole discretion of the author;

(b) The notes are required by oral or written directive, regulation, or command policy; or

(c) They are shown to other agency personnel.

§ 806b.6 Systems of Records Operated by a Contractor.

Contractors who are required to operate or maintain a PA system of records by contract must follow this part for collecting, safeguarding, maintaining, using, accessing, amending and disseminating personal information. The record system affected is considered to be maintained by the Air Force and is subject to this part. Systems managers for offices who have contractors operating or maintaining such record systems must ensure the contract contains the proper PA clauses, and identify the record system number, as required by the Defense Acquisition Regulation and this part.

(a) Contracts for systems of records operated or maintained by a contractor will be reviewed annually by the appropriate MAJCOM Privacy Officer to ensure compliance with this part.

(b) Disclosure of personal records to a contractor for use in the performance of an Air Force contract is considered a disclosure within the agency under exception (b)(1) of the Privacy Act (see § 806b.47(a)).

§ 806b.7 Responsibilities.

(a) The Air Force Chief Information Officer (AF–CIO) is the senior Air Force Privacy Official with overall responsibility for the Air Force Privacy Act Program.

(b) The Office of the General Counsel to the Secretary of the Air Force (SAF/GCA) makes final decisions on appeals.

(c) The General Litigation Division, AFLSA/JACL, receives PA appeals and provides recommendations to the appellate authority. Service unique appeals, from unified combatant commands, should go through the respective chain of command.

(d) The Plans and Policy Directorate, Office of the Chief Information Officer (AF–CIO/P) manages the program through the Air Force PA Officer who:

(1) Administers procedures outlined in this part.

(2) Reviews publications and forms for compliance with this part.

(3) Reviews and approves proposed new, altered, and amended systems of records; and submits system notices and required reports to the Defense Privacy Office.

(4) Serves as the Air Force member on the Defense Privacy Board and the Defense Data Integrity Board.

(5) Provides guidance and assistance to MAJCOMs, FOAs, DRUs and combatant commands for which AF is executive agent in their implementation and execution of the Air Force Privacy Program. Insures availability of training and training tools for a variety of audiences.

(6) Provides advice and support to those commands to ensure that information requirements developed to collect or maintain personal data conform to PA standards; and that appropriate procedures and safeguards are developed, implemented, and maintained to protect the information.

(e) MAJCOM commanders, and Deputy Chiefs of Staff (DCS) and comparable officials at Secretary of the Air Force and Headquarters United States Air Force (HQ USAF) offices implement this part.

(f) 11th Communications Squadron (11 CS/SCS), will provide PA training and submit PA reports for HQ USAF and SAF offices.

(g) MAJCOM Commanders: Appoint a command PA officer, and send the name, office symbol, phone number, and e-mail address to AF–CIO/P.

(h) MAJCOM and HAF Functional CIOs:

(1) Review and provide final approval on Privacy Impact Assessments (PIA) (see Appendix F).

(2) Send a copy of approved PIAs to AF–CIO/P for forwarding to DoD and Office of Management and Budget (OMB).

(i) MAJCOM PA Officers:

(1) Train base PA officers. May authorize appointment of unit PA monitors to assist with implementation of the program.

(2) Promote PA awareness throughout the organization.

(3) Review publications and forms for compliance with this part (do forms require a Privacy Act Statement (PAS); is PAS correct?)

(4) Submit reports as required.

(5) Review system notices to validate currency.

(6) Evaluate the health of the program at regular intervals using this part as guidance.

(7) Review and provide recommendations on completed Privacy Impact Assessments (PIA) for information systems.

(8) Resolve complaints or allegations of PA violations.

(9) Review and process denial recommendations.

(10) Provide guidance as needed to functionals on implementing the Privacy Act.

(j) Base PA Officers:

(1) Provide guidance and training to base personnel.

(2) Submit reports as required.

(3) Review publications and forms for compliance with this part.

(4) Review system notices to validate currency.

(5) Direct investigations of complaints/violations.

(6) Evaluate the health of the program at regular intervals using this part as guidance.

(k) System Managers:

(1) Manage and safeguard the system.

(2) Train users on PA requirements.

(3) Protect records from unauthorized disclosure, alteration, or destruction.

(4) Prepare system notices and reports.

(5) Answer PA requests.

(6) Records of disclosures.

(7) Validate system notices annually.

(8) Investigate PA complaints.

(l) System owners and developers:

(1) Decide the need for, and content of systems.

(2) Evaluate PA requirements of information systems in early stages of development.

(3) Complete a PIA and submit to the PA Officer:

Subpart B—Obtaining Law Enforcement Records and Confidentiality Promises

§ 806b.8 Obtaining Law Enforcement Records.

The Commander, Air Force Office of Special Investigation (AFOSI); the Commander, Air Force Security Forces Center (HQ AFSFC); MAJCOM, FOA, and base chiefs of security forces; AFOSI detachment commanders; and designees of those offices may ask another agency for records for law enforcement under 5 U.S.C. 552a(b)(7). The requesting office must indicate in writing the specific part of the record desired and identify the law enforcement activity asking for the record.

§ 806b.9 Confidentiality Promises.

Promises of confidentiality must be prominently annotated in the record to protect from disclosure any ''confidential'' information under 5 United States Code 552a (k)(2), (k)(5), or (k)(7) of the Privacy Act.

Subpart C—Collecting Personal Information

§ 806b.10 How To Collect Personal Information.

Collect personal information directly from the subject of the record whenever possible. Only ask third parties when:

(a) You must verify information.

(b) You want opinions or evaluations.

(c) You can't contact the subject.

(d) You are doing so at the request of the subject individual.

§ 806b.11 When To Give Privacy Act Statements (PAS).

Give a PAS orally or in writing to the subject of the record when you are collecting information from them that will go in a system of records.

Note: Do this regardless of how you collect or record the answers. You may display a sign in areas where people routinely furnish this kind of information. Give a copy of the PAS if asked. Do not ask the person to sign the PAS.

(a) A PAS must include four items:

(1) *Authority:* The legal authority, that is, the U.S.C. or Executive Order authorizing the program the system supports.

(2) *Purpose:* The reason you are collecting the information and what you intend to do with it.

(3) *Routine Uses:* A list of where and why the information will be disclosed outside DoD.

(4) *Disclosure:* Voluntary or Mandatory. (Use Mandatory only when disclosure is required by law and the individual will be penalized for not providing information.) Include any consequences of nondisclosure in nonthreatening language.

(b) [Reserved].

§ 806b.12 Requesting the Social Security Number (SSN).

When asking an individual for his or her SSN, always give a Privacy Act Statement that tells the person: The legal authority for requesting it; the uses that will be made of the SSN; and whether providing the SSN is voluntary or mandatory. Do not deny anyone a legal right, benefit, or privilege for refusing to give their SSN unless the law requires disclosure, or a law or regulation adopted before January 1, 1975 required the SSN and the Air Force uses it to verify a person's identity in a system of records established before that date.

(a) The Air Force requests an individual's SSN and provides the individual information required by law when anyone enters military service or becomes an Air Force civilian employee. The Air Force uses the SSN as a service or employment number to reference the individual's official records. When you ask someone for an SSN as identification to retrieve an existing record, you do not have to restate this information.

(b) Executive Order 9397, Numbering System for Federal Accounts Relating to Individual Persons, authorizes using the SSN as a personal identifier. This order is not adequate authority to collect an SSN to create a record. When law does not require disclosing the SSN or when the system of records was created after January 1, 1975, you may ask for the SSN, but the individual does not have to disclose it. If the individual refuses to respond, use alternative means of identifying records.

(c) SSNs are personal and unique to each individual. Protect them as FOR OFFICIAL USE ONLY (FOUO). Within DoD, do not disclose them to anyone without an official need to know. Outside DoD, they are not releasable without the person's consent, or unless authorized under one of the 12 exceptions to the Privacy Act (*see* § 806b.47).

Subpart D—Giving Access to Privacy Act Records

§ 806b.13 Making a Request for Access.

Persons or their designated representatives may ask for a copy of their records in a system of records. Requesters need not state why they want access to their records. Verify the identity of the requester to avoid unauthorized disclosures. How you verify identity will depend on the sensitivity of the requested records. Persons may use a notary or an unsworn declaration in the following format: ''I declare under penalty of perjury (if outside the United States, add ''under the laws of the United States of America'') that the foregoing is true and correct. Executed on (date). (Signature).''

§ 806b.14 Processing a Request for Access.

Consider a request from an individual for his or her own records in a system of records under both the Freedom of Information Act (FOIA) and the PA regardless of the Act cited. The requester does not need to cite either Act if the records they want are contained in a system of records. Process the request under whichever Act gives the most information. When necessary, tell the requester which Act you used and why.

(a) Requesters should describe the records they want. They do not have to name a system of records number, but they should at least name a type of record or functional area. For requests that ask for ''all records about me,'' ask for more information and tell the person how to review the Air Force systems of records published in the **Federal Register** or at *http://www.defenselink.mil/privacy/notices/usaf*.

(b) Requesters should not use government equipment, supplies, stationery, postage, telephones, or official mail channels for making PA requests. System managers will process such requests and tell requesters that using government resources to make PA requests is not authorized.

(c) Tell the requester if a record exists and how to review the record. If possible, respond to requests within 10 workdays of receipt. If you cannot answer the request in 10 workdays, send a letter explaining why and give an approximate completion date no more than 20 workdays after the first office received the request.

(d) Show or give a copy of the record to the requester within 30 workdays of receiving the request unless the system is exempt and the Air Force lists the exemption in Appendix E to this part; or it is published in this Section; or published as a final rule in the **Federal Register**. Give information in a form the requester can understand. If the system is exempt under the PA, provide any parts releasable under FOIA, with appeal rights (*see* Subpart F of this part), citing appropriate exemptions from the Privacy Act and FOIA, if applicable.

(e) If the requester wants another person present during the record review, the system manager may ask for written consent to authorize discussing the record with another person present.

§ 806b.15 Fees.

Give the first 100 pages free, and charge only reproduction costs for the remainder. Copies cost $.15 per page; microfiche costs $.25 per fiche. Charge fees for all pages for subsequent requests for the same records. Do not charge fees:

(a) When the requester can get the record without charge under another publication (for example, medical records).

(b) For search.

(c) For reproducing a document for the convenience of the Air Force.

(d) For reproducing a record so the requester can review it.

§ 806b.16 Denying or Limiting Access.

System managers process access denials within 5 workdays after you receive a request for access. When you may not release a record, send a copy of the request, the record, and why you recommend denying access (include the applicable exemption) to the denial authority through the legal office and the PA office. Judge Advocate (JA) offices will include a written legal opinion. The PA officer reviews the file, and makes a recommendation to the denial authority. The denial authority sends the requester a letter with the decision. If the denial authority grants access, release the record. If the denial authority refuses access, tell the requester why and explain pertinent appeal rights (see Subpart F of this part). Before you deny a request for access to a record, make sure that:

(a) The system has an exemption approved by AF–CIO/P (as listed in Appendix E to this part, or published in this Section, or published as a final rule in the **Federal Register**).

(b) The exemption covers each document. (All parts of a system are not automatically exempt.)

(c) Nonexempt parts are segregated.

§ 806b.17 Special Provision for Certain Medical Records.

If a physician believes that disclosing requested medical records could harm the person's mental or physical health, you should:

(a) Ask the requester to get a letter from a physician to whom you can send the records. Include a letter explaining to the physician that giving the records directly to the individual could be harmful.

(b) Offer the services of a military physician other than one who provided treatment if naming the physician poses a hardship on the individual. The Privacy Act requires that we ultimately insure that the subject receives the records.

§ 806b.18 Third Party Information in a Privacy Act System of Record.

Ordinarily a person is entitled to their entire record under the Privacy Act. However, the law is not uniform regarding whether a subject is entitled to information that is not ''about'' him or her (for example, the home address of a third party contained in the subject's records). Consult your servicing SJA before disclosing third party information. Generally, if the requester will be denied a right, privilege or benefit, the requester must be given access to relevant portions of the file.

§ 806b.19 Information Compiled in Anticipation of Civil Action.

Withhold records compiled in connection with a civil action or other proceeding including any action where the Air Force expects judicial or administrative adjudicatory proceedings. This exemption does not cover criminal actions. Do not release attorney work products prepared before, during, or after the action or proceeding.

§ 806b.20 Denial Authorities.

These officials or a designee may deny access or amendment of records as authorized by the Privacy Act. Send a letter to AF–CIO/P with the position titles of designees. Authorities are:

(a) DCSs and chiefs of comparable offices or higher level at SAF or HQ USAF or designees.

(b) MAJCOM, FOA, or DRU commanders or designees.

(c) HQ USAF/DPF, 1040 Air Force Pentagon, Washington DC 20330–1040 (for civilian personnel records).

(d) Commander, Air Force Office of Special Investigations (AFOSI), Washington DC 20332–6001 (for AFOSI records).

(e) Unified Commanders or designees.

Subpart E—Amending the Record

§ 806b.21 Amendment Reasons.

Individuals may ask to have their records amended to make them

accurate, timely, relevant, or complete. System managers will routinely correct a record if the requester can show that it is factually wrong (*e.g.*, date of birth is wrong).

§ 806b.22 Responding to Amendment Requests.

(a) Anyone may request minor corrections orally. Requests for more serious modifications should be in writing.

(b) After verifying the identity of the requester, make the change, notify all known recipients of the record, and inform the individual.

(c) Acknowledge requests within 10 workdays of receipt. Give an expected completion date unless you complete the change within that time. Final decisions must take no longer than 30 workdays.

§ 806b.23 Approving or Denying a Record Amendment.

The Air Force does not usually amend a record when the change is based on opinion, interpretation, or subjective official judgment. Determinations not to amend such records constitutes a denial, and requesters may appeal (*see* Subpart F of this part).

(a) If the system manager decides not to amend the record, send a copy of the request, the record, and the recommended denial reasons to the denial authority through the legal office and the PA office. Legal offices will include a written legal opinion. The PA officer reviews the proposed denial and legal opinion and makes a recommendation to the denial authority.

(b) The denial authority sends the requester a letter with the decision. If the denial authority approves the request, amend the record and notify all previous recipients that it has been changed. If the authority denies the request, give the requester the statutory authority, reason, and pertinent appeal rights (see Subpart F of this part).

§ 806b.24 Seeking Review of Unfavorable Agency Determinations.

Requesters should pursue record corrections of subjective matters and opinions through proper channels to the Civilian Personnel Office using grievance procedures or the Air Force Board for Correction of Military Records (AFBCMR). Record correction requests denied by the AFBCMR are not subject to further consideration under this part. Military personnel, other than USAF personnel, should pursue service-unique record corrections through their component chain of command.

§ 806b.25 Contents of PA Case Files.

Do not keep copies of disputed records in this file. File disputed records in their appropriate series. Use the file solely for statistics and to process requests. Do not use the case files to make any kind of determination about an individual. Document reasons for untimely responses. These files include:

(a) Requests from and replies to individuals on whether a system has records about them.

(b) Requests for access or amendment.

(c) Approvals, denials, appeals, and final review actions.

(d) Coordination actions and related papers.

Subpart F—Appeals

§ 806b.26 Appeal Procedures.

Individuals who receive a denial to their access or amendment request may request a denial review by writing to the Secretary of the Air Force, through the denial authority, within 60 calendar days after receiving a denial letter. The denial authority promptly sends a complete appeal package to AFLSA/JACL. The package must include: The original appeal letter; the initial request; the initial denial; a copy of the record; any internal records or coordination actions relating to the denial; the denial authority's comments on the appellant's arguments; and the legal reviews.

(a) If the denial authority reverses an earlier denial and grants access or amendment, notify the requester immediately.

(b) AFLSA/JACL reviews the denial and provides a final recommendation to SAF/GCA. SAF/GCA tells the requester the final Air Force decision and explains judicial review rights.

(c) The requester may file a concise statement of disagreement with the system manager if SAF/GCA denies the request to amend the record. SAF/GCA explains the requester's rights when they issue the final appeal decision.

(d) The records should clearly show that a statement of disagreement is filed with the record or separately.

(e) The disputed part of the record must show that the requester filed a statement of disagreement.

(f) Give copies of the statement of disagreement to the record's previous recipients. Inform subsequent record users about the dispute and give them a copy of the statement with the record.

(g) The system manager may include a brief summary of the reasons for not amending the record. Limit the summary to the reasons SAF/GCA gave to the individual. The summary is part of the individual's record, but it is not subject to amendment procedures.

Subpart G—Privacy Act Notifications

§ 806b.27 When To Include a Privacy Act Warning Statement in Publications.

Include a PA Warning Statement in each Air Force publication that requires collecting or keeping information in a system of records. Also include the Warning Statement when publications direct collection of the SSN, or any part of the SSN, from the individual. The warning statement will cite legal authority and when part of a record system, the PA system of records number and title. You can use the following warning statement: ''This instruction requires collecting and maintaining information protected by the Privacy Act of 1974 authorized by (U.S.C. citation and or Executive Order number). System of records notice (number and title) applies.''

§ 806b.28 Warning Banners.

Information systems that contain information on individuals that is retrieved by name or personal identifier are subject to the Privacy Act. The Privacy Act requires these systems to have a PA system notice published in the **Federal Register** that covers the information collection before collection begins. In addition, all information systems subject to the Privacy Act will have warning banners displayed on the first screen (at a minimum) to assist in safeguarding the information. Use the following language for the banner: ''PRIVACY ACT INFORMATION—The information accessed through this system is FOR OFFICIAL USE ONLY and must be protected in accordance with the Privacy Act and AFI 33–332.''

§ 806b.29 Sending Personal Information Over Electronic Mail.

(a) Exercise caution before transmitting personal information over e-mail to ensure it is adequately safeguarded. Some information may be so sensitive and personal that e-mail may not be the proper way to transmit it. When sending personal information over e-mail within DoD, ensure: There is an official need; all addressee(s) (including ''cc'' addressees) are authorized to receive it under the Privacy Act; and it is protected from unauthorized disclosure, loss, or alteration. Protection methods may include encryption or password protecting the information in a separate Word document. When transmitting personal information over e-mail, add ''FOUO'' to the beginning of the subject line, followed by the subject, and apply the following statement at the *beginning* of the e-mail:

This e-mail contains FOR OFFICIAL USE ONLY (FOUO) information which must be protected under the Privacy Act and AFI 33–332.

(b) Do not indiscriminately apply this statement to e-mails. Use it only in situations when you are actually transmitting personal information. DoD Regulation 5400.7/AF Supp, Chapter 4, provides additional guidance regarding FOUO information.

(c) Do not disclose personal information to anyone outside DoD unless specifically authorized by the Privacy Act (see § 806b.47).

(d) Do not send PA information to distribution lists or group e-mail addresses unless each member has an official need to know the personal information. When in doubt, send only to individual accounts.

(e) Before forwarding e-mails you have received that contain personal information, verify that your intended recipients are authorized to receive the information under the Privacy Act (see § 806b.47).

Subpart H—Privacy Impact Assessments

§ 806b.30 Evaluating Information Systems for Privacy Act Compliance.

Information system owners and developers must address PA requirements in the development stage of the system and integrate privacy protections into the development life cycle of the information system. This is accomplished with a Privacy Impact Assessment (PIA).

(a) The PIA addresses what information is to be collected; why the information is being collected; the intended use of the information; with whom the information will be shared; what notice or opportunities for consent will be provided individuals regarding the information collected, and how that information is shared; secured; and whether a system of records is being created, or an existing system is being amended. The E-Government Act of 2002 requires PIAs to be conducted *before:*

(1) Developing or procuring information technology (IT) that collects, maintains, or disseminates information in identifiable form from or about members of the public.

(2) Initiating a new collection of information, using IT, that collects, maintains, or disseminates information in identifiable form for 10 or more persons excluding agencies, instrumentalities, or employees of the Federal Government.

(b) The system owner will conduct a PIA as outlined in Appendix F and send it to their MAJCOM Privacy Act office for review and final approval by the MAJCOM or HAF Functional CIO. The MAJCOM or HAF Functional CIO will send a copy of approved PIAs to AF-CIO/P, 1155 Air Force Pentagon, Washington DC 20330–1155; or e-mail *af.foia@pentagon.af.mil.*

(c) Whenever practicable, approved PIAs will be posted to the FOIA/Privacy Act Web site for public access at *http://www.foia.af.mil* (this requirement will be waived for security reasons, or to protect classified, sensitive, or private information contained in an assessment).

(d) OMB requires agencies to submit copies of the PIA for each system for which funding is requested. AF-CIO/P will furnish OMB applicable PIAs through the Defense Privacy Office.

Subpart I—Preparing and Publishing System Notices for the Federal Register

§ 806b.31 Publishing System Notices.

The Air Force must publish notices in the **Federal Register** of new, changed, and deleted systems to inform the public of what records the Air Force keeps and give them an opportunity to comment before the system is implemented or changed. The PA also requires submission of new or significantly changed systems to the OMB and both houses of Congress before publication in the **Federal Register**. This includes:

(a) Starting a new system.

(b) Instituting significant changes to an existing system.

(c) Sending out data collection forms or instructions.

(d) Issuing a request for proposal or invitation for bid to support a new system.

§ 806b.32 Submitting Notices for Publication in the Federal Register.

At least 120 days before implementing a new system, or a major change to an existing system, subject to this part, system managers must send a proposed notice, through the MAJCOM Privacy Office, to AF–CIO/P. Send notices electronically to *af.foia@pentagon.af.mil* using Microsoft Word, using the Track Changes tool in Word to indicate additions/changes to existing notices. Follow the format outlined in Appendix D to this part. For new systems, system managers must include a statement that a risk assessment was accomplished and is available should the OMB request it.

§ 806b.33 Reviewing Notices.

System managers will review and validate their PA system notices annually and submit changes to AF–CIO/P through the MAJCOM Privacy Office.

Subpart J—Protecting and Disposing of Records

§ 806b.34 Protecting Records.

Maintaining information privacy is the responsibility of every federal employee, military member, and contractor who comes into contact with information in identifiable form. Protect information according to its sensitivity level. Consider the personal sensitivity of the information and the risk of disclosure, loss or alteration. Most information in systems of records is FOUO. Refer to DoD 5400.7–R/AF Supp, DoD Freedom of Information Act Program, for protection methods.

§ 806b.35 Balancing Protection.

Balance additional protection against sensitivity, risk and cost. In some situations, a password may be enough protection for an automated system with a log-on protocol. Others may require more sophisticated security protection based on the sensitivity of the information. Classified computer systems or those with established audit and password systems are obviously less vulnerable than unprotected files. Follow AFI 33–202, Computer Security, for procedures on safeguarding personal information in automated records.

(a) AF Form 3227, Privacy Act Cover Sheet, is optional and available for use with Privacy Act material. Use it to cover and protect personal information that you are using in office environments that are widely unprotected and accessible to many individuals. After use, such information should be protected as outlined in DoD 5400.7–R/AF Supp.

(b) Privacy Act Labels. Use of AFVA 33–276, Privacy Act Label, is optional to assist in protecting Privacy Act information on compact disks, diskettes, and tapes.

§ 806b.36 Disposing of Records.

You may use the following methods to dispose of records protected by the Privacy Act and authorized for destruction according to records retention schedules:

(a) Destroy by any method that prevents compromise, such as tearing, burning, or shredding, so long as the personal data is not recognizable and beyond reconstruction.

(b) Degauss or overwrite magnetic tapes or other magnetic medium.

(c) Dispose of paper products through the Defense Reutilization and Marketing Office or through activities that manage a base-wide recycling program. The

recycling sales contract must contain a clause requiring the contractor to safeguard privacy material until its destruction and to pulp, macerate, shred, or otherwise completely destroy the records. Originators must safeguard PA material until it is transferred to the recycling contractor. A Federal employee or, if authorized, a contractor employee must witness the destruction. This transfer does not require a disclosure accounting.

Subpart K—Privacy Act Exemptions

§ 806b.37 Exemption Types.

There are two types of exemptions permitted by 5 U.S.C. 552a:

(a) A General exemption authorizes the exemption of a system of records from most parts of the PA.

(b) A Specific exemption authorizes the exemption of a system of records from only a few parts.

§ 806b.38 Authorizing Exemptions.

Only AF–CIO/P can approve exempt systems of records from any part of the Privacy Act. Denial authorities can withhold records using these exemptions only if AF–CIO/P previously approved and published an exemption for the system in the **Federal Register**. Appendix E to this part lists the systems of records that have approved exemptions with rationale.

§ 806b.39 Requesting an Exemption.

A system manager who believes that a system needs an exemption from some or all of the requirements of the PA will send a request to AF–CIO/P through the MAJCOM or FOA PA Officer. The request will detail the reasons for the exemption, the section of the Act that allows the exemption, and the specific subsections of the PA from which the system is to be exempted, with justification for each subsection.

§ 806b.40 Approved Exemptions.

Approved exemptions exist under 5 U.S.C. 552a for:

(a) Certain systems of records used by activities whose principal function is criminal law enforcement (subsection (j)(2)).

(b) Classified information in any system of records (subsection (k)(1)).

(c) Law enforcement records (other than those covered by subsection (j)(2)). However, the Air Force must allow an individual access to any record that is used to deny rights, privileges or benefits to which he or she would otherwise be entitled by Federal law or for which he or she would otherwise be eligible as a result of the maintenance of the information (unless doing so would reveal a confidential source) (subsection (k)(2)).

(d) Statistical records required by law. Data is for statistical use only and may not be used to decide individuals' rights, benefits, or entitlements (subsection(k)(4)).

(e) Data to determine suitability, eligibility, or qualifications for Federal service or contracts, or access to classified information if access would reveal a confidential source (subsection (k)(5)).

(f) Qualification tests for appointment or promotion in the Federal service if access to this information would compromise the objectivity of the tests (subsection (k)(6)).

(g) Information that the Armed Forces uses to evaluate potential for promotion if access to this information would reveal a confidential source (subsection (k)(7)).

Subpart L—Disclosing Records to Third Parties

§ 806b.41 Disclosure Considerations.

The Privacy Act requires the written consent of the subject before releasing personal information to third parties, unless one of the 12 exceptions of the Act apply (see § 806b.47). Use this checklist before releasing personal information to third parties: Make sure it is authorized under the Privacy Act; consider the consequences; and check the accuracy of the information. You can release personal information to third parties when the subject agrees in writing. Air Force members consent to releasing their home telephone number and address when they sign and check the ''Do Consent'' block on the AF Form 624, Base/Unit Locator and PSC Directory (*see* AFI 33–329, *Base and Unit Personnel Locators).*

§ 806b.42 Social Rosters.

Before including personal information such as spouses names, home addresses, home phones, and similar information on social rosters or directories that are shared with groups of individuals, ask for signed consent statements. Otherwise, do not include the information. Consent statements must give the individual a choice to consent or not consent, and clearly tell the individual what information is being solicited, the purpose, to whom you plan to disclose the information, and that consent is voluntary. Maintain the signed statements until no longer needed.

§ 806b.43 Placing Personal Information on Shared Drives.

Personal information should never be placed on shared drives for access by groups of individuals unless each person has an official need to know the information to perform their job. Add appropriate access controls to ensure access by only authorized individuals. Recall rosters are FOUO because they contain personal information and should be shared with small groups at the lowest levels for official purposes to reduce the number of people with access to such personal information. Commanders and supervisors should give consideration to those individuals with unlisted phone numbers, who do not want their number included on the office recall roster. In those instances, disclosure to the Commander or immediate supervisor, or deputy, should normally be sufficient.

§ 806b.44 Personal Information That Requires Protection.

Following are some examples of information that is not releasable without the written consent of the subject. This list is not all inclusive.

(a) Marital status (single, divorced, widowed, separated).

(b) Number, name, and sex of dependents.

(c) Civilian educational degrees and major areas of study (unless the request for the information relates to the professional qualifications for Federal employment).

(d) School and year of graduation.

(e) Home of record.

(f) Home address and phone.

(g) Age and date of birth (year).

(h) Present or future assignments for overseas or for routinely deployable or sensitive units.

(i) Office and unit address and duty phone for overseas or for routinely deployable or sensitive units.

(j) Race/ethnic origin

(k) Educational level (unless the request for the information relates to the professional qualifications for Federal employment).

(l) Social Security Number.

§ 806b.45 Releasable Information.

Following are examples of information normally releasable to the public without the written consent of the subject. This list is not all inclusive.

(a) Name.

(b) Rank.

(c) Grade.

(d) Air Force specialty code.

(e) Pay (including base pay, special pay, all allowances except Basic Allowance for Quarters and Variable Housing Allowance).

(f) Gross salary for civilians.

(g) Past duty assignments, unless sensitive or classified.

(h) Present and future approved and announced stateside assignments.

(i) Position title.
(j) Office, unit address, and duty phone number (CONUS only).
(k) Date of rank.
(l) Entered on active duty date.
(m) Pay date.
(n) Source of commission.
(o) Professional military education.
(p) Promotion sequence number.
(q) Military awards and decorations.
(r) Duty status of active, retired, or reserve.
(s) Active duty official attendance at technical, scientific, or professional meetings.
(t) Biographies and photos of key personnel.
(u) Date of retirement, separation.

§ 806b.46 Disclosing Other Information.

Use these guidelines to decide whether to release information:

(a) Would the subject have a reasonable expectation of privacy in the information requested?

(b) Would disclosing the information benefit the general public? The Air Force considers information as meeting the public interest standard if it reveals anything regarding the operations or activities of the agency, or performance of its statutory duties.

(c) Balance the public interest against the individual's probable loss of privacy. Do not consider the requester's purpose, circumstances, or proposed use.

§ 806b.47 Rules for Releasing Privacy Act Information Without Consent of the Subject.

The Privacy Act prohibits disclosing personal information to anyone other than the subject of the record without their written consent. There are twelve exceptions to the ''no disclosure without consent'' rule. Those exceptions permit release of personal information without the individual's consent only in the following instances:

(a) Exception 1. DoD employees who have a need to know the information in the performance of their duties.

(b) Exception 2. In response to a FOIA request for information contained in a system of records about an individual and the FOIA requires release of the information.

(c) Exception 3. Agencies outside DoD only for a Routine Use published in the **Federal Register**. The purpose of the disclosure must be compatible with the purpose in the Routine Use. When initially collecting the information from the subject, the Routine Uses block in the Privacy Act Statement must name the agencies and reason.

(d) Exception 4. The Bureau of the Census to plan or carry out a census or survey under Title 13, U.S.C. Section 8.

(e) Exception 5. A recipient for statistical research or reporting. The recipient must give advanced written assurance that the information is for statistical purposes only.

Note: No one may use any part of the record to decide on individuals' rights, benefits, or entitlements. You must release records in a format that makes it impossible to identify the real subjects.

(f) Exception 6. The Archivist of the United States and the National Archives and Records Administration to evaluate records for permanent retention. Records stored in Federal Records Centers remain under Air Force control.

(g) Exception 7. A Federal, State, or local agency (other than DoD) for civil or criminal law enforcement. The head of the agency or a designee must send a written request to the system manager specifying the record or part needed and the law enforcement purpose. The system manager may also disclose a record to a law enforcement agency if the agency suspects a criminal violation. This disclosure is a Routine Use for all Air Force systems of records and is published in the **Federal Register**.

(h) Exception 8. An individual or agency that needs the information for compelling health or safety reasons. The affected individual need not be the record subject.

(i) Exception 9. Either House of Congress, a congressional committee, or a subcommittee, for matters within their jurisdictions. The request must come from the committee chairman or ranking minority member (*see* AFI 90–401).

(j) Requests from a Congressional member acting on behalf of the record subject are evaluated under the routine use of the applicable system notice. If the material for release is sensitive, get a release statement.

(k) Requests from a Congressional member not on behalf of a committee or the record subject are properly analyzed under the FOIA, and not under the PA.

(l) Exception 10. The Comptroller General or an authorized representative of the General Accounting Office (GAO) to conduct official GAO business.

(m) Exception 11. A court of competent jurisdiction, with a court order signed by a judge.

(n) Exception 12. A consumer credit agency according to the Debt Collections Act when a published system notice lists this disclosure as a Routine Use.

§ 806b.48 Disclosing the Medical Records of Minors.

Air Force personnel may disclose the medical records of minors to their parents or legal guardians in conjunction with applicable Federal laws and guidelines. The laws of each state define the age of majority.

(a) The Air Force must obey state laws protecting medical records of drug or alcohol abuse treatment, abortion, and birth control. If you manage medical records, learn the local laws and coordinate proposed local policies with the servicing SJA.

(b) Outside the United States (overseas), the age of majority is 18. Unless parents or guardians have a court order granting access or the minor's written consent, they will not have access to minor's medical records overseas when the minor sought or consented to treatment between the ages of 15 and 17 in a program where regulation or statute provides confidentiality of records and he or she asked for confidentiality.

§ 806b.49 Disclosure Accountings.

System managers must keep an accurate record of all disclosures made from any system of records except disclosures to DoD personnel for official use or disclosures under the FOIA. System managers may use AF Form 771, Accounting of Disclosures. Retain disclosure accountings for 5 years after the disclosure, or for the life of the record, whichever is longer.

(a) System managers may file the accounting record any way they want as long as they give it to the subject on request, send corrected or disputed information to previous record recipients, explain any disclosures, and provide an audit trail for reviews. Include in each accounting:

(1) Release date.
(2) Description of information.
(3) Reason for release.
(4) Name and address of recipient.
(5) Some exempt systems let you withhold the accounting record from the subject.

(b) You may withhold information about disclosure accountings for law enforcement purposes at the law enforcement agency's request.

§ 806b.50 Computer Matching.

Computer matching programs electronically compare records from two or more automated systems that may include DoD, another Federal agency, or a state or other local government. A system manager proposing a match that could result in an adverse action against a Federal employee must meet these requirements of the PA: Prepare a written agreement between participants; secure approval of the Defense Data Integrity Board; publish a matching notice in the **Federal Register** before matching begins; ensure full investigation and due process; and act on the information, as necessary.

(a) The PA applies to matching programs that use records from: Federal

personnel or payroll systems and Federal benefit programs where matching:

(1) Determines Federal benefit eligibility;

(2) Checks on compliance with benefit program requirements;

(3) Recovers improper payments or delinquent debts from current or former beneficiaries.

(b) Matches used for statistics, pilot programs, law enforcement, tax administration, routine administration, background checks and foreign counterintelligence, and internal matching that won't cause any adverse action are exempt from PA matching requirements.

(c) Any activity that expects to participate in a matching program must contact AF–CIO/P immediately. System managers must prepare a notice for publication in the **Federal Register** with a Routine Use that allows disclosing the information for use in a matching program. Send the proposed system notice to AF–CIO/P. Allow 180 days for processing requests for a new matching program.

(d) Record subjects must receive prior notice of a match. The best way to do this is to include notice in the Privacy Act Statement on forms used in applying for benefits. Coordinate computer matching statements on forms with AF–CIO/P through the MAJCOM PA Officer.

§ 806b.51 Privacy and the Web.

Do not post personal information on publicly accessible DoD Web sites unless clearly authorized by law and implementing regulation and policy. Additionally, do not post personal information on .mil private Web sites unless authorized by the local commander, for official purposes, and an appropriate risk assessment is performed. *See* AFI 33–129, *Transmission of Information Via the Internet.*

(a) Ensure public Web sites comply with privacy policies regarding restrictions on persistent and third party cookies, and add appropriate privacy and security notices at major Web site entry points and Privacy Act statements or Privacy Advisories when collecting personal information. Notices must clearly explain where the collection or sharing of certain information may be optional, and notify users of how to provide consent.

(b) Include a Privacy Act Statement on the Web page if it collects information directly from an individual that we maintain and retrieve by his or her name or personal identifier (*i.e.*, SSN). We may only maintain such information in approved PA systems of records that are published in the **Federal Register**. Inform the visitor when the information is maintained and retrieved by name or personal identifier in a system of records; that the Privacy Act gives them certain rights with respect to the government's maintenance and use of information collected about them, and provide a link to the Air Force Privacy Act policy and system notices at *http://www.foia.af.mil.*

(c) Anytime a Web site solicits personally-identifying information, even when not maintained in a PA system of records, it requires a Privacy Advisory. The Privacy Advisory informs the individual why the information is solicited and how it will be used. Post the Privacy Advisory to the Web page where the information is being solicited, or through a well-marked hyperlink ''Privacy Advisory—Please refer to the Privacy and Security Notice that describes why this information is collected and how it will be used.''

Subpart M—Training

§ 806b.52 Who Needs Training.

The Privacy Act requires training for all persons involved in the design, development, operation and maintenance of any system of records. More specialized training is needed for personnel who may be expected to deal with the news media or the public, personnel specialists, finance officers, information managers, supervisors, and individuals working with medical and security records. Commanders will ensure that above personnel are trained annually in the principles and requirements of the Privacy Act.

§ 806b.53 Training Tools.

Helpful resources include:

(a) The Air Force FOIA Web page which includes a Privacy Overview, PA training slides, the Air Force systems of records notices, and links to the Defense Privacy Board Advisory Opinions, the DoD and Department of Justice Privacy Web pages. Go to *http://www.foia.af.mil.* Click on ''Resources.''

(b) ''The Privacy Act of 1974,'' a 32-minute film developed by the Defense Privacy Office. Contact the Joint Visual Information Activity at DSN 795–6543/7283 or commercial (717) 895–6543/7283, and ask for #504432 ''The Privacy Act of 1974.''

(c) A Manager's Overview, What You Need to Know About the Privacy Act. This overview gives you Privacy Act 101 and is available on-line at *http://www.foia.af.mil.*

(d) Training slides for use by the MAJCOM and base PA officers, available from the FOIA Web page at *http://www.foia.af.mil*, under ''Resources.''

Note: Formal school training groups that develop or modify blocks of instruction must send the material to AF–CIO/P for coordination.

§ 806b.54 Information Collections, Records, and Forms or Information Management Tools (IMT).

(a) Information Collections. No information collections are required by this publication.

(b) Records. Retain and dispose of PA records according to AFMAN 37–139, Records Disposition Schedule.

(c) Forms or IMTs (Adopted and Prescribed).

(1) Adopted Forms or IMTs. AF Form 624, Base/Unit Locator and PSC Directory, and AF Form 847, Recommendation for Change of Publication.

(2) Prescribed Forms or IMTs. AF Form 3227, Privacy Act Cover Sheet, AF Form 771, Accounting of Disclosures, and AF Visual Aid 33–276.

Appendix A to Part 806b—References

Title 5, U.S.C., Section 552a, as amended, The Privacy Act of 1974
Title 5, U.S.C., Section 552, The Freedom of Information Act
Title 10, U.S.C., Section 8013 Secretary of the Air Force
E.O. 9397, Numbering System for Federal Accounts Relating to Individual Persons
Pub. L. 100–235, The Computer Security Act of 1987
Pub. L. 100–503, The Computer Matching and Privacy Act of 1988
Pub. L. 104–13, Paperwork Reduction Act of 1995
Pub. L. 107–347, Section 208, E-Gov Act of 2002,
32 CFR part 806b, Air Force Privacy Act Program
Federal Register
DoD 6025.18R, DoD Health Information Privacy Regulation, 24 January 2003
DoDD 5400.11, DoD Privacy Program, December 13, 1999
DoD 5400.7–R/AF Supp, DoD Freedom of Information Act Program
DoD 5400.11–R, Department of Defense Privacy Program, August 1983
Defense Acquisition Regulation
OMB Circular A–130, Management of Federal Information Resources
AFPD 37–1, Air Force Information Management
AFI 33–129, Transmission of Information Via the Internet
AFI 33–202, Computer Security
AFI 33–329, Base and Unit Personnel Locators
AFI 33–360, Volume 2, Forms Management Program
AFI 90–401, Air Force Relations With Congress

AFMAN 37–139, Records Disposition Schedule
AFVA 33–276, Privacy Act Label

Appendix B to Part 806b—Abbreviations and Acronyms

AETC Air Education and Training Command
AF–CIO Air Force Chief Information Officer
AFBCMR Air Force Board for Correction of Military Records
AFLSA Air Force Legal Services Agency
AFMAN Air Force Manual
AFOSI Air Force Office of Special Investigations
AFPC Air Force Personnel Center
AFPD Air Force Policy Directive
CFR Code of Federal Regulations
DCS Deputy Chief of Staff
DoDD Department of Defense Directive
DRU Direct Reporting Unit
FOA Field Operating Agency
FOIA Freedom of Information Act
FOUO For Official Use Only
HAF Headquarters Air Force
HQ AFCA Headquarters Air Force Communications Agency
HQ AFSFC Headquarters Air Force Security Forces Center
HQ USAF Headquarters United States Air Force
IG Inspector General
IT Information Technology
MAJCOM Major Command
OMB Office of Management and Budget
OPR Office of Primary Responsibility
PA Privacy Act
PAS Privacy Act Statement
PIA Privacy Impact Assessment
Pub. L. Public Law
SAF Secretary of the Air Force
SFMIS Security Forces Management Information System
SG Surgeon General
SJA Staff Judge Advocate
SSN Social Security Number
US United States
USAFA Air Force Academy
U.S.C. United States Code

Appendix C to Part 806b—Terms

Access. Allowing individuals to review or receive copies of their records.

Amendment. The process of adding, deleting, or changing information in a system of records to make the data accurate, relevant, timely, or complete.

Computer Matching. A computerized comparison of two or more automated systems of records or a system of records with non-Federal records to establish or verify eligibility for payments under Federal benefit programs or to recover delinquent debts for these programs.

Confidential Source. A person or organization giving information under an express or implied promise of confidentiality made before September 27, 1975.

Confidentiality. An expressed and recorded promise to withhold the identity of a source or the information provided by a source. The Air Force promises confidentiality only when the information goes into a system with an approved exemption for protecting the identity of confidential sources.

Cookie. Data created by a Web server that is stored on a user's computer either temporarily for that session only or permanently on the hard disk (persistent cookie). It provides a way for the Web site to identify users and keep track of their preferences. It is commonly used to ''maintain the state'' of the session. A third-party cookie either originates on or is sent to a Web site different from the one you are currently viewing.

Defense Data Integrity Board. Composed of representatives from DoD components and the services who oversee, coordinate, and approve all DoD computer matching programs covered by the Act.

Denial Authority. The individuals with authority to deny requests for access or amendment of records under the Privacy Act.

Disclosure. Giving information from a system, by any means, to anyone other than the record subject.

Federal Benefit Program. A Federally funded or administered program for individuals that provides cash or in-kind assistance (payments, grants, loans, or loan guarantees).

Individual. A living U.S. citizen or a permanent resident alien.

Minor. Anyone under the age of majority according to local state law. If there is no applicable state law, a minor is anyone under age 18. Military members and married persons are not minors, no matter what their chronological age.

Personal Identifier. A name, number, or symbol that is unique to an individual, usually the person's name or SSN.

Personal Information. Information about an individual other than items of public record.

Privacy Act Request. An oral or written request by an individual about his or her records in a system of records.

Privacy Advisory. A statement required when soliciting personally-identifying information by an Air Force Web site and the information is not maintained in a system of records. The Privacy Advisory informs the individual why the information is being solicited and how it will be used.

Privacy Impact Assessment. A written assessment of an information system that addresses the information to be collected, the purpose and intended use; with whom the information will be shared; notice or opportunities for consent to individuals; how the information will be secured; and whether a new system of records is being created under the Privacy Act.

Record. Any information about an individual.

Routine Use. A disclosure of records to individuals or agencies outside DoD for a use that is compatible with the purpose for which the Air Force created the records.

System Manager. The official who is responsible for managing a system of records, including policies and procedures to operate and safeguard it. Local system managers operate record systems or are responsible for part of a decentralized system.

System of Records. A group of records retrieved by the individual's name, personal identifier; or individual identifier through a cross-reference system.

System Notice. The official public notice published in the **Federal Register** of the existence and content of the system of records.

Appendix D to Part 806b—Preparing A System Notice

The following elements comprise a system of records notice for publication in the **Federal Register**:

System Identification Number. AF–CIO/P assigns the notice number, for example, F033 AF PC A, where ''F'' indicates ''Air Force,'' the next number represents the publication series number related to the subject matter, and the final letter group shows the system manager's command or DCS. The last character ''A'' indicates that this is the first notice for this series and system manager.

System Name. Use a short, specific, plain-language title that identifies the system's general purpose (limited to 55 characters).

System Location. Specify the address of the primary system and any decentralized elements, including automated data systems with a central computer facility and input or output terminals at separate locations. Use street address, 2-letter state abbreviations and 9-digit ZIP Codes. Spell out office names. Do not use office symbols.

Categories of Individuals Covered by the System. Use nontechnical, specific categories of individuals about whom the Air Force keeps records. Do not use categories like ''all Air Force personnel'' unless they are actually true.

Categories of Records in the System. Describe in clear, plain language, all categories of records in the system. List only documents actually kept in the system. Do not show source documents that are used to collect data and then destroyed. Do not list form numbers.

Authority for Maintenance of the System. Cite the specific law or Executive Order that authorizes the program the records support. Cite the DoD directive/instruction or Air Force instruction(s) that authorizes the system of records. Always include titles with the citations.

Note: Executive Order 9397 authorizes using the SSN as a personal identifier. Include this authority whenever the SSN is used to retrieve records.

Purpose. Describe briefly and specifically what the Air Force does with the information collected.

Routine Uses of Records Maintained in the System Including Categories of Users and the Purpose of Such Uses. The Blanket Routine Uses published in the Air Force Directory of System Notices apply to all system notices unless you indicate otherwise. Also list each specific agency or activity outside DoD to whom the records may be released and the purpose for such release.

Polices and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System:

Storage. State the medium in which the Air Force keeps the records; for example, in file folders, card files, microfiche, computer, or a combination of those methods. Storage does not refer to the storage container.

Retrievability. State how the Air Force retrieves the records; for example, by name, SSN, or personal characteristics (such as fingerprints or voiceprints).

Safeguards. List the kinds of officials who have immediate access to the system. List those responsible for safeguarding the records. Identify the system safeguards; for example, storage in safes, vaults, locked cabinets or rooms, use of guards, visitor controls, personnel screening, computer systems software, and so on. Describe safeguards fully without compromising system security.

Retention and Disposal. State how long AFMAN 37–139 requires the activity to maintain the record. Indicate when or if the records may be transferred to a Federal Records Center and how long the record stays there. Specify when the Records Center sends the record to the National Archives or destroys it. Indicate how the records may be destroyed.

System Manager(s) and Address. List the position title and duty address of the system manager. For decentralized systems, show the locations and the position or duty title of each category of officials responsible for any segment of the system.

Notification Procedure. List the title and duty address of the official authorized to tell requesters if their records are in the system. Specify the information a requester must submit; for example, full name, military status, SSN, date of birth, or proof of identity, and so on.

Record Access Procedures. Explain how individuals may arrange to access their records. Include the titles or categories of officials who may assist; for example, the system manager.

Contesting Records Procedures. AF–CIO/P provides this standard caption.

Record Source Categories. Show categories of individuals or other information sources for the system. Do not list confidential sources protected by 5 U.S.C., Section 552a (k)(2), (k)(5), or (k)(7).

Exemptions Claimed for the System. When a system has no approved exemption, write ''none'' under this heading. Specifically list any approved exemption including the subsection in the Act.

Appendix E to Part 806b—General And Specific Exemptions

(a) *General Exemption.* The following systems of records are exempt under 5 U.S.C., Section 552a(j)(2):

(1) *System identifier and name:* F071 AF OSI A, Counter Intelligence Operations and Collection Records.

(2) *System identifier and name:* F071 AF OSI C, Criminal Records.

(3) *System identifier and name:* F031 AF SP E, Security Forces Management Information System (SFMIS).

(i) *Exemption:* Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws. Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from following subsections of 5 U.S.C. 552a(c)(c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), and (I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) To protect ongoing investigations and to protect from access criminal investigation information contained in this record system, so as not to jeopardize any subsequent judicial or administrative process taken as a result of information contained in the file.

(B) From subsection (c)(3) because the release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the subject criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(C) From subsection (c)(4) because an exemption is being claimed for subsection this subsection will not be applicable.

(D) From subsection (d) because access the records contained in this system would inform the subject of an investigation of existence of that investigation, provide subject of the investigation with information that might enable him to avoid detection, and would present a serious impediment to law enforcement.

(E) From subsection (e)(4)(H) because system of records is exempt from individual access pursuant to subsection (j) of the Privacy Act of 1974.

(F) From subsection (f) because this system of records has been exempted from access provisions of subsection (d).

(G) Consistent with the legislative purpose the Privacy Act of 1974, the Department of the Air Force will grant access to non-exempt material in the records being maintained. Disclosure will be governed by the Department of the Air Force's Privacy Instruction, but will be limited to the extent that identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

(4) *System identifier and name:* F071 AF OSI D, Investigative Support Records.

(5) *System identifier and name:* F031 AF SP A, Correction and Rehabilitation Records.

Exemption—Portions of this system that fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of 5 U.S.C. 552a, Sections (c)(3) and (c)(4); (d)(1) through (d)(5); (e)(2) and (e)(3); (e)(4)(G) and (e)(4)(H), (e)(5); (f)(1) through (f)(5); (g)(1) through (g)(5); and (h) of the Act.

Authority—5 U.S.C. 552a(j)(2).

Reason—The general exemption will protect on going investigations and protect from access criminal investigation information contained in this record system so as not to jeopardize any subsequent judicial or administrative process taken as a result of information contained in the files.

(6) *System identifier and name:* F090 AF IG B, Inspector General Records.

(i) *Exemption:* (A) Parts of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws. (B) Any portion of this system of records which falls within the provisions of 5 U.S.C. 552a(j)(2) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H), and (I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of accounting of disclosure would inform a subject that he or she is under investigation. This information would provide considerable advantage to the subject in providing him or her with knowledge concerning the nature of the investigation and the coordinated investigative efforts and techniques employed by the cooperating agencies. This would greatly impede the Air Force IG's criminal law enforcement.

(B) From subsection (c)(4) and (d), because notification would alert a subject to the fact that an open investigation on that individual is taking place, and might weaken the on going investigation, reveal investigative techniques, and place confidential informants in jeopardy.

(C) From subsection (e)(1) because the nature of the criminal and/or civil investigative function creates unique problems in prescribing a specific parameter in a particular case with respect to what information is relevant or necessary. Also, information may be received which may relate to a case under the investigative jurisdiction of another agency. The maintenance of this information may be necessary to provide leads for appropriate law enforcement purposes and to establish patterns of activity that may relate to the jurisdiction of other cooperating agencies.

(D) From subsection (e)(2) because collecting information to the fullest extent possible directly from the subject individual may or may not be practical in a criminal and/or civil investigation.

(E) From subsection (e)(3) because supplying an individual with a form containing a Privacy Act Statement would tend to inhibit cooperation by many individuals involved in a criminal and/or civil investigation. The effect would be somewhat adverse to established investigative methods and techniques.

(F) From subsections (e)(4)(G), (H), and (I) because this system of records is exempt from the access provisions of subsection (d).

(G) From subsection (e)(5) because the requirement that records be maintained with attention to accuracy, relevance, timeliness, and completeness would unfairly hamper the investigative process. It is the nature of law enforcement for investigations to uncover the commission of illegal acts at diverse stages. It is frequently impossible to determine

initially what information is accurate, relevant, timely, and least of all complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light.

(H) From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to law enforcement by revealing investigative techniques, procedures, and existence of confidential investigations.

(I) From subsection (f) because the agency's rules are inapplicable to those portions of the system that are exempt and would place the burden on the agency of either confirming or denying the existence of a record pertaining to a requesting individual might in itself provide an answer to that individual relating to an on going investigation. The conduct of a successful investigation leading to the indictment of a criminal offender precludes the applicability of established agency rules relating to verification of record, disclosure of the record to that individual, and record amendment procedures for this record system.

(J) From subsection (g) because this system of records should be exempt to the extent that the civil remedies relate to provisions of 5 U.S.C. 552a from which this rule exempts the system.

(iv) *Authority:* (A) Investigative material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

Note: When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

(v) *Reasons:* (A) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d) and (f) because providing access to investigative records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses, and informants.

(F) Consistent with the legislative purpose of the Privacy Act of 1974, the AF will grant access to nonexempt material in the records being maintained. Disclosure will be governed by AF's Privacy Instruction, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal or civil violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

(b) *Specific Exemptions.* The following systems of records are subject to the specific exemptions shown:

(1) *Classified records.*

(i) All records in any systems of records that are properly classified according to current Executive Order are exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4)(G), (H), (I); and (f), regardless of whether the entire system is otherwise exempt or not.

(ii) *Authority.* 5 U.S.C. 552a(k)(1).

(2) *System identifier and name:* F036 USAFA K, Admissions Records.

(i) *Exemption.* Parts of this system of records (Liaison Officer Evaluation and Selection Panel Candidate Evaluation) are exempt from 5 U.S.C. 552a(d), (e)(4)(H), and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To ensure the frankness of information used to determine whether cadets are qualified for graduation and commissioning as officers in the Air Force.

(3) *System identifier and name:* F036 AFPC N, Air Force Personnel Test 851, Test Answer Sheets.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f).

(ii) *Authority.* 5 U.S.C. 552a(k)(6).

(iii) *Reasons.* To protect the objectivity of the promotion testing system by keeping the test questions and answers in confidence.

(4) *System identifier and name:* F036 USAFA A, Cadet Personnel Management System.

(i) *Exemption.* Parts of this system are exempt from 5 U.S.C. 552a(d), (e)(4)(H), and (f), but only insofar as disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To maintain the candor and integrity of comments needed to evaluate an Air Force Academy cadet for commissioning in the Air Force.

(5) *System identifier and name:* F036 AETC I, Cadet Records.

(i) *Exemption.* Portions of this system (Detachment Professional Officer Course Selection Rating Sheets; Air Force Reserve Officer Training Corps (AFROTC) Form 0–24–Disenrollment Review; Memoranda for Record and Staff Papers with Staff Advice, Opinions, or Suggestions) are exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4)(G) and (H), and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of a confidential source who furnishes information necessary to make determinations about the qualifications, eligibility, and suitability of cadets for graduation and commissioning in the Air Force.

(6) *System identifier and name:* F044 AF SG Q, Family Advocacy Program Records.

(i) *Exemption:*

(A) Investigative material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identify of a confidential source.

Note: When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) Investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information

may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) Therefore, portions of the system of records may be exempt pursuant to 5 U.S.C. 552a(c)(3) and (d), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons:* From subsections (c)(3) and (d) because the exemption is needed to encourage those who know of exceptional medical or educational conditions or family maltreatments to come forward by protecting their identities and to protect such sources from embarrassment or recriminations, as well as to protect their right to privacy. It is essential that the identities of all individuals who furnish information under an express promise of confidentiality be protected. Granting individuals access to information relating to criminal and civil law enforcement, as well as the release of certain disclosure accounting, could interfere with ongoing investigations and the orderly administration of justice, in that it could result in the concealment, alteration, destruction, or fabrication of information; could hamper the identification of offenders or alleged offenders and the disposition of charges; and could jeopardize the safety and well being of parents and their children. Exempted portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal employment and Federal contracts, and that was obtained by providing an express or implied promise to the source that his or her identity would not be revealed to the subject of the record.

(7) *System identifier and name:* F036 AF PC A, Effectiveness/Performance Reporting System.

(i) *Exemptions*—Brigadier General Selectee Effectiveness Reports and Colonel and Lieutenant Colonel Promotion Recommendations with close out dates on or before January 31,1991, may be exempt from subsections of 5 U.S.C. 552a(c)(3); (d); (e)(4)(H); and (f).

(ii) *Authority*—5 U.S.C. 552a(k)(7).

(iii) *Reasons*—Subsection (c)(3) because making the disclosure accounting available to the individual may compromise express promises of confidentiality by revealing details about the report and identify other record sources, which may result in circumvention of the access exemption. Subsection (d) because individual disclosure compromises express promises of confidentiality conferred to protect the integrity of the promotion rating system. Subsection (e)(4)(H) because of and to the extent that portions of this record system are exempt from the individual access provisions of subsection (d). Subsection (f) because of and to the extent that portions of this record system are exempt from the individual access provisions of subsection (d).

(8) [Reserved.]

(9) *System identifier and name:* F036 AFDP A, Files on General Officers and Colonels Assigned to General Officer Positions.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4)(G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To protect the integrity of information used in the Reserve Initial Brigadier General Screening Board, the release of which would compromise the selection process.

(10) *System identification and name:* F036 AF PC O, General Officer Personnel Data System.

(i) *Exemption*—Air Force General Officer Promotion and Effectiveness Reports with close out dates on or before January 31, 1991, may be exempt from subsections of 5 U.S.C. 552a(c)(3); (d); (e)(4)(H); and (f).

(ii) *Authority*—5 U.S.C. 552a(k)(7).

(iii) *Reason*—Subsection (c)(3) because making the disclosure accounting available to the individual may compromise express promises of confidentiality by revealing details about the report and identify other record sources, which may result in circumvention of the access exemption. Subsection (d) because individual disclosure compromises express promises of confidentiality conferred to protect the integrity of the promotion rating system. Subsection (e)(4)(H) because of and to the extent that portions of this record system are exempt from the individual access provisions of subsection (d). Subsection (f) because of and to the extent that portions of this record system are exempt from the individual access provisions of subsection (d).

(11) *System identifier and name:* F036 AFPC K, Historical Airman Promotion Master Test File.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f).

(ii) *Authority.* 5 U.S.C. 552a(k)(6).

(iii) *Reasons.* To protect the integrity, objectivity, and equity of the promotion testing system by keeping test questions and answers in confidence.

(12) [Reserved].

(13) *System identifier and name:* F071 AF OSI F, Investigative Applicant Processing Records.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect those who gave information in confidence during Air Force Office of Special Investigations (AFOSI) applicant inquiries. Fear of harassment could cause sources not to make frank and open responses about applicant qualifications. This could compromise the integrity of the AFOSI personnel program that relies on selecting only qualified people.

(14) *System identifier and name:* F036 USAFA B, Master Cadet Personnel Record (Active/Historical).

(i) *Exemptions.* Parts of these systems are exempt from 5 U.S.C. 552a(d), (e)(4)(H), and (f), but only to the extent that they would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To maintain the candor and integrity of comments needed to evaluate a cadet for commissioning in the Air Force.

(15) *System identifier and name:* F031 497IG A, Sensitive Compartmented Information Personnel Records.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(a)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons.* To protect the identity of sources to whom proper promises of confidentiality have been made during investigations. Without these promises, sources will often be unwilling to provide information essential in adjudicating access in a fair and impartial manner.

(16) *System identifier and name:* F071 AF OSI B, Security and Related Investigative Records.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of harassment could cause sources to refuse to give this information in the frank and open way needed to pinpoint those areas in an investigation that should be expanded to resolve charges of questionable conduct.

(17) *System identifier and name:* F031 497IG B, Special Security Case Files.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d), (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of harassment could cause sources to refuse to give this information in the frank and open way needed to pinpoint those areas in an investigation that should be expanded to resolve charges of questionable conduct.

(18) *System identifier and name:* F031 AF SP N, Special Security Files.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of harassment could cause them to refuse to give this information in the frank and open way needed to pinpoint areas in an investigation that should be expanded to resolve charges of questionable conduct.

(19) *System identifier and name:* F036 AF PC P, Applications for Appointment and Extended Active Duty Files.

(i) *Exemption.* Parts of this system of records are exempt from 5 U.S.C. 552a(d), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of confidential sources who furnish information necessary to make determinations about the qualifications, eligibility, and suitability of health care professionals who apply for Reserve of the Air Force appointment or interservice transfer to the Air Force.

(20) *System identifier and name:* F051 AF JA F, Courts-Martial and Article 15 Records.

(i) *Exemption.* Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from the following subsection of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (e)(5), (e)(8), (f), and (g).

(ii) *Exemption.* Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) from the following subsection of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

(iii) *Authority:* 5 U.S.C. 552a(j)(2) and (k)(2).

(iv) *Reason:*

(1) From subsection (c)(3) because the release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(2) From subsection (c)(4) because an exemption is being claimed for subsection (d), this subsection will not be applicable.

(3) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(4) From subsection (e)(1) because in the course of criminal investigations information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(5) From subsection (e)(2) because in a criminal investigation the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection.

(6) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(7) From subsections (e)(4)(G) and (H) because this system of records is exempt from individual access pursuant to subsections (j) and (k) of the Privacy Act of 1974.

(8) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(9) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(10) From subsection (e)(8) because the individual notice requirements of subsection(e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(11) From subsection (f) because this system of records has been exempted from the access provisions of subsection (d).

(12) From subsection (g) because this system of records is compiled for law enforcement purposes and has been exempted from the access provisions of subsections (d) and(f).

(13) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Air Force will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Air Force's Privacy Instruction, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

(21) *System identifier and name:* F036 AF DPG, Military Equal Opportunity and Treatment.

(i) *Exemption:* Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information except to the extent that disclosure would reveal the identity of a confidential source. Portions of this system of records may be exempt pursuant to 5 U.S.C.552a(d), (e)(4)(H), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2).

(iii) *Reasons:*

(1) From subsection (d) because access to the records contained in this system would inform the subject of an investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection, and would present a serious impediment to law enforcement. In addition, granting individuals access to information collected while an Equal Opportunity and Treatment clarification/investigation is in progress conflicts with the just, thorough, and timely completion of the complaint, and could possibly enable individuals to interfere, obstruct, or mislead those clarifying/investigating the complaint.

(2) From subsection (e)(4)(H) because this system of records is exempt from individual access pursuant to subsection (k) of the Privacy Act of 1974.

(3) From subsection (f) because this system of records has been exempted from the access provisions of subsection (d).

(4) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Air Force will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Air Force's Privacy Instruction, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from this system will be made on a case-by-case basis.

(22) *System identifier and name:* F051 AF JA I, Commander Directed Inquiries.

(i) *Exemption:*

(1) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information except to the extent that disclosure would reveal the identity of a confidential source.

Note: When claimed, this exemption allows limited protection of investigative

reports maintained in a system of records used in personnel or administrative actions.

(2) Any portion of this system of records which falls within the provisions of 5 U.S.C. 552a(k)(2) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d) and (f) because providing access to investigative records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants.

(F) Consistent with the legislative purpose of the Privacy Act of 1974, the Air Force will grant access to nonexempt material in the records being maintained. Disclosure will be governed by Air Force's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal or civil violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

(23) *System identifier and name:* F031 DoD A, Joint Personnel Adjudication System.

(i) *Exemption:*

(1) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(2) Therefore, portions of this system may be exempt pursuant to 5 U.S.C. 552a(k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), and (e)(1).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:*

(A) From subsection (c)(3) and (d) when access to accounting disclosures and access to or amendment of records would cause the identity of a confidential source to be revealed. Disclosure of the source's identity not only will result in the Department breaching the promise of confidentiality made to the source but it will impair the Department's future ability to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information. Unless sources can be assured that a promise of confidentiality will be honored, they will be less likely to provide information considered essential to the Department in making the required determinations.

(B) From (e)(1) because in the collection of information for investigatory purposes, it is not always possible to determine the relevance and necessity of particular information in the early stages of the investigation. In some cases, it is only after the information is evaluated in light of other information that its relevance and necessity becomes clear. Such information permits more informed decision-making by the Department when making required suitability, eligibility, and qualification determinations.

(24) *System identifier and name:* F033 AF A, Information Requests-Freedom of Information Act.

(i) *Exemption:* During the processing of a Freedom of Information Act request, exempt materials from 'other' systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those other systems of records are entered into this system, the Department of the Air Force hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record, and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, and to preserve the confidentiality and integrity of Federal evaluation materials. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(25) *System identifier and name:* F033 AF B, Privacy Act Request Files.

(i) *Exemption:* During the processing of a Privacy Act request, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the Department of the Air Force hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reason:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record, and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, and to preserve the confidentiality and integrity of Federal evaluation materials. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

Appendix F to Part 8066—Privacy Impact Assessment

Section A—Introduction and Overview

The Privacy Act Assessment. The Air Force recognizes the importance of protecting the privacy of individuals, to ensure sufficient protections for the privacy of personal information as we implement citizen-centered e-Government. Privacy issues must

be addressed when systems are being developed, and privacy protections must be integrated into the development life cycle of these automated systems. The vehicle for addressing privacy issues in a system under development is the Privacy Impact Assessment (PIA). The PIA process also provides a means to assure compliance with applicable laws and regulations governing individual privacy.

(a) Purpose. The purpose of this document is to:

(1) Establish the requirements for addressing privacy during the systems development process.

(2) Describe the steps required to complete a PIA.

(3) Define the privacy issues you will address in the PIA.

(b) Background. The Air Force is responsible for ensuring the privacy, confidentiality, integrity, and availability of personal information. The Air Force recognizes that privacy protection is both a personal and fundamental right. Among the most basic of individuals' rights is an expectation that the Air Force will protect the confidentiality of personal, financial, and employment information. Individuals also have the right to expect that the Air Force will collect, maintain, use, and disseminate identifiable personal information and data only as authorized by law and as necessary to carry out agency responsibilities. Personal information is protected by the following:

(1) Title 5, U.S.C. 552a, The Privacy Act of 1974, as amended, which affords individuals the right to privacy in records maintained and used by Federal agencies.

Note: 5 U.S.C. 552a includes Public Law (Pub. L.) 100–503, The Computer Matching and Privacy Act of 1988.

(2) Pub. L. 100–235, The Computer Security Act of 1987, which establishes minimum security practices for Federal computer systems.

(3) OMB Circular A–130, Management of Federal Information Resources, which provides instructions to Federal agencies on how to comply with the fair information practices and security requirements for operating automated information systems.

(4) Pub. L. 107–347, Section 208, E-Gov Act of 2002, which aims to ensure privacy in the conduct of federal information activities.

(5) Title 5, U.S.C. 552, The Freedom of Information Act, as amended, which provides for the disclosure of information maintained by Federal agencies to the public while allowing limited protections for privacy.

(6) DoDD 5400.11, Department of Defense Privacy Program, December 13, 1999.

(7) DoD 5400.11–R, Department of Defense Privacy Program, August 1983.

(8) AFI 33–332, Air Force Privacy Act Program.

(c) The Air Force Privacy Office is in the Office of the Air Force Chief Information Officer (AF–CIO), Directorate of Plans and Policy, and is responsible for overseeing Air Force implementation of the Privacy Act.

Section B—Privacy and Systems Development

System Privacy. Rapid advancements in computer technology make it possible to store and retrieve vast amounts of data of all kinds quickly and efficiently. These advancements have raised concerns about the impact of large computerized information systems on the privacy of data subjects. Public concerns about highly integrated information systems operated by the government make it imperative to commit to a positive and aggressive approach to protecting individual privacy. AF–CIO is requiring the use of this PIA in order to ensure that the systems the Air Force develops protect individuals' privacy. The PIA incorporates privacy into the development life cycle so that all system development initiatives can appropriately consider privacy issues from the earliest stages of design.

(a) What is a Privacy Impact Assessment? The PIA is a process used to evaluate privacy in information systems. The process is designed to guide system owners and developers in assessing privacy through the early stages of development. The process consists of privacy training, gathering data from a project on privacy issues, and identifying and resolving the privacy risks. The PIA process is described in detail in Section C, Completing a Privacy Impact Assessment.

(b) When is a PIA Done? The PIA is initiated in the early stages of the development of a system and completed as part of the required system life cycle reviews. Privacy must be considered when requirements are being analyzed and decisions are being made about data usage and system design. This applies to all of the development methodologies and system life cycles used in the Air Force.

(c) Who completes the PIA? Both the system owner and system developers must work together to complete the PIA. System owners must address what data is to be used, how the data is to be used, and who will use the data. The system developers must address whether the implementation of the owner's requirements presents any threats to privacy.

(d) What systems have to complete a PIA? Accomplish PIAs when:

(1) Developing or procuring information technology (IT) that collects, maintains, or disseminates information. in identifiable form from or about members of the public

(2) Initiating a new collection of information, using IT, that collects, maintains, or disseminates information in identifiable form for 10 or more persons excluding agencies, instrumentalities, or employees of the Federal Government.

(3) Systems as described above that are undergoing major modifications.

(e) The Air Force or MAJCOM Privacy Act Officer reserves the right to request that a PIA be completed on any system that may have privacy risks.

Section C—Completing a Privacy Impact Assessment

The PIA. This section describes the steps required to complete a PIA. These steps are summarized in Table A4.1, Outline of Steps for Completing a PIA.

Training. Training on the PIA will be available, on request, from the MAJCOM Privacy Act Officer. The training consists of describing the PIA process and provides detail about the privacy issues and privacy questions to be answered to complete the PIA. MAJCOM Privacy Act Officers may use Appendix F, Sections A, B, D, and E for this purpose. The intended audience is the personnel responsible for writing the PIA document.

The PIA Document. Preparing the PIA document requires the system owner and developer to answer the privacy questions in Section E. A brief explanation should be written for each question. Issues that do not apply to a system should be noted as ''Not Applicable.'' During the development of the PIA document, the MAJCOM Privacy Act Officer will be available to answer questions related to the PIA process and other concerns that may arise with respect to privacy.

Review of the PIA Document. Submit the completed PIA document to the MAJCOM Privacy Act Office for review. The purpose of the review is to identify privacy risks in the system.

Approval of the PIA. The system life cycle review process (Command, Control, Communications, Computers, and Intelligence Support Plan) will be used to validate the incorporation of the design requirements to resolve the privacy risks. MAJCOM and HAF Functional CIOs will issue final approval of the PIA.

TABLE A4.1.—OUTLINE OF STEPS FOR COMPLETING A PIA

Step	Who	Procedure
1	System Owner, and Developer	Request and complete Privacy Impact Assessment (PIA) Training.
2	System Owner, and Developer	Answer the questions in Section E, Privacy Questions. For assistance contact your MAJCOM Privacy Act Officer.
3	System Owner, and Developer	Submit the PIA document to the MAJCOM Privacy Act Officer.

TABLE A4.1.—OUTLINE OF STEPS FOR COMPLETING A PIA—Continued

Step	Who	Procedure
4	MAJCOM Privacy Act Officer	Review the PIA document to identify privacy risks from the information provided. The MAJCOM Privacy Act Officer will get clarification from the owner and developer as needed.
5	System Owner and Developer, MAJCOM Privacy Act Officer.	The System Owner, Developer and the MAJCOM Privacy Act Officer should reach agreement on design requirements to resolve all identified risks.
6	System Owner, Developer, and MAJCOM Privacy Act Officer.	Participate in the required system life cycle reviews to ensure satisfactory resolution of identified privacy risks to obtain formal approval from the MAJCOM or HAF Functional CIO.
7	MAJCOM or HAF Functional CIO	Issue final approval of PIA, and send a copy to AF–CIO/P for forwarding to DoD and OMB.
8	AF–CIO/P	When feasible, publish PIA on FOIA Web page (*http://www.foia.af.mil*)

Section D—Privacy Issues in Information Systems

Privacy Act of 1974, 5 U.S.C. 552a as Amended

Title 5, U.S.C., 552a, The Privacy Act of 1974, as amended, requires Federal Agencies to protect personally identifiable information. It states specifically: Each agency that maintains a system of records shall:

Maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President;

Collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs;

Maintain all records used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination;

Establish appropriate administrative, technical and physical safeguards to ensure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained.

Definitions

Accuracy—within sufficient tolerance for error to assure the quality of the record in terms of its use in making a determination.

Completeness—all elements necessary for making a determination are present before such determination is made.

Determination—any decision affecting an individual which, in whole or in part, is based on information contained in the record and which is made by any person or agency.

Necessary—a threshold of need for an element of information greater than mere relevance and utility.

Record—any item, collection or grouping of information about an individual and identifiable to that individual that is maintained by an agency.

Relevance—limitation to only those elements of information that clearly bear on the determination(s) for which the records are intended.

Routine Use—with respect to the disclosure of a record, the use of such record outside DoD for a purpose that is compatible with the purpose for which it was collected.

System of Records—a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

Timeliness—sufficiently current to ensure that any determination based on the record will be accurate and fair.

Information and Privacy

To fulfill the commitment of the Air Force to protect personal information, several issues must be addressed with respect to privacy.

The use of information must be controlled.

Information may be used only for a necessary and lawful purpose.

Individuals must be informed in writing of the principal purpose and routine uses of the information being collected from them.

Information collected for a particular purpose should not be used for another purpose without the data subject's consent unless such other uses are specifically authorized or mandated by law.

Any information used must be sufficiently accurate, relevant, timely and complete to assure fair treatment of the individual.

Given the availability of vast amounts of stored information and the expanded capabilities of information systems to process the information, it is foreseeable that there will be increased requests to share that information. With the potential expanded uses of data in automated systems it is important to remember that information can only be used for the purpose for which it was collected unless other uses are specifically authorized or mandated by law. If the data is to be used for other purposes, then the public must be provided notice of those other uses.

These procedures do not in themselves create any legal rights, but are intended to express the full and sincere commitment of the Air Force to protect individual privacy rights and which provide redress for violations of those rights.

Data in the System

The sources of the information in the system are an important privacy consideration if the data is gathered from other than Air Force records. Information collected from non-Air Force sources should be verified, to the extent practicable, for accuracy, that the information is current, and complete. This is especially important if the information will be used to make determinations about individuals.

Access to the Data

Who has access to the data in a system must be defined and documented. Users of the data can be individuals, other systems, and other agencies. Individuals who have access to the data can be system users, system administrators, system owners, managers, and developers. When individuals are granted access to a system, their access should be limited, where possible, to only that data needed to perform their assigned duties. If individuals are granted access to all of the data in a system, procedures need to be in place to deter and detect browsing and unauthorized access. Other systems are any programs or projects that interface with the system and have access to the data. Other agencies can be International, Federal, state, or local entities that have access to Air Force data.

Attributes of the Data

When requirements for the data to be used in the system are being determined, those requirements must include the privacy attributes of the data. The privacy attributes are derived from the legal requirements imposed by *The Privacy Act of 1974.* First, the data must be *relevant* and *necessary* to accomplish the purpose of the system. Second, the data must be *complete, accurate,* and *timely.* It is important to ensure the data has these privacy attributes in order to assure fairness to the individual in making decisions based on the data.

Maintenance of Administrative Controls

Automation of systems can lead to the consolidation of processes, data, and the controls in place to protect the data. When administrative controls are consolidated, they should be evaluated so that all necessary controls remain in place to the degree necessary to continue to control access to and use of the data.

Document record retention procedures and coordinate them with the MAJCOM Command Records Manager.

Section E—Privacy Questions

Data in the System

1. Generally describe the information to be used in the system.
2. What are the sources of the information in the system?
a. What Air Force files and databases are used?
b. What Federal Agencies are providing data for use in the system?
c. What State and local agencies are providing data for use in the system?
d. What other third party sources will data be collected from?
e. What information will be collected from the employee?
3. Is data accurate and complete?
a. How will data collected from sources other than Air Force records and the subject be verified for accuracy?
b. How will data be checked for completeness?
c. Is the data current? How do you know?
4. Are the data elements described in detail and documented? If yes, what is the name of the document?

Access to the Data

1. Who will have access to the data in the system (Users, Managers, System Administrators, Developers, Other)?
2. How is access to the data by a user determined? Are criteria, procedures, controls, and responsibilities regarding access documented?
3. Will users have access to all data on the system or will the user's access be restricted? Explain.
4. What controls are in place to prevent the misuse (*e.g.*, browsing) of data by those having access?
5. Does the system share data with another system?
a. Do other systems share data or have access to data in this system? If yes, explain.
b. Who will be responsible for protecting the privacy rights of the employees affected by the interface?
6. Will other agencies have access to the data in the system?
a. Will other agencies share data or have access to data in this system (International, Federal, State, Local, Other)?
b. How will the data be used by the agency?
c. Who is responsible for assuring proper use of the data?
d. How will the system ensure that agencies only get the information they are entitled to under applicable laws?

Attributes of the Data

1. Is the use of the data both relevant and necessary to the purpose for which the system is being designed?
2. Will the system create new data about an individual?
a. Will the system derive new data or create previously unavailable data about an individual through aggregation from the information collected?
b. Will the new data be placed in the individual's record?
c. Can the system make determinations about the record subject that would not be possible without the new data?
d. How will the new data be verified for relevance and accuracy?
3. Is data being consolidated?
a. If data is being consolidated, what controls are in place to protect the data from unauthorized access or use?
b. If processes are being consolidated, are the proper controls remaining in place to protect the data and prevent unauthorized access? Explain.
4. How will the data be retrieved? Is it retrieved by personal identifier? If yes, explain.

Maintenance of Administrative Controls

(1) a. Explain how the system and its use will ensure equitable treatment of record subjects.
b. If the system is operated at more than one location, how will consistent use of the system and data be maintained?
c. Explain any possibility of disparate treatment of individuals or groups.
(2) a. Coordinate proposed maintenance and disposition of the records with the MAJCOM Command Records Manager.
b. While the data is retained in the system, what are the requirements for determining if the data is still sufficiently accurate, relevant, timely, and complete to ensure fairness in making determinations?
(3) a. Is the system using technologies in ways that the Air Force has not previously employed?
b. How does the use of this technology affect personal privacy?
(4) a. Will this system provide the capability to identify, locate, and monitor individuals? If yes, explain.
b. Will this system provide the capability to identify, locate, and monitor groups of people? If yes, explain.
c. What controls will be used to prevent unauthorized monitoring?
(5) a. Under which Systems of Record notice does the system operate? Provide number and name.
b. If the system is being modified, will the system of record require amendment or revision? Explain.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

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BILLING CODE 5001–5–P

ADVISORY COUNCIL ON HISTORIC PRESERVATION

36 CFR Part 800

RIN 3014–AA27

Protection of Historic Properties

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Advisory Council on Historic Preservation (ACHP) is submitting proposed amendments to the regulations setting forth how Federal agencies take into account the effects of their undertakings on historic properties and afford the ACHP a reasonable opportunity to comment, pursuant to section 106 of the National Historic Preservation Act. Most of the proposed amendments respond to recent court decisions which held that the ACHP could not force a Federal agency to change its determinations regarding whether its undertakings affected or adversely affected historic properties, and that section 106 does not apply to undertakings that are merely subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency. Another proposed amendment clarifies the time period for objections to ''No Adverse Effect'' findings. The last proposed amendments clarify that the ACHP can propose an exemption to the section 106 process on its own initiative, rather than needing a Federal agency to make such a proposal.

DATES: Submit comments on or before October 27, 2003.

ADDRESSES: Address all comments concerning this proposed rule to the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Suite 809, Washington, DC 20004. Fax (202) 606–8672. You may submit electronic comments to: *achp@achp.gov.* For electronic comments, please type ''Regs Amendment 2003'' in the subject line of the e-mail.

FOR FURTHER INFORMATION CONTACT: Javier Marqués, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Suite 809, Washington, DC 20004 (202) 606–8503.

SUPPLEMENTARY INFORMATION:

I. Background

Section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f, requires Federal agencies to take into account the effects of their undertakings on properties included, or eligible for inclusion, in the

National Register of Historic Places and to afford the Advisory Council on Historic Preservation (''ACHP'') a reasonable opportunity to comment on such undertakings. The regulations implementing section 106 are codified at 36 CFR part 800 (2001) (''Section 106 regulations'').

On September 18, 2001, the Federal district court for the District of Columbia (''district court'') upheld the section 106 regulations against several challenges. *National Mining Ass'n* v. *Slater* (Civil Action No. 00–288) and *Cellular Telecommunications and Internet Ass'n* v. *Slater* (Civil Action No. 01–00404) (Judge Ellen S. Huvelle). Nevertheless, the district court invalidated portions of two subsections of the section 106 regulations insofar as they allowed the ACHP to reverse a Federal agency's findings of ''No Historic Properties Affected'' (§ 800.4(d)(2)) and ''No Adverse Effects'' (§ 800.5(c)(3)). *See National Mining Ass'n* v. *Slater,* 167 F. Supp. 2d 265 (D.D.C. 2001); and *Id.* (D.D.C. Oct. 18, 2001) (order clarifying extent of original order regarding Section 800.4(d)(2) of the section 106 regulations).

Prior to the district court decision, an objection by the ACHP or the State Historic Preservation Officer/Tribal Historic Preservation Officer (''SHPO/THPO'') to a ''No Historic Properties Affected'' finding forced the Federal agency to proceed to the next step in the process, where it would assess whether the effects were adverse. An ACHP objection to a ''No Adverse Effect'' finding required the Federal agency to proceed to the next step in the process, where it would attempt to resolve the adverse effects.

On appeal by the National Mining Association, the D.C. Circuit Court of Appeals (''D.C. Circuit'') ruled that section 106 does not apply to undertakings that are merely subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency, and remanded to the district court. *National Mining Ass'n* v. *Fowler,* 324 F.3d 752 (D.C. Cir. 2003). On September 4, 2003, the district court issued an order declaring §§ 800.3(a) and 800.16(y) invalid to the extent that they applied section 106 to the mentioned undertakings, and remanding the matter to the ACHP.

The ACHP is now proposing amendments to the mentioned subsections so that they comport with the court rulings, while still being consistent with the purpose of helping Federal agencies avoid proceeding with a project under an erroneous determination that the project would not affect or adversely affect historic properties, and still triggering section 106 compliance responsibilities for Federal agencies when they approve or fund State-delegated programs.

A related amendment would clarify that even if a SHPO/THPO concur in a ''No Adverse Effect'' finding, the ACHP and any consulting party still have until the end of the 30 day review period to file an objection. Such objections would require the Federal agency to either resolve the objection or submit the dispute to the ACHP for its non-binding opinion.

Finally, the ACHP is also taking the opportunity to amend its regulations to clarify that the ACHP can propose an exemption to the section 106 process on its own initiative, rather than needing a Federal agency to make such a proposal.

II. Amendments Regarding ACHP Review of ''No Historic Properties Affected'' and ''No Adverse Effect'' Determinations

As stated above, the district court held that the asserted power of the ACHP to reverse Federal agency determinations of ''No Historic Properties Affected'' and ''No Adverse Effect'' exceeded the ACHP's legal authority under the National Historic Preservation Act.

The proposed amendments would still require a Federal agency that makes such findings and that receives a timely objection to submit the findings to the ACHP for the specified review period. Within that period, the ACHP would then be able to give its opinion on the matter to the agency official and, if it believed the issues warranted, to the head of the agency. The agency official, or the head of the agency, as appropriate, would take into account the opinion and provide the ACHP with a summary of the final decision that contains the rationale for the decision and evidence of consideration of the ACHP's opinion. However, the Federal agency would not be forced to abide by the ACHP's opinion on the matter.

The amendments also change the time period, from 15 days to 30 days, for the ACHP to issue its opinion regarding ''No Adverse Effect'' findings. This additional time is deemed necessary since the ACHP opinions may now be addressed to the head of the agency, and would therefore more likely be ultimately formulated by ACHP members, as opposed to such tasks being mostly delegated to the staff. Such formulation of opinions by ACHP members is expected to require more time considering that these ACHP members are Special Government Employees who reside in different areas of the country and whose primary employment lies outside the ACHP.

III. Amendment Regarding the Applicability of Section 106 to Undertakings That Are Merely Subject to State or Local Regulation Administered Pursuant to a Delegation or Approval by a Federal Agency

As explained above, the D.C. Circuit held that section 106 does not apply to undertakings that are merely subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency. Accordingly, the proposed amendment removes those types of undertakings from the definition of the term ''undertaking'' on § 800.16(y).

Formerly, an individual project would trigger section 106 due to its regulation by a State or local agency (through such things as permitting) pursuant to Federally-delegated programs such as those under the Surface Mining Control and Reclamation Act, 30 U.S.C. 1201 *et seq.* Under the proposed amendment, such State regulation would not, by itself, trigger section 106 for those projects.

Nevertheless, it is the opinion of the ACHP that the Federal agency approval and/or funding of such State-delegated programs does require section 106 compliance by the Federal agency, as such programs are ''undertakings'' receiving Federal approval and/or Federal funding. Accordingly, Federal agencies would need to comply with their section 106 responsibilities regarding such programs before an approval and/or funding decision on them. For existing programs, this could occur during renewal or periodic assessment of such programs.

Due to the inherent difficulties in prospectively foreseeing the effects of such programs on historic properties at the time of the program approval and/or funding, the ACHP believes that section 106 compliance in those situations will be pursuant to a program alternative per 36 CFR 800.14. For example, that section of the regulations provides that ''Programmatic Agreements'' may be used when ''* * * effects on historic properties cannot be fully determined prior to approval of an undertaking; [or] * * * when nonfederal parties are delegated major decisionmaking responsibilities * * *'' 36 CFR 800.14(b)(1). The ACHP stands ready to pursue such alternatives with the relevant Federal agencies.

IV. Amendment Clarifying the 30-Day Review Period for No Adverse Effect Determinations

Questions have arisen under the current section 106 regulations as to whether a Federal agency can proceed with its undertaking immediately after the SHPO/THPO concurs in a finding of ''No Adverse Effect.'' The current section 106 regulations specify a 30-day review period, during which the SHPO/THPO, the ACHP and other consulting parties can lodge an objection. The result of such objection is that the Federal agency must submit the finding to ACHP review. If the SHPO/THPO concurs, for example, on the fifth day of the 30 day period, the current language may have given some the erroneous impression that this would cut off the right of other parties to object thereafter within the 30 day period (e.g., on the 15th or 28th day).

The proposed, technical amendment provides clearer language, consistent with the original intent expressed in the preamble to the section 106 regulations (''the SHPO/THPO *and any consulting party* wishing to disagree to the [no adverse effect] finding must do so within the 30 day review period,'' 65 FR 77720 (December 12, 2000) (emphasis added)) and in subsequent ACHP guidance on the regulations (''Each consulting party has the right to disagree with the [no adverse effect] finding within that 30-day review period;'' *http://www.achp.gov/106q&a.html#800.5*). All consulting parties have the full 30 day review period to object to a no adverse effect finding regardless of SHPO/THPO concurrence earlier in that period.

V. Amendments Authorizing the ACHP To Initiate Section 106 Exemptions

Under the current section 106 regulations, in order for the ACHP to begin its process of considering an exemption, the ACHP needs to wait for a Federal agency to propose such an exemption. Under the proposed amendment, the ACHP would be able to initiate the process for an exemption on its own.

The ACHP believes it is in an unique position, as overseer of the section 106 process, to find situations that call for a section 106 exemption and to propose such exemptions on its own. There may also be certain types of activities or types of resources that are involved in the undertakings of several different Federal agencies that would be good candidates for exemptions when looking at the undertakings of all of these agencies, but that may not be a high enough priority for any single one of those agencies to prompt it to ask for an exemption or to ask for it in a timely fashion. The ACHP could step into those situations and propose such exemptions on its own, and then follow the already established process and standards for such exemptions.

VI. Impact Analysis

The Regulatory Flexibility Act

The ACHP certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. The amendments in their proposed version only impose mandatory responsibilities on Federal agencies. As set forth in section 106 of the NHPA, the duties to take into account the effect of an undertaking on historic resources and to afford the ACHP a reasonable opportunity to comment on that undertaking are Federal agency duties. Indirect effects on small entities, if any, created in the course of a Federal agency's compliance with section 106 of the NHPA, must be considered and evaluated by that Federal agency.

The Paperwork Reduction Act

The proposed rule does not impose reporting or record-keeping requirements or the collection of information as defined in the Paperwork Reduction Act.

The National Environmental Policy Act

It is the determination of the ACHP that this action is not a major Federal action significantly affecting the environment. Regarding the National Environmental Policy Act (NEPA) documents for the regulation to be amended, as a whole, please refer to our Notice of Availability of Environmental Assessment and Finding of No Significant Impact at 65 FR 76983 (December 8, 2000). A supplemental Environmental Assessment and Finding of No Significant Impact is not deemed necessary because (1) these amendments do not present substantial changes in the regulations that are relevant to environmental concerns; (2) most of the amendments are a direct result of a court order; and (3) there are no significant new circumstances or information relevant to environmental concerns and bearing on the regulations or their impacts.

Executive Orders 12866 and 12875

The ACHP is exempt from compliance with Executive Order 12866 pursuant to implementing guidance issued by the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs in a memorandum dated October 12, 1993. The ACHP also is exempt from the documentation requirements of Executive Order 12875 pursuant to implementing guidance issued by the same OMB office in a memorandum dated January 11, 1994.

The Unfunded Mandates Reform Act

The proposed rule does not impose annual costs of $100 million or more, will not significantly or uniquely affect small governments, and is not a significant Federal intergovernmental mandate. The ACHP thus has no obligations under sections 202, 203, 204 and 205 of the Unfunded Mandates Reform Act.

Executive Order 12898

The proposed rule does not cause adverse human health or environmental effects, but, instead, seeks to avoid adverse effects on historic properties throughout the United States. The participation and consultation process established by the section 106 process seeks to ensure public participation—including by minority and low-income populations and communities—by those whose cultural heritage, or whose interest in historic properties, may be affected by proposed Federal undertakings. The section 106 process is a means of access for minority and low-income populations to participate in Federal decisions or actions that may affect such resources as historically significant neighborhoods, buildings, and traditional cultural properties. The ACHP considers environmental justice issues in reviewing analysis of alternatives and mitigation options, particularly when section 106 compliance is coordinated with NEPA compliance.

VII. Text of Proposed Amendments

List of Subjects in 36 CFR Part 800

Administrative practice and procedure, Historic preservation, Indians, Inter-governmental relations, Surface mining.

For the reasons stated above, the Advisory Council on Historic Preservation proposes to amend 36 CFR part 800 as follows:

PART 800—PROTECTION OF HISTORIC PROPERTIES

1. The authority citation for part 800 continues to read as follows:

Authority: 16 U.S.C. 470s.

2. Amend § 800.4 by revising paragraph (d) to read as follows:

§ 800.4 Identification of historic properties.

* * * * *

(d) *Results of identification and evaluation.*

(1) *No historic properties affected.* If the agency official finds that either there are no historic properties present or there are historic properties present but the undertaking will have no effect upon them as defined in § 800.16(i), the agency official shall provide documentation of this finding, as set forth in § 800.11(d), to the SHPO/THPO. The agency official shall notify all consulting parties, including Indian tribes and Native Hawaiian organizations, and make the documentation available for public inspection prior to approving the undertaking.

(i) If the SHPO/THPO, or the Council if it has entered the section 106 process, does not object within 30 days of receipt of an adequately documented finding, the agency official's responsibilities under section 106 are fulfilled.

(ii) If the SHPO/THPO, or the Council if it has entered the section 106 process, objects within 30 days of receipt of an adequately documented finding, the agency official shall forward the finding and supporting documentation to the Council and request that the Council review the finding. Upon receipt of the request, the Council will have 30 days in which to review the finding and provide the agency official and, if the Council determines the issue warrants it, the head of the agency with the Council's opinion regarding the finding. If the Council does not respond within 30 days of receipt of the request, the agency official may assume concurrence with the agency official's findings and proceed accordingly. The agency official, or, if the Council has commented to the head of the agency, the head of the agency, shall take into account the Council's opinion in reaching a final decision on the finding. The agency official or the head of the agency, as appropriate, shall then prepare a summary of the decision that contains the rationale for the decision and evidence of consideration of the Council's opinion, and provide it to the Council. If the agency official's initial finding will be revised, the agency official shall proceed in accordance with the revised finding. If the final decision of the agency is to affirm the initial agency finding of no historic properties affected, once the summary of the decision has been sent to the Council, the agency official's responsibilities under section 106 will be fulfilled.

(2) *Historic properties affected.* If the agency official finds that there are historic properties which may be affected by the undertaking, the agency official shall notify all consulting parties, including Indian tribes or Native Hawaiian organizations, invite their views on the effects and assess adverse effects, if any, in accordance with § 800.5.

3. Amend § 800.5 by revising paragraphs (c)(1) and (c)(3) to read as follows:

§ 800.5 Assessment of adverse effects.

* * * * *

(c) * * *

(1) *Agreement with finding.* Unless the Council is reviewing the finding pursuant to § 800.5(c)(3), the agency official may proceed after the close of the 30 day review period if the SHPO/THPO agrees with the finding and no consulting party objects within that period. The agency official shall carry out the undertaking in accordance with § 800.5(d)(1). Failure of the SHPO/THPO to respond within 30 days from receipt of the finding shall be considered agreement of the SHPO/THPO with the finding.

* * * * *

(3) *Council review of findings.* When a finding is submitted to the Council pursuant to paragraph (c)(2) of this section, the agency official shall include the documentation specified in § 800.11(e). The Council shall review the finding and provide the agency official and, if the Council determines the issue warrants it, the head of the agency with its opinion as to whether the adverse effect criteria have been correctly applied within 30 days of receiving the documented finding from the agency official. If the Council does not respond within 30 days of receipt of the finding, the agency official may assume concurrence with the agency official's findings and proceed accordingly. The agency official, or, if the Council has commented to the head of the agency, the head of the agency, shall take into account the Council's opinion in reaching a final decision on the finding. The agency official or the head of the agency, as appropriate, shall then prepare a summary of the decision that contains the rationale for the decision and evidence of consideration of the Council's opinion, and provide it to the Council. If the agency official's initial finding will be revised, the agency official shall proceed in accordance with the revised finding. If the final decision of the agency is to affirm the initial finding of no adverse effect, once the summary of the decision has been sent to the Council, the agency official's responsibilities under section 106 will be fulfilled.

* * * * *

4. Amend § 800.14 by revising paragraph (c) to read as follows:

§ 800.14 Federal agency program alternatives.

* * * * *

(c) *Exempted categories.*

(1) *Criteria for establishing.* The Council or an agency official may propose a program or category of undertakings that may be exempted from review under the provisions of subpart B of this part, if the program or category meets the following criteria:

(i) The actions within the program or category would otherwise qualify as ''undertakings'' as defined in § 800.16;

(ii) The potential effects of the undertakings within the program or category upon historic properties are foreseeable and likely to be minimal or not adverse; and

(iii) Exemption of the program or category is consistent with the purposes of the act.

(2) *Public participation.* The proponent of the exemption shall arrange for public participation appropriate to the subject matter and the scope of the exemption and in accordance with the standards in subpart A of this part. The proponent of the exemption shall consider the nature of the exemption and its likely effects on historic properties and take steps to involve individuals, organizations and entities likely to be interested.

(3) *Consultation with SHPOs/THPOs.* The proponent of the exemption shall notify and consider the views of the SHPOs/THPOs on the exemption.

(4) *Consultation with Indian tribes and Native Hawaiian organizations.* If the exempted program or category of undertakings has the potential to affect historic properties on tribal lands or historic properties of religious and cultural significance to an Indian tribe or Native Hawaiian organization, the Council shall follow the requirements for the agency official set forth in paragraph (f) of this section.

(5) *Council review of proposed exemptions.* The Council shall review an exemption proposal that is supported by documentation describing the program or category for which the exemption is sought, demonstrating that the criteria of paragraph (c)(1) of this section have been met, describing the methods used to seek the views of the public, and summarizing any views submitted by the SHPO/THPOs, the public, and any others consulted. Unless it requests further information, the Council shall approve or reject the proposed exemption within 30 days of receipt, and thereafter notify the relevant agency official and SHPO/THPOs of the decision. The decision shall be based on the consistency of the exemption with the purposes of the act,

taking into consideration the magnitude of the exempted undertaking or program and the likelihood of impairment of historic properties in accordance with section 214 of the Act.

(6) *Legal consequences.* Any undertaking that falls within an approved exempted program or category shall require no further review pursuant to subpart B of this part, unless the agency official or the Council determines that there are circumstances under which the normally excluded undertaking should be reviewed under subpart B of this part.

(7) *Termination.* The Council may terminate an exemption at the request of the agency official or when the Council determines that the exemption no longer meets the criteria of paragraph (c)(1) of this section. The Council shall notify the agency official 30 days before termination becomes effective.

(8) *Notice.* The proponent of the exemption shall publish notice of any approved exemption in the **Federal Register**.

* * * * *

5. Amend § 800.16 by revising paragraph (y) to read as follows:

§ 800.16 Definitions.

* * * * *

(y) *Undertaking* means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license or approval.

* * * * *

Dated: September 17, 2003.

John M. Fowler,

Executive Director.

[FR Doc. 03–24202 Filed 9–24–03; 8:45 am]

BILLING CODE 4310–10–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 030908223–3223–01; I.D. 081403B]

RIN 0648–AP57

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fishery; Amendment 13 to the Surfclam and Ocean Quahog Fishery Management Plan

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 13 to the Surfclam and Ocean Quahog Fishery Management Plan (FMP). This proposed rule would establish: A new surfclam overfishing definition; multi-year fishing quotas; a mandatory vessel monitoring system (VMS), when such a system is economically viable; the ability to suspend or adjust the surfclam minimum size limit through a framework adjustment; and an analysis of fishing gear impacts on Essential Fish Habitat (EFH) for surfclams and ocean quahogs. The primary purpose of this proposed action is to rectify the disapproved surfclam overfishing definition and the EFH analysis and rationale contained in Amendment 12 in order to comply with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and to simplify the regulatory requirements of the FMP.

DATES: Comments must be received at the appropriate address or fax number, (See **ADDRESSES**), on or before 5 p.m., local time, on October 27, 2003.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on Amendment 13 to Atlantic Surfclam and Ocean Quahog Fishery.'' Comments also may be sent via facsimile (fax) to (978) 281–9135. Comments will not be accepted if submitted via e-mail or Internet.

Copies of the FMP, its Regulatory Impact Review (RIR), the Initial Regulatory Flexibility Analysis (IRFA), and the Final Environmental Impact Statement (FEIS) are available from Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904.

FOR FURTHER INFORMATION CONTACT: Susan A. Murphy, Supervisory Fishery Policy Analyst, 978–281–9252, fax 978–281–9135, *Susan.A.Murphy@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

Amendment 12 to the FMP was prepared by the Mid-Atlantic Fishery Management Council (Council) to bring the FMP into compliance with the Magnuson-Stevens Act, as amended by the Sustainable Fisheries Act of 1996. On April 28, 1999, the Council was notified that NMFS partially approved Amendment 12. Specifically, two Amendment 12 measures were disapproved, the surfclam overfishing definition and the analysis and rationale for the status quo alternative for addressing fishing gear impacts to EFH. To rectify these disapprovals, the Council prepared, and NMFS published, a Notice of Intent to Prepare an Environmental Impact Statement (EIS) in the **Federal Register**, officially beginning the Council's scoping process for Amendment 13 (66 FR 13694, March 7, 2001). The Council held a scoping hearing on March 21, 2001, and accepted scoping comments on the amendment during the period March 7 through April 6, 2001. In addition to the surfclam overfishing definition and EFH alternatives, other issues identified for inclusion in the EIS were multi-year quotas, a mandatory VMS requirement and a permanent suspension of the surfclam minimum size limit. The Council identified a range of alternatives for each of these five issues and approved the alternatives in a public hearing document at its May, 2002 meeting. A Notice of Availability (NOA) on the DSEIS was published in the **Federal Register** on August 30, 2002 (67 FR 55838), with a comment period ending October 15, 2002. There were a series of three public hearings held (one each in the states of Maine, New Jersey and Delaware). After consideration of all public comments, the Council chose the following alternatives at its January, 2003 meeting and voted to submit the Amendment 13 document, including the draft final supplemental environmental impact statement to NMFS. The Amendment 13 measures contained in this action propose multi-year fishing quotas and the ability to suspend or adjust the surfclam

minimum size limit through a framework adjustment. The analysis of fishing gear impacts on EFH for surfclams and ocean quahogs, a new surfclam overfishing definition, and a mandatory VMS are not accompanied by regulatory text because either they are non regulatory in nature (fishing gear impacts on EFH and the new overfishing definition) or implementation is deferred (a mandatory VMS requirement). However, information on these alternatives is presented in the preamble.

Surfclam Overfishing Definition

The surfclam overfishing definition contained in Amendment 12 was disapproved because it was based on the sustainability of that portion of the surfclam stock located in the northern New Jersey area. Although 80 percent of the surfclam fishery has taken place off northern New Jersey over the past decade, the Amendment 12 surfclam overfishing definition did not represent the entire resource, as required by National Standard 3.

The surfclam overfishing definition recommended by the Council is based on the advice of the 30th Stock Assessment Workshop (SAW 30, April 2000), which incorporated the results of a research survey that took place during the summer of 1999. In addition, the proposed overfishing definition applies to the entire resource, versus focusing on the northern New Jersey area component of this stock. The proposed surfclam overfishing definition is as follows: Biomass target (B_{target}) = 1/2 of current biomass (as a proxy for the biomass level at maximum sustainable yield (B_{msy})); biomass threshold ($B_{threshold}$) = 1/2 the biomass target; fishing mortality threshold ($F_{threshold}$) = fishing mortality at maximum sustainable yield (F_{msy}), where the current proxy for Fmsy is the natural mortality rate for surfclams (M); and the fishing mortality target (F_{target}) would always be set less than the Fthreshold and would be equivalent to the fishing mortality rate (F) associated with the quota selected by the Council.

Fishing Gear Impacts on EFH

The Amendment 12 no action alternative for addressing fishing gear impacts to EFH for surfclams and ocean quahogs was disapproved because the rationale and analysis for selecting this preferred alternative was insufficient. To address this insufficiency, the Council evaluated nine alternatives to minimize fishing gear impacts to EFH, most of which focus on closed areas. The relatively recent ''Workshop on the Effects of Fishing Gear on Marine Habitats off the Northeastern United States'' (Workshop, October 2001) concluded that the effects of hydraulic clam dredges were limited to sandy substrates, since this type of gear is not used on muddy or gravel substrates. The Workshop panel also agreed that hydraulic clam dredges have important habitat effects, but that only a small area is affected by this type of gear. In summary, the Workshop panel concluded that because the surfclam fishery is primarily prosecuted in sandy habitats, its effect is limited to potentially large, but localized impacts to biological and physical structure. Furthermore, because the recovery time is relatively short for this high energy environment, the impacts can be considered temporary. In addition, because these impacts potentially affect a relatively small portion (approximately 100 square nautical miles) of the overall large uniform area of high energy sand along the continental shelf, they can be considered minimal. The Workshop panel also indicated that other measures, such as reductions in effort or gear modifications, are not practicable. Thus, based on information from the Workshop, NMFS proposes that no action be taken at this time to mitigate fishing gear impacts on EFH.

Multi-year Quotas

This proposed rule would replace the current annual specification process with a process that would allow the Council to establish specifications to be in effect for up to three fishing years, provided that an annual evaluation of the surfclam and ocean quahog status is undertaken. This multi-year specification process would allow the Council and NMFS to be more efficient by streamlining the regulatory process, and would provide the industry with greater regulatory consistency and predictability. The intent of this provision is to make the 3–year maximum quota setting process coincide with the Northeast Fisheries Science Center's clam survey and subsequent stock assessment, which occur approximately every 3 years. This would provide the Council with the most recent scientific information available in setting the specifications for these two species. However, the maximum three-year specification process is not meant to curtail the Council from setting specifications during the interim years if information obtained during the annual review indicates that the surfclam and ocean quahog specifications warrant a change, e.g., to comply fully with the Magnuson-Stevens Act.

Mandatory VMS

Amendment 13, if approved, would authorize NMFS to implement a mandatory VMS requirement based on analysis provided by the Council. At that time, the Council would submit to NMFS the applicable paperwork to conform with the Paperwork Reduction Act, and submit a full economic analysis pertaining to this new requirement. Once these Council submissions are complete, NMFS will publish a proposed rule. The Council intends that such a program would be implemented through three phases as follows: (1) VMS notification to replace the existing surfclam/ocean quahog call-in system; (2) electronic vessel reporting that would replace the existing vessel logbook; and (3) collection of scientific information on a tow-by-tow basis. In addition, the Council could decide to monitor closed areas to better aid enforcement. However, this would be done independently of the other three phases.

Frameworkable Measures

Finally, this proposed rule would add to the list of frameworkable management measures the ability to suspend or adjust the surfclam minimum size limit. Currently, NMFS conducts an annual analysis to determine if discards or survey data indicate that 30 percent of the surfclams are smaller then 4.75 in (12.06 cm). If it is determined that 30 percent of the surfclams are not smaller than 4.75 in (12.06 cm), NMFS publishes a notice in the **Federal Register** to suspend the surfclam minimum size limit. This suspension has been done every year since the implementation of the individual transferable quota program in 1990. However, due to concerns expressed by some industry members, as well as Council concern that it may be more difficult to implement a change rather than to suspend a current provision, the Council voted to maintain the no action alternative and add to the list of frameworkable management measures the ability to suspend or to adjust the surfclam minimum size limit.

Classification

At this time, NMFS has not determined that the Amendment, which this proposed rule would implement, is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

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

The Council prepared an initial regulatory flexibility analysis (IRFA) as required by section 603 of the Regulatory Flexibility Act. Additionally, the Council in cooperation with NMFS prepared a supplement to the IRFA. The IRFA describes the economic impact that this proposed rule, if adopted, would have on small entities. A summary of the analysis follows:

A description of the reasons why this action is being considered, and the objectives and legal basis of this proposed rule are contained in the **SUMMARY** and in the **SUPPLEMENTARY INFORMATION** of this proposed rule and are not repeated here. There are no recordkeeping, reporting, or other compliance costs resulting from this action. It would not duplicate, overlap, or conflict with any other Federal rules.

All of the affected businesses (fishing vessels) are considered small entities under the standards described by the Small Business Administration because they have annual returns (revenues) that do not exceed $3.5 million annually.

The economic impacts of actions were analyzed by employing quantitative approaches to the extent possible. When appropriate data was lacking, or the action was administrative in nature, a qualitative approach was employed. Effects on profitability associated with the proposed management measures should be evaluated by looking at the impact the proposed measures would have on individual vessel costs and revenues. However, in the absence of cost data for individual vessels engaged in these fisheries, changes in gross revenues are used as a proxy for profitability.

In 2003, there were 1590 vessels that held permits in the surf clam fishery and 1602 that held permits in the ocean quahog fishery. Of these vessels, 1590 held both the ocean quahog and surf clam permit simultaneously. The proposed action could affect any vessel holding an active Federal permit for either species. However, the commercial use of the permit is limited to vessels fishing under an individual fishing quota or fishing in the Maine mahogany quahog fisery. In 2001, there were 51 vessels that landed either surfclams (21 vessels), ocean quahogs (16 vessels), or both (14 vessels). There were 31 vessels in 2001 that fished under the Federal limited access Maine mahogany quahog permit for Maine ocean quahogs.

Management measures contained in this proposed rule would establish multi-year quotas and add the suspension of the surfclam minimum size limit and adjustment of the minimum size to the list of frameworkable measures under the FMP.

None of the proposed management measures in this rule would result in a substantial change in revenues or profitability of vessels comprising these fisheries. Although additional alternatives were considered for these management measures, the preferred alternative would minimize economic impacts to the greatest extent possible.

The proposal to revise the overfishing definition for surfclams does not alter the optimum yield of the fishery, a basis for determining annual quotas, and does not directly impact gross revenues. Therefore, no change to gross revenues is expected from this revision. However, an initial regulatory flexibility analysis must be prepared at the times when quotas or other management measures that control landings are proposed. The Council considered three alternative overfishing definitions, none of which would meet the requirements of National Standard 1 of the Magnuson-Stevens Act. As in the case of the preferred alternative, none of these alternatives would directly affect the profitability of individual vessels.

The proposal to establish multi-year quotas and frameworkable minimum size limits and adjustments for surfclams are administrative and will not directly impact gross revenues. However, the Council will be required to prepare an initial regulatory flexibility analysis for each quota set by the Council and for each surfclam minimum size limit adjustment, if applicable.

The Council considered two alternatives to the multi-year quota measure including the status quo and an alternative that would set multi-year quotas without annual review. The Council also considered two alternatives to the minimum size limits and adjustments including the status quo and an alternative to adjust minimum sizes when the multi-year decisions occur. All alternatives are purely administrative in nature. However, as explained above, any changes to annual quotas or adjustments to surfclam minimum size that could result from any alternatives considered would require, subject to the preparation of a proposed rule, preparation of regulatory flexibility analyses at that time.

The Council is planning to establish a vessel monitoring program at a later point in time since the implementation of a system is dependent upon the determination by the Regional Administrator of an economically viable monitoring system. If and when the Regional Administrator determines that an economically viable monitoring system is achievable, the Council must prepare an initial regulatory flexibility analysis that fully examines the compliance costs associated with that system. A mandatory VMS requirement would be implemented through proposed and final rulemaking by a regulatory amendment.

The Council proposes no change to existing management measures to address fishing gear impacts on EFH at this time. Therefore, there are no impacts on vessel gross revenues resulting from this aspect of Amendment 13. However, the Council analyzed potential closures of three areas as alternatives to the no action measure including a closing of the Georges Bank Area, the Southern New England East Area, and the Habitat Area of Particular Concern (HAPC) for Tilefish. For Georges Bank, there would be no economic impact to vessels since this area has been closed to fishing for surfclams and ocean quahogs for over ten years. Accordingly, no landings have been recorded from that area during the closure time. For Southern New England, the Council concluded that there would be minimally negative economic impacts to surf clam vessels. However, there could be substantially negative economic impacts to ocean quahog vessels. A closure in the Southern New England area would most likely affect surf clam and ocean quahog vessels fishing out of Massachusetts and Rhode Island since increased fuel costs needed to steam to another fishable area coupled with reduced gross revenue could reduce vessel profitability. The Council estimated that this closure would reduce gross revenues for quahog vessels by $1,065 per trip and for surfclam vessels by $2 per trip. The Council determined that the closure of the Tilefish HAPC could result in the largest negative impact to quahog vessels, with a loss in gross revenues of $2,637 per trip and a loss in profitability to surfclam vessels of $71 per trip. However, economic impacts from the closure of Tilefish HAPC are likely to be grossly overestimated relative to the actual area that would be specified in any regulations. The impacts are more a function of creating complete 10–minute squares for closures and attempting to minimize the jagged nature of the 250–ft (76.2–m) bathymetric contour. Based purely on sediment preference, it is unlikely ocean quahogs and tilefish would coexist in concentrated areas.

The analysis in the IRFA indicates that there are no significant alternatives considered that would minimize

adverse economic impacts or increase economic benefits relative to the proposed management measures contained in this proposed rule.

List of Subjects in 50 CFR Part 648

Fishing, Fisheries, Reporting and recordkeeping requirements.

Dated: September 17, 2003.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 648.71 is revised to read as follows:

§ 648.71 Catch quotas.

(a) *Establishing quotas.* Beginning in 2005, the amount of surfclams or ocean quahogs that may be caught annually by fishing vessels subject to these regulations will be specified for a three-year period by the Regional Administrator on or about December 1, 2004. The initial 3–year specification will be based on the most recent available survey and stock assessments for Atlantic surfclams and ocean quahogs. Subsequent 3–year specifications of the annual quotas will be accomplished on or about December 1 of the third year of the quota period unless the quotas are modified in the interim pursuant to § 648.71(b). The amount of surfclams available for harvest annually must be specified within the range of 1.85 to 3.4 million bu (98.5 to 181 million L) per year. The amount of ocean quahogs available for harvest annually must be specified within the range of 4 to 6 million bu (213 to 319.4 million L).

(1) *Quota reports.* On an annual basis, MAFMC staff will produce an Atlantic surfclam and ocean quahog annual quota recommendation paper to the MAFMC based on the latest available stock assessment report prepared by NMFS, data reported by harvesters and processors, and other relevant data as well as the information contained in paragraphs (a)(1)(i) thru (vi) of this section. Based on that report, and at least once prior to August 15 of the year in which a three year annual quota specification expires, the MAFMC, following an opportunity for public comment, will recommend to the Regional Administrator annual quotas and estimates of DAH and DAP within the ranges specified for a three year period. In selecting the annual quotas, the MAFMC shall consider the current stock assessments, catch reports, and other relevant information concerning:

(i) Exploitable and spawning biomass relative to the OY.

(ii) Fishing mortality rates relative to the OY.

(iii) Magnitude of incoming recruitment.

(iv) Projected effort and corresponding catches.

(v) Geographical distribution of the catch relative to the geographical distribution of the resource.

(vi) Status of areas previously closed to surfclam fishing that are to be opened during the year and areas likely to be closed to fishing during the year.

(2) *Public review.* Based on the recommendation of the MAFMC, the Regional Administrator shall publish proposed surfclam and ocean quahog quotas in the **Federal Register**. Comments on the proposed annual quotas may be submitted to the Regional Administrator within 30 days after publication. The Assistant Administrator shall consider all comments, determine the appropriate annual quotas, and publish the annual quotas in the **Federal Register** on or about December 1 of each year. The quota shall be set at that amount that is most consistent with the objectives of the Atlantic Surfclam and Ocean Quahog FMP. The Regional Administrator may set quotas at quantities different from the MAFMC's recommendations only if he/she can demonstrate that the MAFMC's recommendations violate the national standards of the Magnuson Act and the objectives of the Atlantic Surfclam and Ocean Quahog FMP and other applicable law.

(b) *Interim quota modifications.* Based upon information presented in the quota reports described in paragraph (a)(1), the MAFMC may recommend to the Regional Administrator a modification to the annual quotas that have been specified for a 3–year period and any estimate of DAH or DAP made in conjunction with such specifications within the ranges specified in paragraph (a)(1) of this section. Based upon the Council's recommendation, the Regional Administrator may propose surfclam and or ocean quahog quotas that differ from the annual quotas specified for the current 3–year period. Such modification shall be in effect for a period of 3 years from the year in which it is first implemented unless further modified. Any interim modification shall follow the same procedures for establishing the annual quotas that are specified for a 3–year period.

(c) The previous year's annual quotas for surfclams and ocean quahogs and three-year specifications will remain effective unless revised pursuant to this section. NMFS will issue notification in the **Federal Register** if the previous year's specifications will not be changed.

3. In § 648.77, paragraph (a)(1) is revised to read as follows:

§ 648.77 Framework adjustments to management measures.

(a) * * *

(1) *Adjustment process.* The Council shall develop and analyze appropriate management actions over the span of at least two Council meetings. The Council must provide the public with advance notice of the availability of the recommendation(s), appropriate justification(s) and economic and biological analyses, and the opportunity to comment on the proposed adjustment(s) at the first meeting, and prior to and at the second Council meeting. The Council's recommendations on adjustments or additions to management measures must come from one or more of the following categories: The overfishing definition (both the threshold and target levels), description and identification of EFH (and fishing gear management measures that impact EFH), habitat areas of particular concern, set aside quota for scientific research, vessel tracking system, optimum yield range, and suspension or adjustment of the surfclam minimum size limit.

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[FR Doc. 03–24250 Filed 9–24–03; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 68, No. 186

Thursday, September 25, 2003

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Privacy Act of 1974; Report of a New System of Records

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of new Privacy Act system of records.

SUMMARY: Notice is hereby given that the United States Department of Agriculture (USDA) proposes to create a new Privacy Act system of records, FCIC–9, entitled ''Agent.'' The system will be maintained by the Federal Crop Insurance Corporation (FCIC), a wholly owned Government Corporation administered by the Risk Management Agency (RMA), an agency of USDA. The primary purpose of the Agent system is to aid in the administration and management of the Federal crop insurance program.

EFFECTIVE DATE: This notice will be adopted without further publication on November 24, 2003 unless modified by a subsequent notice to incorporate comments received from the public. Although the Privacy Act requires only that the portion of the system which describes the ''routine uses'' of the system be published for comment, USDA invites comment on all portions of this notice. Comments must be received by the contact person listed below on or before October 27, 2003.

FOR FURTHER INFORMATION CONTACT: Director, Actuarial Division, Risk Management Agency, 6501 Beacon Drive, Kansas City, Missouri 64133. Telephone: (816) 926–6487.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act, 5 U.S.C. 552a, USDA is creating a new system of records, FCIC–9 entitled ''Agent'' to be maintained by the Federal Crop Insurance Corporation (FCIC), a wholly-owned Government Corporation administered by the Risk Management Agency (RMA), an agency of USDA.

RMA promotes and regulates sound risk management solutions to improve the economic stability of American agriculture. The Agency is responsible for supervision of the Federal Crop Insurance Corporation (FCIC) and the administration and oversight of programs authorized under the Federal Crop Insurance Act. As an example, the Federal crop insurance program covers production losses due to unavoidable causes such as drought, excessive moisture, hail, and wind. Risk management tools are available to producers through commercial insurance companies that have entered into a financial arrangement with FCIC. Under this agreement, the company agrees to deliver a product to eligible buyers.

The purpose of the agent system is to administer the Federal crop insurance program; identify agents engaged in the sales and service of insurance coverage; detect disparate or inconsistent performance among all agents; capture data that contains the social security account number of agents for actuarial purposes in determining risk classification to analyze and evaluate general program performance at various phases of program delivery; facilitate procedures requiring annual reviews by private insurance companies of the performance of each agent used by the private insurance company; provide an agent directory for sales related activities; and analyze and evaluate general program performance at various phases of program delivery. The agent system is maintained by the Actuarial Division, Research and Development, located in the RMA Kansas City office.

The system contains records of identification for an agent to include the name, social security number, agent code, State, county, and private insurance company that insures the policy for which sales and service activities are performed by the agent, the individual policy number, State, and county, private insurance company, amount of premium collected, and amount of indemnity paid for all losses for policies that are sold and serviced by the agent, and any information relating to any disqualification, suspension, debarment or other ineligibility.

A ''Report on New System,'' required by 5 U.S.C. 552a(r), as implemented by OMB Circular A–130, was sent to the Chairman, Committee on Governmental Affairs, United States Senate, the Chairman, Committee on Government Reform, United States House of Representatives; and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget on September 16, 2003.

Signed at Washington, DC, on September 16, 2003.

Ann M. Veneman,

Secretary of Agriculture.

USDA/FCIC–9

SYSTEM NAME:

Agent.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Kansas City Office, Federal Crop Insurance Corporation, Risk Management Agency, 6501 Beacon Drive, Stop 0814, Kansas City, Missouri 64133–4676 and regional offices for the Federal Crop Insurance Corporation. Addresses of the regional offices may be obtained from the Deputy Administrator, Insurance Services, Risk Management Agency, United States Department of Agriculture, 1400 Independence Avenue, SW., Stop 0805, Room 6709–S, Washington, DC 20250–0803.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system consists of information on any individual who is under contract with or employed by a private insurance company to solicit and service crop insurance contracts, and who meets the licensing requirements set by individual States and FCIC for such activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of standardized records containing identifying information on individuals such as name, social security number, agent code, the State, county, and private insurance company that insures the policy for which the agent sells or services, and the individual policy number, State and county, private insurance company, amount of premium collected, and amount of indemnity paid for all applicable losses for each policy sold and serviced by the agent, and any information relating to State licensing and any disqualification, suspension, debarment, and any other ineligibility.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1501 *et seq.*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND PURPOSES OF SUCH USES:

Records contained in this system may be used as follows:

(1) Referral to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing a statute, rule, regulation, or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute or by rule, regulation, or order issued pursuant thereto.

(2) Disclosure to a court or adjudicative body in a proceeding when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or (d) the United States Government is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

(3) Disclosure to a congressional office from the record of an individual in response to any inquiry from the congressional office made at the request of that individual.

(4) Disclosure to private insurance companies to monitor agent activity, performance, and loss histories and take such corrective action as necessary.

(5) Disclosure to contractors or other Federal agencies to conduct research and analysis to identify patterns, trends, anomalies, instances and relationships of private insurance companies, agents, loss adjusters and policyholders that may be indicative of fraud, waste, and abuse.

(6) Disclosure to private insurance companies, contractors, and other applicable Federal agencies to determine whether information has been accurately provided to FCIC and the private insurance companies and to determine compliance with program requirements.

(7) Disclosure to private insurance companies, contractors, cooperators, partners of FCIC, and other Federal agencies for any purpose relating to the sale, service, administration, analysis, or evaluation of the Federal crop insurance program.

(8) Disclosure to the public of an Agent Directory through RMA Website to assist producers or other interested individuals in locating agents in a particular area.

(8) Disclosure to the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained electronically, on computer printouts, and in the file folders at the Kansas City office.

RETRIEVABILITY:

Records may be indexed and retrieved by name of individual, tax identification number, (including social security number), and agent code.

SAFEGUARDS:

Records are accessible only to authorized personnel, on computer printouts and in the file folders at the Kansas City office. The electronic records are controlled by password protection and the computer network is protected by means of a firewall.

RETENTION AND DISPOSAL:

Electronic records are maintained indefinitely. Hard copy records are maintained until expiration of the records retention period established by the National Archivist.

SYSTEM MANAGER/S/ AND ADDRESS:

Actuarial Division, Risk Management Agency, Federal Crop Insurance Corporation, 6501 Beacon Drive, Stop 0814, Kansas City, Missouri 64133–4676. Telephone: (816) 926–6487.

NOTIFICATION PROCEDURE:

An individual may request information regarding this system of records or information as to whether the system contains records pertaining to such individual from the Kansas City office. The request for information should contain the individual's name and address, social security number, and State/s/ where such individual is licensed, if known. Before information about any record is released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURES:

An individual may obtain information as to the procedures for gaining access to a record in the system, which pertains to such individual, by submitting a written request to the Privacy Act Officer, Risk Management Agency, Program Support Staff, Room 6620–SB, AG Stop 0821, 1400 Independence Avenue, SW., Washington, DC 20250–0807. The envelope and letters should be marked ''Privacy Act Request.'' A request for information should contain: name, address, ZIP code, social security number, name of the system of records, year of records in question, and any other pertinent information to help identify the file.

CONTESTING RECORD PROCEDURES:

Procedures for contesting records are the same as the procedures for record access. Include the reason for contesting the record and the proposed amendment to the information with supporting documentation to show how the record is inaccurate.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from the insurance company due to a financial arrangement with FCIC, or from other Federal agencies. The financial agreements with the insurance company are referred to as Reinsurance Agreements. These agreements are considered cooperative financial assistance agreements between FCIC and the insurance company named in the agreement. Each reinsurance agreement establishes the terms and conditions under which the FCIC will provide subsidies and reinsurance on eligible crop insurance contracts sold or reinsured by the insurance company named on the agreement. The agent is an individual under contract with or employed by an insurance company to solicit, and service crop insurance contracts, and who meets the licensing requirements set by individual States and FCIC for such activities. FCIC facilitates the data source through its financial agreement with the insurance company.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 03–24180 Filed 9–24–03; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Forest Service

Revised Land and Resource Management Plan for the Allegheny National Forest (Elk, Forest, McKean and Warren Counties, PA.)

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The USDA Forest Service intends to prepare an Environmental Impact Statement (EIS) for revising the Allegheny National Forest Land and Resource Management Plan (Forest Plan) pursuant to 16 U.S.C. 1604(f)(5) and USDA Forest Service National Forest System Land and Resource Management Planning regulations (36 CFR 219). The revised Forest Plan will supersede the current Forest Plan, which the Regional Forester approved on April 24, 1986, and has been amended 11 times. This notice describes the preliminary issues which will be emphasized, the estimated dates for filing the EIS, the information concerning public participation, and the names and addresses of the responsible agency official and the individual who can provide additional information.

DATES: Your comments on this Notice of Intent (NOI) should be submitted in writing by November 10, 2003. The Draft EIS is expected to be available for public review by July 2005. The Final EIS and revised Forest Plan are expected to be completed by March 2006.

ADDRESSES: Send written comments to: Allegheny National Forest, Plan Revision Notice of Intent, c/o Content Analysis Team, P.O. Box 221090, Salt Lake City, UT 84122. Fax: (801) 517–1014; e-mail: *alleghenynoi@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Michael Hampton, Forest Plan Revision Staff Officer, (814) 723–5150. TTY: (814) 726–2710. Information will also be posted on the Allegheny National Forest Web page at *http://www.fs.fed.us/r9/allegheny.*

Responsible Official: Randy Moore, Regional Forester, Eastern Region, 626 E. Wisconsin Ave., Milwaukee, Wisconsin 53202.

SUPPLEMENTARY INFORMATION: The Regional Forester for the Eastern Region gives notice of the agency's intent to prepare an EIS to revise the Allegheny Forest Plan. The Regional Forester approved the original Allegheny Forest Plan on April 24, 1986. This plan guides the overall management of the Allegheny National Forest. The National Forest Management Act requires that national forests revise forest plans at least every 15 years (U.S.C. 1604[f][5]). Additional indicators of the need to revise the 1986 Allegheny Forest Plan are: (1) Changes in forest conditions; (2) changes in public demands and expectations; (3) changes in law, policy or regulatory direction; (4) results of monitoring and evaluation of implementation under the current Forest Plan; (5) new science that indicates emerging issues, concerns or opportunities that are not adequately addressed in the current Forest Plan.

Nature and Scope of the Decision to be Made: Forest plans make the following types of decisions:

1. Forest-wide multiple-use goals and objectives. Goals describe a desired condition to be achieved sometime in the future. Objectives are concise, time-specific statements of measurable planned results that respond to the goals.
2. Forest-wide management direction and requirements. These include limitations on management activities, or advisable courses of action that apply across the entire forest.
3. Management direction specific to certain portions (management areas) of the Forest. This includes the desired future condition for different areas of the forest, and the accompanying management direction to help achieve that condition.
4. Lands suited and not suited for resource use and production (*e.g.* timber management).
5. Monitoring and evaluation requirements needed to gauge how well the Forest Plan is being implemented.
6. Recommendations to Congress, if any (*e.g.* additional Wilderness designation).

The scope of this decision is limited to revisiting only those portions of the current Forest Plan that need revision, update, or correction. The Allegheny National Forest proposes to narrow the scope of revising the Forest Plan by focusing on issues identified as being most critically in need of change.

Preliminary Issues

Many sources were reviewed to identify the parts of the current Forest Plan that need revision, update, or correction. These sources included: Input from the public; comments from employees of the Forest Service and other governmental agencies; consultations with the Seneca Nation of Indians; results of monitoring and evaluation; changes in law and policy; new scientific information, as well as the direction outlined in the 2000 USDA Forest Service Strategic Plan.

Based on the Allegheny National Forest's review of the current Forest Plan and the sources listed above, the Allegheny National Forest proposes to emphasize the following preliminary issues:

A. Recreation

This issue involves providing for various types of recreation opportunities, in order to provide an appropriate array of recreation for the public.

- *Recreation.* This involves developed recreation facilities and trails and dispersed recreation for both motorized and non-motorized use. A determination of available settings, opportunities and experiences for recreation will be made using the Recreation Opportunity Spectrum. The types, amount and location of semi-primitive, remote recreation on the Allegheny National Forest will be evaluated. Additionally, public input, current use, compatibility of uses, resource capability, existing development, and changes in recreation supply, demand and trends are all factors that will affect how recreation will be addressed. Revising the Forest Plan will also likely include refining goals, objectives, and updating standards and guidelines to address current conditions and projected changes in recreation supply and demand within the Allegheny National Forest. Anticipated changes would likely occur both forest-wide and for individual management areas, as well as monitoring requirements.

B. Vegetation Management

This issue involves maintaining healthy forest conditions capable of providing sustainable levels of forest products.

- *Vegetation composition.* This addresses the diversity of tree stands (particularly by species and age-class) on the Forest. In addition to changes in land allocations, proposed changes may also include revising standards and guidelines to modify the timing, sequence, or intensity of some harvesting or reforestation practices, which could lead to an increased emphasis on adaptive management and modifications to the range and types of activities available for use in specific management areas.
- *Forest health.* This addresses the Forest's resistance to health threats posed by pest infestations, disease, acid deposition, wind events, and other damaging agents. For example, information obtained by the Allegheny National Forest indicates some species, such as American beech and sugar maple, are being affected disproportionately by these health

threats. Proposed changes will involve management area land allocations, modifications to the range and types of activities available for use in specific management areas, and changes to the standards and guidelines associated with them. There is also a need to develop guidelines for more timely and effective responses to insect and disease threats.

• *Special forest products.* This addresses production of non-timber forest products such as mushrooms, berries and medicinal herbs. Proposed changes include the addition of standards and guidelines that implement an ecologically based approach to special forest product management.

• *Reforestation techniques.* This addresses management components such as herbicide applications, deer fences and fertilization. Proposed changes include standards and guidelines that encourage the use of prescribed fire and modify the use of deer fences in certain circumstances. For herbicide use, there is a need to review the literature, make appropriate changes to standards and guidelines, and update assessments of risks to human health and wildlife.

• *Timber production suitability determinations.* This addresses lands that are classified as suited or unsuited for timber production. The Allegheny National Forest proposes to review and change lands identified as suitable and not suitable for timber production incorporating new information on ecosystem sustainability and capability. Information disclosed in the Analysis of Timber Harvest Program Capability Report for 1995–2005 will be used in harvest level determination.

• *Silvicultural systems.* This addresses the use of various types of even and uneven-aged forest management systems. Proposed changes include revised standards and guidelines that incorporate new science concerning the range and types of even and uneven-aged silvicultural systems that should be made available for use in various management areas. Current Forest Plan implementation experience has demonstrated that commercial thinning objectives identified for Management Area 3.0 may not be feasible from an operational, economic, and soil protection perspective. Standards and guidelines and timber management goals and objectives will be reviewed to address these concerns.

C. Habitat Diversity

This issue involves maintaining the viability of native and desired non-native species found on the Forest. In addition to ecosystem and species diversity objectives across the Forest, habitat for game species and habitat connectivity across the landscape will be emphasized.

• *Native and desired non-native species.* Updated information on species needs and a landscape analysis of habitat patterns may change management direction for native and desired non-native species on the Forest.

• *Conserving habitat for threatened, endangered and sensitive species.* Proposed changes include management area land allocations and standards and guidelines to address the likelihood of these species' persistence.

• *Invasive species.* Proposed changes will incorporate new management direction for implementing a comprehensive Non-Native Invasive Species program. As a result, new standards and guidelines will be developed that address non-native invasive species of current concern while retaining flexibility to address new non-native species that may be identified in the future.

• *Habitat for game species.* A landscape analysis of habitat patterns may result in revised land allocations for various management areas and modified standards and guidelines.

• *Habitat connectivity across the landscape.* Consideration of habitat connectivity will be incorporated into the land allocations, goals, objectives, standards and guidelines for certain management areas.

• *Old-growth/late-successional habitat.* Proposed changes will draw upon clearer definitions for old-growth and late-successional forests in order to determine land allocations for these habitat types. An updated inventory may lead to re-defined goals, objectives, standards and guidelines for certain management areas.

D. Special Area Designations

This issue involves making recommendations to Congress for wilderness study areas and identifying potential opportunities to expand or designate new National Recreation Areas, Research Natural Areas, Scenic Areas, and Heritage Special Areas.

• *Wilderness.* A roadless area inventory and evaluation of potential wilderness will be part of the revision process. The inventory process will analyze areas for roadless qualities. Those areas that meet basic inventory criteria will be evaluated as potential wilderness study areas. Based on the results of this work, recommendations to Congress may be made for potential wilderness study areas.

• *Wild and Scenic Rivers.* This addresses a type of Congressional designation emphasizing the protection of rivers having outstandingly remarkable values. Proposed changes may result from a determination of the eligibility of Kinzua Creek, Bear Creek, Tionesta Creek, and the East Branch of Tionesta. The non-eligibility of previously identified and/or other rivers and streams will also be validated. Goals, objectives, desired future conditions, standards and guidelines may be revised to reflect new information and understanding about river protection and management. The Allegheny is working to complete the Clarion River Management Plan and finalize river corridor boundaries which will also be incorporated into the Revised Forest Plan.

Other Revision Changes

Other changes may be made in the Forest Plan to reflect updates, corrections or modifications that will clarify or strengthen guidance provided in the plan. They include:

1. Soil and Water Quality

• *Timber harvest methods.* Proposed changes include modifications to soil and water quality goals, objectives, standards and guidelines to address the compatibility of various conventional and unconventional harvest methods such as the use of helicopters and horses.

• *Watershed quality and restoration.* Proposed changes include identifying monitoring thresholds and mitigation measures, adoption of watershed-specific standards and guidelines, and establishment of a specific management area for riparian zones.

• *Soil resources.* Proposed changes include updating or adding goals, objectives, monitoring protocols, standards and guidelines based on new information, monitoring data, and regional guidance for protection of soil resources. New information and monitoring data will be included in the analysis of alternatives.

2. Heritage Resources

Proposed changes include revising standards and guidelines, in consultation with state and tribal historic preservation offices and other entities, to reflect changing conditions with respect to archaeological sites. These changes will incorporate all current laws and regulations.

3. Scenery

Proposed changes include incorporation of new national scenery management standards to integrate

benefits, desires and preferences for aesthetics and scenery. The Visual Management System will be replaced with the Scenery Management System, a scenery planning tool. Mapping and definition of new scenery objectives will be made across the Allegheny National Forest.

4. Transportation Systems

Proposed changes include modifications to road closure policies based on changes in management area goals, objectives, allocations, and changes in standards and guidelines. Establishment of new standards and guidelines by management area for road density will be considered.

5. Monitoring

Proposed changes center on the development of a systematic framework of criteria and indicators to assist in monitoring management outcomes. This will allow for improved evaluation of management practices that enable determination of the adjustments needed for achieving desired outcomes. Improvements to monitoring and evaluation methods will enable a more effective use of an adaptive management approach.

6. Management Areas

Management areas display how lands will be allocated for various management objectives and outcomes. Proposed changes include re-defining and re-mapping management areas on a landscape level to create a strategic, programmatic and outcome-based plan that is more compatible with an ecosystem management approach. Particular emphasis will be placed on revising the goals and objectives for certain management areas, such as Management Area 6.1, to address habitat connectivity concerns. Modifications to Management Area 6.2 are needed to address compatibility issues between timber management and dispersed recreation. An evaluation of the extent of oil and gas development on the Allegheny National Forest may also lead to a re-allocation of lands such as Management Area 9.1.

7. Economics

Any changes will be analyzed in terms of the economic stability of communities in the region surrounding the Allegheny National Forest. Alternatives developed for the Forest Plan Revision will be evaluated in terms of their economic impact on these communities, recognizing contributions to diversification and long-term sustainability of communities' economies and the linkages among on-forest and off-forest activities.

Additional detail on changes to be addressed in Forest Plan Revision is available in the document entitled ''Analysis of the Need for Change in Forest Plan Revision.'' You are encouraged to review this additional document before commenting on the Notice of Intent. You may request the additional information as indicated in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections of this notice.

Issues not Addressed in Forest Plan Revision: Issues addressed adequately in the current Forest Plan will not be revisited. Issues that relate to site-specific actions are better addressed in projects. Some issues, while important, are beyond the authority of the Allegheny National Forest. Issues that do not pertain to the six decisions made in Forest Plans are excluded from further consideration. In addition, some issues, though related to Forest Plan Revision, may not be undertaken at this time, but addressed later as a future Forest Plan amendment. Not all issues raised by the public are applicable to Forest Plan Revision and will consequently not be addressed in Revision. They include:

Improving public education and outreach. The Allegheny National Forest received numerous comments requesting more education programs and public outreach in regard to the Allegheny and the way it is managed. However, the direction provided in the current Forest Plan is adequate to address these concerns and realize the suggested improvements. Public education and outreach has been limited by a lack of staff and funding rather than Forest Plan direction.

Acquisition of mineral rights. The current Forest Plan adequately allows the Allegheny National Forest to acquire mineral rights, especially in consideration of special area designations, such as wilderness. The limiting factor is whether the Allegheny National Forest has the funding needed to make these purchases, and also whether there are willing sellers.

Appeals and litigation. The public has expressed concerns and frustration with legal challenges to management on the Allegheny National Forest. Laws and federal regulations govern how litigation is handled. The Allegheny National Forest does not have the authority to change these procedures.

Creation of jobs and community stability. The resource management activities of the Allegheny National Forest have impacts on the regional economy, including employment and community well-being. As a resource management agency, the Forest Service is required to maximize long-term net public benefit. Analysis of Forest Plan Revision alternatives will include assessments of economic impact, and these will be reported to the public as part of the Environmental Impact Statement.

Implementation of the current Forest Plan. Many public concerns focus on problems that the Allegheny National Forest has experienced in achieving the goals and objectives set forth in the current Forest Plan, particularly regarding timber harvest levels, miles of ATV trails, and creation of early-successional habitat. In each case, the current Forest Plan sets expectations that have not been fully met due to a variety of reasons, such as funding limitations. The reasons for these problems rest with implementation of the Forest Plan rather than the direction of the Forest Plan itself.

Site-specific improvements. Both the public and Allegheny National Forest staff have identified numerous site-specific improvements, such as:

- ''Create more low-head dams and improvements.''
- ''Develop a trailhead at Bear Creek to create funding for a bridge.''
- ''Develop a trailhead in Ridgway.''
- ''Create an ATV connector trail for Sandy Beach to Timberline ATV Trail.''
- ''Build a lodge/restaurant development at Willow Bay area.''
- ''Complete the Sugar Run Day Use Area.''
- ''Grant an easement for construction of a rails-to-trails trail for Kinzua Bridge to Red Bridge.''
- ''Increase mileage by building a bike/hike trail from the end of Elijah Bank to Dewdrop.''

Improvements such as these are more appropriately addressed on a project level rather than on a Forest level. The Allegheny National Forest welcomes the opportunity to work collaboratively with the public and interest groups to develop strategies for meeting common interests that set goals and project schedules within budget constraints.

Range of Alternatives: The Allegheny National Forest will consider a range of alternatives when revising the Forest Plan. Alternatives will provide different ways to address and respond to issues identified during the scoping process. A ''no-action alternative'' reflecting the effects of continuing management as directed under the existing Forest Plan is a required alternative.

Inviting Public Participation: The Allegheny National Forest is now soliciting comments and suggestions from the Seneca Nation of Indians,

Federal agencies, State and local governments, individuals, and organizations on the scope of the analysis to be included in the draft environmental impact statement for the revised Forest Plan (40 CFR 1501.7). Comments should focus on (1) the preliminary issues proposed to be emphasized in revising the Forest Plan, (2) possible means of addressing concerns associated with these issues, (3) potential environmental effects and other management outcomes that should be included in the analysis, and (4) any possible impacts associated with the proposal based on an individual's civil rights (race, color, national origin, age, religion, gender, disability, political beliefs, sexual orientation, marital or family status). The Allegheny National Forest will encourage public participation in the environmental analysis and decision-making process.

Along with the release of this NOI, the Allegheny National Forest is providing for additional public engagement through a series of collaborative learning workshops held throughout the revision process. Please see the document entitled ''Analysis of the Need for Change in Forest Plan Revision'' for more information about the collaborative learning methodology for public involvement.

The first round of public workshops was held in May 2003, in DuBois and Bradford, PA. A second round was held in August 2003, in Warren, Erie, and University Park, PA. The next round of public involvement will be two open houses, one from 5:30 to 9:30 p.m. on October 27, 2003, at the Holiday Inn on Ludlow Street in Warren, PA., and another from 5:30 to 9:30 p.m. on October 28, 2003, at the Quality Inn and Suites at the junction of Interstate 90 and State Route 97 in Erie, PA. In addition, a formal public hearing will be held from 1 to 5 p.m. on November 5, 2003, at Toftrees Resort and Conference Center, 1 Country Club Lane, State College, PA. Five more rounds of public involvement opportunities are anticipated over the remainder of the revision process, and are tentatively planned for March 2004, November 2004, April 2005, June 2005, and February 2006.

For a discussion of the process used to narrow the range of Forest Plan Revision changes, please see the document entitled ''Analysis of the Need for Change in Forest Plan Revision.'' You may request a copy of this document as indicated in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections of this notice.

Availability of Public Comment: Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decisions under 36 CFR parts 215 or 217.

Additionally, pursuant to 7 CFR 1.27(d), any persons may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that under FOIA confidentiality may be granted in only very limited circumstances, such as to protect trade secrets.

The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality and, where the requester is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 90 days.

Release and Review of the Draft EIS (DEIS): The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public comment in July 2005. At that time, the EPA will publish a notice of availability in the **Federal Register**. The comment period on the DEIS will extend 90 days from the date the EPA publishes the notice of availability in the **Federal Register**.

The Forest Service believes that it is important, at this early stage, to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the DEIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDS,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the DEIS stage but that are not raised until after completion of the final environmental impact statement (FEIS) may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings it is very important that those interested in this proposed action participate by the close of the 90-day comment period on the DEIS, so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the DEIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council of Environmental Quality Regulations (*http://ceq.eh.doe.gov/nepa/nepanet.htm*) for implementing the procedures of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21).

Dated: September 19, 2003.

Randy Moore,

Regional Forester.

[FR Doc. 03–24268 Filed 9–24–03; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Caribou-Targheee National Forest, Teton County, ID; Big Hole Timber Sale

AGENCY: Forest Service, USDA.

ACTION: Cancellation of the Notice of Intent to prepare an Environmental Impact Statement for the Big Hole Timer Sale, as published in the **Federal Register** pages 39728 to 39729 on August 1, 2001 (Vol. 66, No. 148).

SUMMARY: The USDA, Forest Service has determined that it will not prepare an Environmental Impact Statement to document the analysis and disclose the environmental impacts of the Big Hole Timber Sale located on the Teton Basin Ranger District. In response to the final disposition of the Roadless Area Conservation Rule (Agriculture Secretary Ann M. Veneman, June 9, 2003), the proposed fuel reduction treatments in urban interface that are within the boundary of the Garns Mountain Roadless Area will no longer be considered.

Dated: September 17, 2003.

Jerry B. Reese,

Caribou-Targhee National Forest Supervisor.

[FR Doc. 03–24270 Filed 9–24–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Rising Cougar Project, Idaho Panhandle National Forests, Bonner County, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The USDA Forest Service will prepare an environmental impact statement (EIS) to document and disclose the potential environmental effects of proposed activities on National Forest lands near the communities of Hope and Clark Fork, Idaho. The proposed activities for the Rising Cougar Project are located in the Sandpoint Ranger District, Idaho Panhandle National Forests, 25 miles east of Sandpoint, Idaho.

Goals of the proposed activities include: (1) Maintain or restore the characteristics of ecosystem composition and structure within the range of variability that would be expected to occur under natural disturbance regimes. More specific objectives include: (a) Decrease fuel loadings on National Forest lands along the wildland urban interface to reduce the threat of uncontrollable wildfire to life and property, (b) restore big game winter range conditions and promote the long-term persistence and stability of wildlife habitat diversity, and (c) re-establish structural diversity of forest stands and decrease the proportions of Douglas-fir and grand fir, creating favorable conditions for the growth and establishment of ponderosa pine, white pine and larch. Another goal of the proposal is (2) manage motorized access and road densities in the roaded portion of the project area to benefit watersheds and grizzly bear habitat recovery goals.

Activities would include logging using a variety of yarding systems, slashing of brush and small trees, prescribed burning, and road management activities.

The Sandpoint Ranger District of the Idaho Panhandle National Forests in Bonner County, Idaho will administer these activities. The EIS will tier to the Idaho Panhandle National Forests Plan (September 1987).

DATES: Comments should be postmarked within 30 days after publication of this notice. Please include your name and address and the name of the project you are commenting on.

ADDRESSES: Submit written comments and suggestions on the proposed management activities or request to be placed on the project mailing list by writing to: Rising Cougar Project, Attn: Judy York, Sandpoint Ranger District, 1500 Hwy 2, Suite 110, Sandpoint, ID 83864.

FOR FURTHER INFORMATION CONTACT: Judy York, Project Team Leader, Sandpoint Ranger District at 208–265–6665 or by e-mail at *jyork@fs.fed.us.*

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR parts 215 or 217. Additionally, pursuant to 7 CFR 1.27 (d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. For persons requesting such confidentiality, it may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 10 days.

SUPPLEMENTARY INFORMATION:

More information about the Rising Cougar Project can be found on the Internet at *http://www.fs.fed.us/ipnf/eco/manage/nepa/index.html.*

The legal description for the project area includes all or portions of sections 30–32 in T57N, R2E; sections 1, 3–5, 9–14, 16, 17 and 24 in T56N; R2E; sections 6, 7, 19, and 30–33 in T56N, R3E; section 1 in T55N, R2E; and sections 3–7 and 10 in T44N, R3E.

The Forest Service will be preparing an environmental impact statement for the following proposed activities and alternative courses of action based on public comments.

Treatment in Inventoried Roadless Areas (IRAs): Portions of the project lie within the Beetop and Scotchman IRAs. To achieve our ecosystem objectives in the inventoried roadless areas, helicopter logging and prescribed burning activities would be used on about 4,080 acres.

Treatment Outside Inventoried Roadless Areas: To achieve our ecosystem objectives in the south portion of the project area, helicopter and road-based logging systems, and prescribed burning would be used on about 1,965 acres. In areas where we need to promote the regeneration of white pine, ponderosa pine, and larch, openings would be planted with these species. In addition, about 0.5 mile of temporary road would be constructed on Sugarloaf Mountain to access stands for treatment using road-based logging systems.

To achieve our watershed and grizzly bear habitat recovery goals, road management activities would include putting 5.7 miles of gated road into storage, decommissioning 3.4 miles of road, and transferring the motorized access point of an unclassified road to a classified road with 0.2 miles of new road construction.

Preliminary issues identified relate to effects of the proposed activities on: roadless area characteristics, public road access, water quality, fish habitat, risk of fire, air quality, noxious weed spread, visual quality, noise, soils, heritage resources, old growth, finances, and threatened, endangered and sensitive fish, wildlife and plants. Current alternatives consist of the proposed action and no action.

Two periods are specifically designated for comments on this analysis: (1) During the scoping period which is 30 days from the date of this notice in the Federal Register and (2) during the draft EIS comment period. In accordance with 36 CFR 215.5, as published in the **Federal Register,** Volume 68 no. 107, June 4, 2003, the draft EIS comment period will be the designated time in which ''substantive'' comments will be considered. The mailing list for this project will include those individuals who have expressed interest in this project as well as adjacent landowners and those responding to this NOI or to the Idaho Panhandle National Forests Quarterly Schedule of Proposed Action. In addition, the public is encouraged to contact or visit with Forest Service officials during the analysis and prior to the decision. The Forest Service will continue to seek information, comments, and assistance for Federal, Tribal, State, and local agencies and other individuals or organizations that may be interested in or affected by the proposed actions. The United States Fish and Wildlife Service will be consulted concerning any effects to threatened and endangered species. The agency invites written comments and suggestions on this action, particularly in terms of identification of issues and alternative development.

Comments from the public and other agencies will be used in preparation of the Draft EIS to identify potential issues and concerns, potential alternatives to

the proposed action and to promote communications with members of the public or other agencies. The draft environmental impact statement (DEIS) will be filed with the Environmental Protection Agency (EPA) and made available for public review in spring of 2004. The final environmental impact statement is expected to be completed in fall of 2004. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts and agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental statement stage but that are not raised until after completion of the final environmental statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues related to the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The United States Department of Agriculture (USDA) prohibits discrimination in its programs on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, and marital or familial status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means of communication of program information (braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD). To file a complaint, write the Secretary of Agriculture, U.S. Department of Agriculture, Washington, DC 20250, or call 1–800–245–6340 (voice) or 202–720–1127 (TDD), USDA is an equal employment opportunity employer.

The Idaho Panhandle National Forests Supervisor will make a decision on this project after considering comments and responses, environmental consequences discussed in the Final EIS, and applicable laws, regulations and policies. The decision and supporting reasons will then be documented in a Record of Decision.

Dated: September 17, 2003.

Ranotta K. McNair,

Forest Supervisor, Idaho Panhandle National Forests.

[FR Doc. 03–24269 Filed 9–24–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

American and Crooked River Project, Nez Perce National Forest, Idaho County, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service, Nez Perce National Forest, will prepare an Environmental Impact Statement (EIS) to document the analysis and disclose the environment impacts of actions to reduce existing and potential forest fuel hazards and salvage associated commercial wood products resulting from a mountain pine beetle epidemic in lodgepole pine forests in the American and Crooked River watersheds near Elk City, Idaho. Additional actions include construction of temporary roads, improvements to existing roads, and decommissioning existing roads that are no longer needed.

DATES: Comments concerning the scope of the analysis must be received by October 29, 2003. The draft environmental impact statement is expected to be released for public comment in March 2004 and the final environmental impact statement is expected to be completed in July 2004.

ADDRESSES: Send written comments to Bruce Bernhardt, Forest Supervisor, Nez Perce National Forest, Rt 2 Box 475, Grangeville, Idaho 83530.

FOR FURTHER INFORMATION CONTACT: Phil Jahn, Project Coordinator, Nez Perce National Forest, Rt 2 Box 475, Grangeville, Idaho 83530, or phone (208) 983–1950.

Purpose and Need for Action

The purpose and need for the project is to reduce existing and potential forest fuels, create stand or site conditions that will contribute to the maintenance and establishment of long-lived fire tolerant tree species, such as Ponderosa pine and western larch, and contribute to the economic and social well being of the people within the surrounding area.

Proposed Action

The USDA, Forest Service, Nez Perce National Forest, will prepare an Environmental Impact Statement (EIS) to document the analysis and disclose the environmental impacts of the proposed action to reduce existing and potential forest fuel hazards, which have been exacerbated by a mountain pine beetle epidemic in lodgepole pine forests in the American and Crooked River watersheds near Elk City, Idaho. The proposed action is to harvest or otherwise treat forest stands by salvaging dead, dying, or down trees and removing trees that are at risk from mountain pine beetle attack. Lodgepole pine is the primary at-risk tree species in the project area. Incidental harvest of trees that are dead and dying from other associated insects and disease would also be conducted in the project area. This proposal would not treat of directly modify forested stands that currently meet the definition of ''old growth'' under the Old-Growth Forrest Types of the Northern Region-USDA Forest Service, R–1 SES 4/92.

Proposed activities include vegetation and transportation system treatment actions on approximately 900 acres in the American River watershed and 2,100 acres in the Crooked River watershed. Approximately 1,900 acres would be harvested using regeneration treatments that would reserve groups and single trees within harvest units and approximately 1,100 acres would be harvested using seed tree, shelterwood, and commercial thinning silvicultural treatments. Activity fuels generated from harvest on approximately 3,000 acres would be treated using a combination of machine piling and broadcast burning.

An estimated 15 miles of temporary road would be constructed as part of the proposed action; these temporary roads

would be decommissioned after use associated slash treatment or brush disposal and reforestation activities. This proposal includes reconstruction or improvement of 24 miles of existing roads to provide access to proposed harvest units while improving drainage, improving fish passage, or reducing the potential for sedimentation. Up to 30 miles of existing Forest roads, which have been identified through roads analysis as being no longer needed for administrative purposes, would be decommissioned as part of the proposed action.

The project does not propose to mechanically treat vegetation or construct roads in existing inventoried roadless areas. There is no proposed construction of new permanent roads in the proposed action.

Responsible Official

Bruce Bernhardt, Nez Perce National Forest Supervisor, Nez Perce National Forest Headquarters, Rt 2 Box 475 Grangeville, Idaho 83530.

Nature of Decision To Be Made

The nature of the decision in attaining the purpose and need is to determine the type and level of silvicultural treatments, and transportation projects needed within the scope of the Nez Perce National Forest Plan, 1987, and to determine a course of action to implement these actions.

Scoping Process

This Notice of Intent provides a description of the proposed action for public review and comment. The Forest Service is coordinating efforts with the USDI Bureau of Land Management, the Nez Perce Tribe, Idaho Department of Fish and Game, Idaho Department of Environmental Quality, National Marine Fisheries Service, USDI Fish and Wildlife Service, U.S. Environmental Protection Agency, and other agencies and groups. To generate meaningful dialogue with the public, Nez Perce National Forest staff will issue local press releases and other opportunities for the interested public to meet or discuss the project as it develops.

Comment Requested

This notice of intent initiates the scoping process that guides development of the environmental impact statement.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodle, 803 F.2d 1016, 1022 (9th Cir. 1986) Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: September 12, 2003.

Bruce E. Bernhardt,

Nez Perce Forest Supervisor.

[FR Doc. 03–24266 Filed 9–24–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Challis and Salmon-Cobalt Ranger Districts, Salmon-Challis National Forest; Idaho; Morgan Creek and Eddy Creek Grazing Allotments Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Challis and Salmon-Cobalt Ranger Districts propose to update the livestock grazing plans for the Morgan Creek and Eddy Creek Cattle and Horse grazing allotments. The allotments are located 4 to 28 miles north to northwest of Challis, Idaho.

DATES: Comments concerning the scope of the analysis must be received by October 27, 2003. The draft environmental impact statement is expected February 2005 and the final environmental impact statement is expected June 2005.

ADDRESSES: Send written comments to Ken Rodgers, Environmental Coordinator, Challis Ranger District, H/C 63, Box 1669, Challis, Idaho 83226.

A public meeting will be conducted at the Challis Ranger District Office, Hwy 93 North, Challis, Idaho on October 8, 2003, starting at 6 p.m.

FOR FURTHER INFORMATION CONTACT: Ken Rodgers, Environmental Coordinator, Challis Ranger District, H/C 63, Box 1669, Challis, Idaho 83226, or e-mail *krodgers@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

This proposal, in part, is to comply with Public Law 104–19, section 504(a): establish and adhere to a schedule for the completion of National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) analysis and decision on all grazing allotments within the National Forest System unit for which NEPA is needed (Pub. L. 104–19, General Provision 1995). Upon completion of the NEPA analysis and decisions for the allotments, the terms and conditions of existing grazing permits will be modified, as necessary, to conform to such NEPA analysis. In addition, the purpose of the proposed action is to improve range condition and trend and achieve desired conditions within the project area through livestock grazing.

Proposed Action

The proposed action is to authorize continued livestock grazing, provide analysis and data to update allotment

management plans (AMPs), and allow permitted livestock grazing that meets or moves existing resource conditions toward desired conditions on national forest grazing allotments while complying with applicable statutes. Adaptive management, which allows flexibility during the implementation of the grazing strategy, would allow managers to make adjustments and corrections to management based on monitoring.

Possible Alternatives

No Grazing and No Action alternatives will be analyzed to the proposed action during the NEPA process. The No Grazing alternative would eliminate domestic livestock grazing on allotments. The No Action alternative would allow continued livestock grazing as it is currently being managed. Other alternatives, arising from issues identified through scoping, could be analyzed as well.

Responsible Official

Forest Supervisor, Salmon-Challis National Forest, 50 Hwy 93 South, Salmon, ID 83467.

Nature of Decision To Be Made

The Forest Supervisor will decide whether to authorize continued livestock grazing on the allotments' suitable rangelands in accordance with the standards in the proposed action or as modified by additional mitigation measures and monitoring requirements.

Scoping Process

This analysis is for two grazing allotments. The decision will have limited environmental effects outside the allotment boundaries, and the economic impacts are localized. Scoping will include:

- Review scoping comments from previous efforts
- Publish notice in the Challis Messenger and Salmon Recorder-Herald, the newspapers of record, announcing the public meeting and requesting comments
- Mail scoping letters to interested public and grazing permittees describing the proposed action and preliminary issues
- Conduct public meeting in Challis, Idaho on October 8, 2003
- Notify consulting agencies and request comments
- Publish in the Quarterly Schedule of Proposed Actions (SOPA) notice and mail to interested individuals and groups, and put on the Forest's internet site
- Contact and consult with the Shoshone-Bannock Tribes

A public meeting is scheduled for October 8, 2003, at 6 p.m. at the Challis Ranger District Office, Hwy 93 North, Challis, Idaho.

Preliminary Issues

Concerns identified internally and from previous scoping include:

- Riparian and aquatic habitat; fisheries
- Terrestrial plants and animals
- Management Indicator Species; Threatened, Endangered and Sensitive Species
- Soil productivity and water quality
- Effects to other Forest users
- Economics
- Effects on vegetation structure and composition
- Tribal Treaty Rights
- Heritage Resources

Comment Requested

This notice of intent initiates the scoping process which guides the development of the environmental impact statement. Substantive comments and objections to the proposed action will be considered during this analysis.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, section 21.

Dated: September 17, 2003.

Richard E. Hafenfeld,

Acting Forest Supervisor.

[FR Doc. 03–24293 Filed 9–24–03; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Modac County RAC Meetings

AGENCY: Forest Service, USDA.

ACTION: Notice of Modoc County RAC meetings.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393), the Modoc National Forest's Modoc County Resource Advisory Committee will meet Monday October 6, 2003, from 6 to 8 p.m. in Alturas, California. The meetings are open to the public.

SUPPLEMENTARY INFORMATION: Agenda topics for the meeting include approval of the August 11 minutes, review of Modoc County Board of Supervisor's approval of projects for 2003 RAC funds, and reprioritization of projects if needed. The meeting will be held at Modoc National Forest Office, Conference Room, 800 West 12th St., Alturas, California on Monday, October 6, 2003 from 6 to 8 p.m. Time will be set aside for public comments at the beginning of the meeting.

FOR FURTHER INFORMATION CONTACT: Contact Forest Supervisor Stan Sylva, at (530) 233–8700; or Public Affairs Officer Nancy Gardner at (530) 233–8713.

Stanley G. Sylva,

Forest Supervisor.

[FR Doc. 03–24267 Filed 9–24–03; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

International Trade Administration

Postponement of Preliminary Determinations of Antidumping Duty Investigations: Certain Color Television Receivers From Malaysia (A–557–812) and the People's Republic of China (A–570–884)

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce is postponing the preliminary determinations in the antidumping duty investigations of certain color television receivers from Malaysia and the People's Republic of China from October 9, 2003, until no later than November 21, 2003. These postponements are made pursuant to section 733(c)(1)(B) of the Tariff Act of 1930, as amended.

EFFECTIVE DATE: September 25, 2003.

FOR FURTHER INFORMATION CONTACT: Michael Strollo (Malaysia) or Irina Itkin (People's Republic of China) at (202) 482–0629 or (202) 482–0656, respectively, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230.

SUPPLEMENTARY INFORMATION:

Postponement of Due Date for Preliminary Determination

On May 29, 2003, the Department initiated antidumping duty investigations of imports of certain color television receivers from Malaysia and the People's Republic of China (PRC). *See Notice of Initiation of Antidumping Duty Investigations: Certain Color Television Receivers From Malaysia and the People's Republic of China,* 68 FR 32013 (May 29, 2003). The notice of initiation stated that we would issue our preliminary determinations no later than 140 days after the date of initiation. *See Id.* Currently, the preliminary determinations in this investigation are due on October 9, 2003.

Pursuant to section 733(c)(1)(B) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (''the Act''), the Department can extend the period for reaching a preliminary determination until no later than the 190th day after the date on which the administrating authority initiates an investigation if:

(B) The administrating authority concludes that the parties concerned are cooperating and determines that

(i) The case is extraordinarily complicated by reason of

(I) The number and complexity of the transactions to be investigated or adjustments to be considered,

(II) The novelty of the issues presented, or

(III) The number of firms whose activities must be investigated, and

(ii) Additional time is necessary to make the preliminary determination.

We find that all concerned parties are cooperating in both cases, and we find that these cases are extraordinarily complicated because of the novelty of the issues presented. Specifically, in the Malaysia investigation, the Department requires additional time to examine all relevant facts pertaining to the procurement of material inputs from suppliers located in non-market economy countries for its build-up of constructed value. In the PRC investigation, the Department requires additional time to examine all relevant facts in order to properly value factors of production using surrogate values. Pursuant to section 733(c)(1)(B) of the Act, we have determined that these cases are extraordinarily complicated and that additional time is necessary to make our preliminary determinations. Therefore, we are postponing the preliminary determinations until no later than November 21, 2003.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f).

Dated: September 17, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 03–24300 Filed 9–24–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs (''OETCA''), International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Jeffrey C. Anspacher, Director, Office of Export Trading Company Affairs, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll free number) or E-mail at *oetca@ita.doc.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register**, identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five copies, plus two copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1104H, Washington, DC 20230, or transmit by E-mail at *oetca@ita.doc.gov.* Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 03–00006.'' A summary of the application follows.

Summary of the Application

Applicant: Western Fruit Exporters, L.L.C. (''WFE''), 105 South 18th Street, Suite # 205, Yakima, Washington 98901, Contact: Donald K. Franklin, Attorney, Telephone: (206) 777–7421.

Application No.: 03–00006.

Date Deemed Submitted: September 8, 2003.

WFE is a Limited Liability Company formed under the laws of the State of Washington. Members (in addition to applicant): Eola Cherry Company, Inc., Gervais, OR; Diana Fruit Co., Inc., Santa Clara, CA; Johnson Foods Co., Inc., Sunnyside, WA; and Oregon Cherry Growers, Inc., Salem, OR.

WFE seeks a Certificate to cover the following specific Export Trade, Export Markets, and Export Trade Activities and Methods of Operations.

I. Export Trade

1. Products

Brine sweet cherries in any stage of processing and finished maraschino cherry products in any stage of packaging.

2. Services

Inspection, quality control, marketing and promotional services.

3. Technology Rights

Proprietary rights to all technology 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 generic 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)

All export trade-related facilitation services, including, but not limited to: Consulting and trade strategy; sales and marketing; export brokerage; foreign marketing research; foreign market development; overseas advertising and promotion; product research and design, based on foreign buyer and consumer preferences; communication and processing of export orders; inspection and quality control; transportation; freight forwarding and trade documentation; insurance; billing of foreign buyers; collection (letters of credit and other financial instruments); provision of overseas sales and distribution facilities and overseas sales staff, legal, accounting and tax assistance; management information systems development and application; assistance and administration related to participation in government export assistance programs.

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 Members' Products, Services, and/or Technology Rights into the Export Markets, WFE and/or one or more of Members may:

1. Design and execute foreign marketing strategies for Export Markets;
2. Prepare joint bids, establish export prices for Members' Products and Services, and establish terms of sale in Export Markets in connection with potential or actual bona fide opportunities;
3. Grant sales and distribution rights for the Products, whether or not exclusive, into designated Export Markets to foreign agents or importers (''exclusive'' meaning that WFE and Member may agree not to sell the Products into the designated Export Markets through any other foreign distributor, and that the foreign distributor may agree to represent only WFE and/or Member in the Export Markets and none of its competitors);
4. Design, develop and market generic corporate labels for use in Export Markets;
5. Engage in joint promotional activities directly targeted at developing Export Markets, such as: arranging trade shows and marketing trips; providing advertising services; providing brochures and industry newsletters; providing product, service, and industry information; conducting international market and product research; and procuring, international marketing, advertising, and promotional services;
6. Share the cost of joint promotional activities among the Members;
7. Conduct product and packaging research and development exclusively for export in order to meet foreign regulatory requirements, foreign buyer specifications, and foreign consumer preferences;
8. Negotiate and enter into agreements with governments and other foreign persons regarding non-tariff trade barriers in Export Markets such as packaging requirements, and providing specialized packing operations and other quality control procedures to be followed by WFE and Member in the export of Products into the Export Markets;
9. Assist each other in maintaining the quality standards necessary to be successful in Export Markets;
10. Provide Export Trade Facilitation Services with respect to Products, Services and Technology (including such items as commodity fumigation, refrigeration and storage techniques, and other quality control procedures to be followed in the export of Products in the Export Markets);
11. Advise and cooperate with agencies of the United States Government in establishing procedures regulating the export of the Members' Products, Services and/or Technology Rights in the Export Markets;
12. Negotiate and enter into purchase agreements with buyers in Export Markets regarding export prices, quantities, type and quality of Products, time periods, and the terms and conditions of sale;
13. Broker or take title to Products intended for Export Markets;
14. Purchase Products from non-Member to fulfill specific sales obligations, provided that WFE and/or Member shall make such purchases only on a transaction-by-transaction basis and when the Members are unable to supply, in a timely manner, the requisite Products at a price competitive under the circumstances;
15. Solicit non-Member producers to become Members;
16. Communicate and process export orders;
17. Procure, negotiate, contract, and administer transportation services for Products in the course of export, including overseas freight transportation, inland freight transportation from the packing house to the U.S. port of embarkment, leasing of transportation equipment and facilities, storing and warehousing, stevedoring, wharfage and handling, insurance, and freight forwarder services;
18. Arrange for trade documentation and services, customs clearance, financial instruments, and foreign exchange;
19. Arrange financing through private financial entities, government financial assistance programs and other arrangements;
20. Negotiate freight rate contracts with individual carriers and carrier conferences, either directly or indirectly through shippers associations and/or freight forwarders;
21. Bill and collect monies from foreign buyers; and arrange for or provide accounting, tax, legal and consulting services in relation to Export

Trade Activities and Methods of Operation;

22. Enter into exclusive agreements with non-Members to provide Export Trade Services and Export Trade Facilitation Services;

23. Open and operate overseas sales and distribution offices and companies to facilitate the sales and distribution of Products in the Export markets;

24. Apply for and utilize applicable export assistance and incentive programs available within governmental sectors;

25. Negotiate and enter into agreements with governments and other foreign persons to develop counter-trade arrangements, provided that this Certificate does not protect any conduct related to the sale of goods in the United States that are imported as part of any counter-trade transactions;

26. Refuse to deal with or provide quotations to other Export Intermediaries for sales of Members' Products into Export Markets;

27. Require common marking and identification of Members' Products sold in Export Markets; and

28. Exchange information as necessary to carry out Export Trade Activities and Methods of Operation including:

(a) Information about sales, marketing efforts, and sales strategies in Export Markets, including pricing; projected demand in Export Markets for Products; customary terms of sale; and foreign buyer and consumer product specifications;

(b) Information about the price, quality, quantity, source and delivery dates of Products available from WFE and its Members for export;

(c) Information about terms and conditions of contracts for sales in Export Markets to be considered and/or bid on by WFE and/or Members;

(d) Information about joint bidding opportunities;

(e) Information about methods by which export sales are to be allocated among WFE and/or Members;

(f) Information about expenses specific to exporting to and within Export Markets, including transportation, transshipments, inter-modal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing and customs duties or taxes;

(a) Information about U.S. and foreign legislation and regulations, including federal marketing order programs that may affect sales to Export Markets;

(h) Information about WFE's or Members' export operations, including sales and distribution networks established by WFE or Members in Export Markets, and prior export sales by Members, including export price information; and

(i) Information about claims or bad debts by WFE's or Members' customers in Export Markets.

Dated: September 22, 2003.

Vanessa M. Bachman,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 03–24251 Filed 9–24–03; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Membership of the National Oceanic and Atmospheric Administration Performance Review Board

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of membership of NOAA Performance Review Board.

SUMMARY: In accordance with 5 U.S.C. 4314(c)(4), NOAA announces the appointment of twenty-three members to serve on the NOAA Performance Review Board (PRB). The NOAA PRB is responsible for reviewing performance appraisals and ratings of Senior Executive Service (SES) members and making written recommendations to the appointing authority on SES retention and compensation matters, including performance-based pay adjustments, awarding of bonuses and reviewing recommendations for potential Presidential Rank Award nominees, and SES recertification. The appointment of members to the NOAA PRB will be for a period of 24 months.

EFFECTIVE DATE: The effective date of service of the twenty-three appointees to the NOAA Performance Review Board is September 25, 2003.

FOR FURTHER INFORMATION CONTACT: Colette Magwood, Acting Executive Resources Program Manager, Human Resources Management Office, Office of Finance and Administration, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (301) 713–0530 (ext. 204).

SUPPLEMENTARY INFORMATION: The names and position titles of the members of the NOAA PRB are set forth below (all are NOAA officials, except Tyra Smith, Director, Human Resources, Bureau of the Census, Department of Commerce; Gerald R. Lucas, Director for Strategic Resources Initiatives, Office of Human Resources Management, Department of Commerce; and, Timothy J. Hauser, Deputy Under Secretary for International Trade, International Trade Administration, Department of Commerce):

Helen M. Hurcombe, Director, Acquisition & Grants Office, NOAA Finance and Administration.

Louisa Koch, Acting Assistant Administrator and Deputy Assistant Administrator, Office of Oceanic and Atmospheric Research.

Jamison Hawkins, Deputy Assistant Administrator for Ocean and Coastal Zone Management, National Ocean Service.

Lee Dantzler, Director, National Oceanographic Data Center, National Environmental Satellite, Data and Information Service.

John E. Oliver, Jr., Deputy Assistant Administrator, National Marine Fisheries Service.

John E. Jones, Jr., Acting Assistant Administrator and Deputy Assistant Administrator for Weather Services.

William J. Brennan, Deputy Assistant Secretary for International Affairs.

Tyra Smith, Director, Human Resources, Bureau of the Census.

David Kennedy, Director, Office of Response and Restoration, National Ocean Service.

Alan Neushatz, Associate Assistant Administration for Management and Chief Financial Officer/Chief Administrative Officer, National Ocean Service.

Ron Baird, Director, National Sea Grant College Program, Office of Oceanic and Atmospheric Research.

Ants Leetma, Director, Geophysical Fluid Dynamics Laboratory, Office of Oceanic and Atmospheric Research.

Gregory Mandt, Director, Office of Climate, Water and Weather Services, National Weather Service.

Louis W. Uccellini, Director, National Centers for Environmental Prediction, National Weather Service.

Rebecca Lent, Deputy Assistant Administrator, National Marine Fisheries Service.

Michael Sissenwine, Senior Scientist and Director of Research Programs, National Marine Fisheries Service.

William Broglie, Chief Administrative Officer, NOAA Finance and Administration.

Martha Cuppy, Director, Central Administrative Services Center, NOAA Finance and Administration.

Colleen Hartman, Deputy Assistant Administrator, National Environmental Satellite, Data and Information Service.

Kathleen Kelly, Director, Office of Satellite Operations, National

Environmental Satellite, Data and Information Service.

Jordan P. St. John, Director, Office of Public and Constituent Affairs, Office of Public and Constituent Affairs, NOAA.

Gerald R. Lucas, Director for Strategic Resources Initiatives, Office of Human Resources Management, Department of Commerce.

Timothy J. Hauser, Deputy Under Secretary for International Trade, International Trade Administration, Department of Commerce.

Dated: September 16, 2003.

John J. Kelly, Jr.,

Deputy Undersecretary of Commerce for Oceans and Atmosphere.

[FR Doc. 03–24271 Filed 9–24–03; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0157]

Federal Acquisition Regulation; Information Collection; Consolidated Form for Selection of Architect-Engineer Contracts (SF 330)

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0157).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning consolidated form for selection of architect-engineer and contracts (SF 330). The clearance currently expires on December 31, 2003.

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: Submit comments on or before November 24, 2003.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the General Services Administration, FAR Secretariat (MVA), 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Cecelia Davis, Acquisition Policy Division, GSA (202) 219–0202.

SUPPLEMENTARY INFORMATION:

A. Purpose

Standard Form 330, Part I is used by all Executive agencies to obtain information from architect-engineer firms interested in a particular project. The information on the form is reviewed by a selection panel composed of professional people and assists the panel in selecting the most qualified architect-engineer firm to perform the specific project. The form is designed to provide a uniform method for architect-engineer firms to submit information on experience, personnel, capabilities of the architect-engineer firm to perform along with information on the consultants they expect to collaborate with on the specific project.

Standard Form 330, Part II is used by all Executive agencies to obtain general uniform information about a firm's experience in architect-engineering projects. Architect-engineer firms are encouraged to update the form annually. The information obtained on this form is used to determine if a firm should be solicited for architect-engineer projects.

B. Annual Reporting Burden

Respondents: 5,000.

Responses Per Respondent: 4.

Total Responses: 20,000.

Hours Per Response: 29.

Total Burden Hours: 580,000.

Obtaining Copies of Proposals:

Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVA), Room 4035, 1800 F Street, NW., Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0157, Consolidated Form for Selection of Architect-Engineer Contracts (SF 330), in all correspondence.

Dated: September 17, 2003.

Laura G. Auletta,

Director, Acquisition Policy Division.

[FR Doc. 03–24222 Filed 9–24–03; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Department of the Army

Department of Defense Historical Advisory Committee; Meeting

AGENCY: Department of the Army, DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Department of Defense Historical Advisory Committee.

Date: October 30, 2003.

Time: 9 a.m. to 4:30 p.m.

Place: U.S. Army Center of Military History, Collins Hall, Building 35, 103 Third Avenue, Fort McNair, DC 20319–5058.

Proposed Agenda: Review and discussion of the status of historical activities in the United States Army.

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey J. Clarke, U.S. Army Center of Military History, ATTN: DAMH–ZC, 103 Third Avenue, Fort McNair, DC 20319–5058; telephone number (202) 685–2709.

SUPPLEMENTARY INFORMATION: The committee will review the Army's historical activities for FY 2003 and those projected for FY 2004 based upon reports and manuscripts received throughout the period. And the committee will formulate recommendations through the Chief of Military History to the Chief of Staff, Army, and the Secretary of the Army for advancing the use of history in the U.S. Army.

The meeting of the advisory committee is open to the public. Because of the restricted meeting space, however, attendance may be limited to those persons who have notified the Advisory Committee Management Office in writing at least five days prior to the meeting of their intention to attend the October 30, 2003 meeting.

Any members of the public may file a written statement with the committee before, during, or after the meeting. To the extent that time permits, the committee chairman may allow public presentations or oral statements at the meeting.

Dated: August 1, 2003.

Jeffrey J. Clarke,

Chief Historian.

[FR Doc. 03–24254 Filed 9–24–03; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare an Environmental Impact Statement for Denver Water's Moffat Collection System Project; Correction

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice; dates correction.

SUMMARY: The public scoping meetings scheduled for October 7, 2003 and October 9, 2003 published in the **Federal Register** on September 17, 2003 (68 FR 54432) did not contain the street address for the locations.

FOR FURTHER INFORMATION CONTACT: Mr. Chandler Peter, (307) 772–2300.

Correction

In the **Federal Register** of September 17, 2003, in FR Doc. 03–23733, on page 54432, in the second column, correct items 1 and 3 in the **DATES** caption to read:

1. October 7, 2003, 7 to 9:30 p.m. at the Fairview High School Cafeteria, 1550 Greenbriar Boulevard, Boulder, CO.
3. October 9, 2003, 7 to 9:30 p.m. at The Inn at Silver Creek Convention Center, West Peak Room, 62927 US Highway 40, Silver Creek, CO.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 03–24252 Filed 9–24–03; 8:45 am]

BILLING CODE 3710–62–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for Proposed Dam Powerhouse Rehabilitations and Possible Operational Changes at the Wolf Creek, Center Hill, and Dale Hollow Dams, Kentucky and Tennessee

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The Corps of Engineers (Corps), Nashville District, will prepare a Draft Environmental Impact Statement (DEIS) relating to the proposed dam powerhouse rehabilitations and possible operational changes at the Wolf Creek, Center Hill, and Dale Hollow Dams in Kentucky and Tennessee. This process is necessary to provide National Environmental Policy Act (NEPA) compliance for proposed changes to the features of the project from that described in previous NEPA documents, which include the Continued Operation and Maintenance Environmental Assessments for each of the named projects and the January 1989 Wolf Creek Hydropower Draft Feasibility Study and Environmental Assessment. The Corps is studying the possible impacts of modifying existing equipment. Due to improvements in technology, rehabilitating the equipment would make it possible to produce significantly more power from the same amount of water discharged. Changes in equipment and operational procedures could also cause higher tailwater heights and velocities, but as there is a limited amount of water they would be for shorter duration. In addition, alterations to flow regimes are being considered to provide minimum flows when hydropower releases are shut off. If improvements are successful, other dams may eventually be considered for similar changes.

DATES: Written scoping comments on issues to be considered in the DEIS will be accepted by the Corps of Engineers until November 28, 2003.

ADDRESSES: Scoping comments should be mailed to Wayne Easterling, Project Planning Branch, Nashville District Corps of Engineers, P.O. Box 1070 (PM–P), Nashville, TN 7202–1070, or may be e-mailed to *wayne.s.easterling@usace.army.mil.*

FOR FURTHER INFORMATION CONTACT: For additional information concerning the proposed action and DEIS, please contact Wayne Easterling, Project Planning Branch, (615) 736–7847.

SUPPLEMENTARY INFORMATION:

1. The intent of the DEIS is to provide NEPA compliance for changes in design features and operating procedures of the Wolf Creek, Center Hill, and Dale Hollow Dams in the Cumberland River system. All three dams are of a similar age, and the turbines and related equipment are well beyond their projects life, and have similar proposed rehabilitation and operational changes. Operating and equipment changes that will be studied could potentially affect more than a combined total 60 miles of tailwaters. This would primarily be a result of efforts to raise dissolved oxygen levels to at least meet the minimum state water quality standards, although flows and elevations could also be altered for a significant distance. Furthermore, if the proposed changes prove desirable, they could set a precedent for future rehabilitations at other hydropower facilities. The Corps, therefore, proposes to evaluate these dams programmatically.

2. The three dams considered under this Environmental Impact Statement, Wolf Creek Dam, Center Hill Dam, and Dale Hollow Dam, were authorized in the 1930s and constructed in the 1940s before there was a significant concern for environmental protection. They all predate the NEPA, the Clean Water Act, the Fish and Wildlife Coordination Act, and many other related environmental laws and regulations. Together these three Corps projects affect the temperatures, flows, and dissolved oxygen (DO) levels of up to 250 miles of the Cumberland River and its tributaries. The Corps is studying the possible impacts of modifying existing structures or operating procedures to improve DO in the tailwaters. Alterations to flow regimes are being considered to provide minimum flows below the dams when hydropower releases are shut off.

3. Key proposed project features to be evaluated in the DEIS include the following:

a. Rehabilitation of turbines including Auto Venting Turbines to improve DO levels in the tailwaters.

b. Minimum releases to ensure continuous flows between periods of generation.

c. The effects of increased tailwater flows on tailwater parks, downstream fishing areas, adjacent low lying farmlands, erosion of riverbanks, cultural archaeological and historic sites, and changes to the hydraulics and hydrology of the rivers.

d. Other alternatives studied will include: No Action; restoration to the ''original'' 1948 condition; refurbishing existing units; oxygenating water in the dam fore bays prior to release; and spilling water through the floodgates.

4. This notice serves to solicit scoping comments from the public; federal, state and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received during the comment period will be considered in the NEPA process. Comments are used to assess impacts on fish and wildlife, endangered species, historic properties, water quality, water supply and conservation, economics, aesthetics, wetlands, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, energy

needs, safety, food and fiber production, mineral needs, considerations of property ownership, general environmental effects, cumulative effects, and in general, the needs and welfare of the people. Public meetings may be held, however, times, dates, or locations have not been determined.

5. Other Federal, State and local approvals required for the proposed work include coordination with the U.S. Fish and Wildlife Service, including a Fish and Wildlife Coordination Act Report.

6. Significant issues to be analyzed in depth in the DEIS include impacts to tailwater fisheries, recreation, economics, water quality, historic and cultural resources, streambank erosion, future power demands, and cumulative impacts. The DEIS should be available in September 2004.

Byron G. Jorns,

Lieutenant Colonel, Corps of Engineers, District Engineer.

[FR Doc. 03–24253 Filed 9–24–03; 8:45 am]

BILLING CODE 3710–GF–M

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 November 24, 2003.

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: September 22, 2003.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Revision.

Title: Application for Strengthening Historically Black Colleges and Universities Program and Historically Black Graduate Institutions.

Frequency: Phase I Annually; Phase II every 5 years.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 117.

Burden Hours: 889.

Abstract: The information is required of institutions of higher education designated as Historically Black Colleges and Universities and Qualified Graduate Programs, Title III, Part B of the Higher Education Act of 1985, as amended. This information will be used for the evaluation process to determine whether activities are consistent with the legislation and to determine dollar share of congressional appropriation.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2339. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivian_reese@ed.gov.* 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 Joseph Schubart at his e-mail address *Joe.Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–24215 Filed 9–24–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA Nos.: 84.133G and 84.133P]

Office of Special Education and Rehabilitative Services, National Institute on Disability and Rehabilitation Research (NIDRR); Notice Inviting Applications for New Awards for Fiscal Year (FY) 2004

SUMMARY: We invite applications for new FY 2004 grant awards under the Field-Initiated (FI) Projects (84.133G) and Advanced Rehabilitation Research Training (ARRT) Projects (84.133P) of NIDRR's Disability and Rehabilitation Research Project and Centers Program. We take this action to focus attention on an area of national need in the rehabilitation field.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR), 34 CFR parts 74, 75, 77, 80, 81, 82, 85, 86 and 97; and 34 CFR part 350.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH APPLICATION NOTICE FOR FY 2004

CFDA No. Program Name	Applications available	Deadline for transmittal of applications	Estimated available funds	Maximum award amount (per year)*	Estimated number of awards	Project period (months)
84.133G Field Initiated Projects.	September 25, 2003	December 9, 2003	$4,500,000	$150,000	30	36
84.133P Advanced Rehabilitation Research Training Projects.	September 25, 2003	November 24, 2003	$750,000	$150,000	3–5	60

* We will reject without consideration any application that proposes a budget exceeding the stated maximum award amount in any year (See 34 CFR 75.104(b)).

Note: The Department is not bound by any estimates in this notice.

SUPPLEMENTARY INFORMATION:

Note: NIDRR supports the goals of President Bush's New Freedom Initiative (NFI). The NFI can be accessed on the Internet at the following site: *http://www.whitehouse.gov/news/freedominitiative/freedominitiative.html.*

The FI and ARRT projects are in concert with NIDRR's Long-Range Plan (Plan). The Plan is comprehensive and integrates many issues relating to disability and rehabilitation research and development topics. The Plan can be accessed on the Internet at the following site: *http://www.ed.gov/rschstat/research/pubs/index.html.*

Through the implementation of the Plan, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of expertise, information, and training to facilitate the advancement of knowledge and understanding of the unique needs of traditionally underserved populations; (3) determine best strategies and programs to improve rehabilitation outcomes for underserved populations; (4) identify research gaps; (5) identify mechanisms of integrating research and practice; and (6) disseminate findings.

The Secretary is interested in hypothesis-driven research and development projects. To address this interest it is expected that applicants will articulate goals, objectives, and expected outcomes for the proposed research and development activities. It is critical that proposals describe expected public benefits, especially benefits for individuals with disabilities, and propose projects that are optimally designed to demonstrate outcomes that are consistent with the proposed goals. Applicants are encouraged to include information describing how they will measure outcomes, including the indicators that will represent the end-result, the mechanisms that will be used to evaluate outcomes associated with specific problems or issues, and how the proposed activities will support new intervention approaches and strategies, including a discussion of measures of effectiveness. Submission of this information is voluntary except where required by the selection criteria listed in the application package.

Selection Criteria

The selection criteria for the FI Projects and the ARRT Projects will be provided in the application package.

Field-Initiated Projects (CFDA Number 84.133G)

Purpose of Program: FI Projects must further one or both of the following purposes: (a) Develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities; or (b) improve the effectiveness of services authorized under the Rehabilitation Act of 1973 (Act), as amended. FI projects carry out either research activities or development activities.

In carrying out a research activity, a grantee must identify one or more hypotheses and, based on the hypotheses identified, perform an intensive, systematic study directed toward new scientific knowledge or better understanding of the subject, problem studied, or body of knowledge.

In carrying out a development activity, a grantee must use knowledge and understanding gained from research to create materials, devices, systems, or methods beneficial to the target population, including design and development of prototypes and processes. Target population means the group of individuals, organizations, or other entities expected to be affected by the project. More than one group may be involved since a project may affect those who receive services, provide services, or administer services.

There are two different sets of selection criteria for FI projects: One set to evaluate applications proposing to carry out research activities, and a second set to evaluate applications proposing to carry out development activities. The set of FI selection criteria that will be used to evaluate an application will be based on the applicant's designation of the type of activity that the application proposes to carry out.

The applicant should: (a) Clearly identify on the cover page of the application, block 4, whether the proposal is for a research or a development project; (b) identify if the application is a resubmittal from a previous competition conducted within the past two years, by writing the word resubmittal on the cover page of the application in block 13 along with the descriptive title; (c) if the application is a resubmittal from a previous competition conducted within the past two years, write the word resubmittal and the assigned application number (*i.e.*, H133G02, H133G03) in the right hand corner at the bottom of the page on the abstract, the introduction, and cover letter; and (d) if applicable, indicate qualification as a minority entity or Indian tribe in the abstract and cover letter.

The term minority entity means an entity that is a historically Black college or university, a Hispanic-serving institution of higher education, an American Indian tribal college or university, or another institution of higher education whose minority student enrollment is at least 50 percent. Information on qualifying entities is located at: *http://www.ed.gov/about/offices/list/ocr/edlite-minorityinst.html.*

Invitational Priorities

The Secretary is particularly interested in applications that address one of the following invitational priorities. However, under 34 CFR 75.105(c)(1), an application that meets

an invitational priority does not receive competitive or absolute preference over other applications. The invitational priorities are: (a) Projects that improve the exit of individuals with disabilities from buildings, vehicles, and other settings in emergencies; (b) projects that study use of the new ''International Classification of Functioning, Disability and Health'' (ICFDH–2) systems in promoting the independence and quality of life of persons with disabilities; (c) projects that collaborate with international assistive technology and rehabilitation engineering projects including, but not limited to, those that could be carried out under Science and Technology Agreements between the U.S. and other countries; (d) projects that enhance the functioning of people with chronic fatigue (CF); (e) projects that study chronic pain and pain management strategies to enhance the functioning of individuals with disabilities; and (f) projects that study mental health interventions related to traumatic stress of individuals with disabilities.

Eligible Applicants: States; public or private agencies, including for-profit agencies; public or private organizations, including for-profit organizations; institutions of higher education; and Indian tribes and tribal organizations.

Indirect Cost Rate: Applicants should limit indirect charges to the organization's federally approved indirect cost rate. If the organization does not have an approved indirect cost rate, the application should include an estimated actual rate.

Letters of Intent

Due to the open nature of the FI Projects competition, and to assist with the selection of reviewers for this competition, NIDRR is requiring all potential applicants to submit a Letter of Intent (LOI). This LOI will not be used to screen out potential applicants. Therefore, LOIs are neither approved nor disapproved. You will not be contacted about the status of your LOI.

Each LOI must be limited to a maximum of four pages and must include the following information: (1) The title of the proposed project, if it is research or development, the name of the host institution, the name of the Principal Investigator (PI), and the names of partner institutions and entities; (2) a brief statement of the vision, goals, and objectives of the proposed project and a description of its research and development activities at a sufficient level of detail to allow NIDRR to select potential peer reviewers; (3) a list of proposed project staff including the Director and key personnel; (4) a list of individuals whose selection as a peer reviewer might constitute a conflict of interest due to involvement in proposal development, selection as an advisory board member, co-PI relationships, etc.; and (5) contact information for the PI. Submission of a LOI is a prerequisite for eligibility to submit an application.

NIDRR will accept a LOI via surface mail, e-mail, or facsimile by November 10, 2003. If a LOI is submitted via e-mail or facsimile, the applicant must also provide NIDRR with the original signed LOI within seven days after the date the e-mail or facsimile is submitted. The LOI must be sent to: Surface mail: David Keer, U.S. Department of Education, 400 Maryland Avenue, SW., room 3431, Switzer Building, Washington, DC 20202–2645; or fax (202) 205–8515; or e-mail: *david.keer@ed.gov.*

For further information regarding the LOI requirement contact David Keer at (202) 205–5633.

Program Authority: 29 U.S.C. 764.

Advanced Rehabilitation Research Training Projects (CFDA Number 84.133P)

Purpose of Program: ARRT projects must provide research training and experience at an advanced level to individuals *with doctorates or similar advanced degrees* who have clinical or other relevant experience. ARRT projects train rehabilitation researchers, including individuals with disabilities, with particular attention to research areas that support the implementation and objectives of the Rehabilitation Act of 1973, as amended (Act), and that improve the effectiveness of services authorized under the Act.

ARRT projects must carry out all of the following activities: (1) Recruit and select candidates for advanced research training; (2) provide a training program that includes didactic and classroom instruction, is multidisciplinary, and emphasizes scientific methodology, and may involve collaboration among institutions; (3) provide research experience, laboratory experience, or its equivalent in a community-based research setting, and a practicum that involves each individual in clinical research and in practical activities with organizations representing individuals with disabilities; (4) provide academic mentorship or guidance, and opportunities for scientific collaboration with qualified researchers at the host university and other appropriate institutions; and (5) provide opportunities for participation in the development of professional presentations and publications, and for attendance at professional conferences and meetings as appropriate for the individual's field of study and level of experience.

Eligible Applicants: Institutions of higher education.

Indirect Cost Rate: Indirect cost reimbursement on a training grant is limited to eight percent of a modified total direct cost base, defined as total direct less stipends, tuition, and related fees.

Program Authority: 29 U.S.C. 762(k).

Application Procedures

Note: Some of the procedures in these instructions for transmitting applications differ from those in the Education Department General Administrative Regulations (EDGAR) (34 CFR 75.102). Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these amendments make procedural changes only and do not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), the Secretary has determined that proposed rulemaking is not required.

Pilot Project for Electronic Submission of Applications

In FY 2004, the Department is continuing to expand its pilot project for electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The Field-Initiated Projects program—CFDA 84.133G and the Advanced Rehabilitation Research Training Projects program—CFDA 84.133P are two of the programs included in the pilot project. If you are an applicant under the Field-Initiated Projects program—CFDA 84.133G or the Advanced Rehabilitation Research Training Projects program—CFDA 84.133P, you may submit your application to us in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-Application). Users of e-Application will be entering data on-line while completing their applications. You may not e-mail a soft copy of a grant application to us. If you participate in this voluntary pilot project by submitting an application electronically, the data you enter on-line will be saved into a database. We request your participation in e-Application. We shall continue to evaluate its success and solicit suggestions for its improvement.

If you participate in e-Application, please note the following:

- Your participation is voluntary.
- When you enter the e-Application system, you will find information about its hours of operation. We strongly

recommend that you do not wait until the application deadline date to initiate an e-Application package.

• You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.

• You may submit all documents electronically, including the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• Your e-Application must comply with any page limit requirements described in this notice.

• After you electronically submit your application, you will receive an automatic acknowledgment, which will include a PR/Award number (an identifying number unique to your application).

• Within three working days after submitting your electronic application, fax a signed copy of the Application for Federal Education Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from e-Application.
2. The institution's Authorizing Representative must sign this form.
3. Place the PR/Award number in the upper right hand corner of the hard copy signature page of the ED 424.
4. Fax the signed ED 424 to the Application Control Center at (202) 260–1349.

• We may request that you give us original signatures on other forms at a later date.

• *Application Deadline Date Extension in Case of System Unavailability:* If you elect to participate in the e-Application pilot for the Field-Initiated Projects program—CFDA 84.133G or the Advanced Rehabilitation Research Training Projects program—CFDA 84.133P and you are prevented from submitting your application on the application deadline date because the e-Application system is unavailable, we will grant you an extension of one business day in order to transmit your application electronically, by mail, or by hand delivery. For us to grant this extension—

1. You must be a registered user of e-Application, and have initiated an e-Application for this competition; and

2. (a) The e-Application system must be unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) The e-Application system must be unavailable for any period of time during the last hour of operation (that is, for any period of time between 3:30 p.m. and 4:30 p.m., Washington, DC time) on the application deadline date.

The Department must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm the Department's acknowledgement of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** or (2) the e-GRANTS help desk at 1–888–336–8930.

You may access the electronic grant application for the Field-Initiated Projects program—CFDA 84.133G or the Advanced Rehabilitation Research Training Projects program—CFDA 84.133P at: *http://e-grants.ed.gov.*

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html.*

Or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify the competition for which you are applying as follows: CFDA number 84.133G or 84.133P.

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 205–8351. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Services (FIRS) at 1–800–877–8339. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

FOR FURTHER INFORMATION CONTACT: Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 3412, Switzer Building, Washington, DC 20202–2645. Telephone: (202) 205–5880 or via the Internet: *donna.nangle@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you 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 under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document

You may review this document, as well as all other Department of Education documents published in the **Federal Register,** in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: September 22, 2003.

Robert H. Pasternack,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 03–24299 Filed 9–24–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy; National Petroleum Council

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

This notice announces a meeting of the National Petroleum Council. Federal Advisory Committee Act (Pub. L. 92–463,86 Stat. 770) requires notice of these meetings be announced in the **Federal Register**.

DATES: September 25, 2003, 2:30 p.m.

ADDRESSES: JW Marriott Hotel, Salons 1&2 Grand Ballroom, 1331 Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Slutz, U.S. Department of Energy, Office of Fossil Energy, Washington, DC 20585. Phone: 202–586–5600.

SUPPLEMENTARY INFORMATION: Purpose of the Committee: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industry. Tentative Agenda:

—Call to Order and Introductory Remarks
—Remarks by the Honorable Spencer Abraham, Secretary of Energy
—Consideration of the Proposed Report of the NPC Committee on Natural Gas.
—Consideration of Administrative Matters

—Discussion of Any Other Business Properly Brought Before the National Petroleum Council.
—Adjournment

Public Participation: The meeting is open to the public. The chairperson of the Council is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement to the Council will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact James Slutz at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved prior to the meeting date.

Transcripts: Available for public review and copying at the Public Reading Room, Room IE–190, Forrestal Building, 1000 Independence Avenue, SW., Washington DC between 9 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

Issued at Washington, DC, on September 17, 2003.

Rachel Samuel,

Deputy Advisory Committee, Management Officer.

[FR Doc. 03–24347 Filed 9–24–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–441–002]

ANR Pipeline Company; Notice of Compliance Filing

September 17, 2003.

Take notice that on September 12, 2003, ANR Pipeline Company (ANR), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Second Sub Eleventh Revised Sheet No. 149A and Substitute Fourth Revised Sheet No. 154, with an effective date of July 1, 2003.

ANR states that these tariff sheets are being filed in compliance with the Commission's Letter Order dated September 4, 2003, requiring ANR, as part of its Order 587–R Compliance Filing, to specify the recall quantity in terms of either ''total released capacity entitlements'' or ''adjusted total released capacity entitlements based upon the elapsed Prorata Capacity'' pursuant to WGQ Standard 5.3.55. ANR has removed this standard from the reference list, and opted for the latter terminology to be included verbatim in its tariff.

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 § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 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. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary (FERRIS) link.

Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Protest Date: September 24, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–24244 Filed 9–24–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–415–002]

ANR Storage Company; Notice of Compliance Filing

September 17, 2003.

Take notice that on September 12, 2003, ANR Storage Company (ANR Storage), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Substitute Fourth Revised Sheet No. 14A and Second Sub Tenth Revised Sheet No. 153, with an effective date of July 1, 2003.

ANR Storage states that these tariff sheets are being filed in compliance with the Commission's Letter Order dated September 4, 2003, requiring ANR Storage, as part of its Order 587–R Compliance Filing, to specify the recall quantity in terms of either ''total released capacity entitlements'' or ''adjusted total released capacity entitlements based upon the elapsed Prorata Capacity'' pursuant to WGQ Standard 5.3.55. ANR Storage states that it has removed this standard from the reference list, and opted for the latter terminology to be included verbatim in its tariff.

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 § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 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. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Protest Date: September 24, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–24242 Filed 9–24–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–406–002]

Blue Lake Gas Storage Company; Notice of Compliance Filing

September 17, 2003.

Take notice that on September 12, 2003, Blue Lake Gas Storage Company (Blue Lake), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1 Substitute Third Revised Sheet No. 15A and Second Sub Tenth Revised Sheet No. 153 1.

Blue Lake states that these tariff sheets are being filed in compliance with the Commission's Letter Order

dated September 4, 2003, requiring Blue Lake, as part of its Order 587–R Compliance Filing, to specify the recall quantity in terms of either ''total released capacity entitlements'' or ''adjusted total released capacity entitlements based upon the elapsed Prorata Capacity'' pursuant to WGQ Standard 5.3.55. Blue Lake states that it has removed this standard from the reference list, and opted for the latter terminology to be included verbatim in its tariff.

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 § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 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. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Protest Date: September 24, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–24241 Filed 9–24–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–75–000]

Freeport LNG Development, L.P.; Notice of Site Visit for the Proposed Freeport LNG Project

September 17, 2003.

On September 23, 2003, the staff of the Federal Energy Regulatory Commission (Commission) will conduct a public site visit of proposed facilities of the Freeport LNG Project in Quintana, Texas. Only the LNG terminal site on Quintana Island will be visited.

Anyone interested in participating in the site visit should meet at Quintana Town Hall on Quintana Island at 2:30 pm. The meeting place is near the intersection of Lamar and 8th Streets. Participants must provide their own transportation.

For additional information, please contact the Commission's Office of External Affairs at (202) 502–8004.

Magalie R. Salas,

Secretary.

[FR Doc. 03–24229 Filed 9–24–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–361–013]

Gulfstream Natural Gas System, L.L.C.; Notice of Negotiated Rates

September 17, 2003.

Take notice that on September 12, 2003, Gulfstream Natural Gas System, L.L.C. (Gulfstream) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Sub Original Sheet No. 8K, reflecting an effective date of August 1, 2003.

Gulfstream states that this filing is being made as a supplement to its August 28, 2003 filing in this proceeding to implement a Park negotiated rate transaction under Rate Schedule PALS. Gulfstream states that the tariff sheet clarifies that the negotiated rate applies without regard to the points agreed to by Gulfstream and the shipper for receipt or return of parked quantities.

Gulfstream states that copies of its filing have been mailed to all affected customers and interested state commissions, as well as all parties on the Commission's Official Service List compiled 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 § 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. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' (FERRIS). Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: September 24, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–24239 Filed 9–24–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–560–001]

OkTex Pipeline Company; Notice of Compliance Filing

September 17, 2003.

Take notice that on September 11, 2003, OkTex Pipeline Company (OkTex), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of July 1, 2003:

Substitute Third Revised Sheet No. 1.
Substitute Seventh Revised Sheet No. 3.
Substitute Tenth Revised Sheet No. 39.
Sixth Revised Sheet No. 40D.

OKTex also states that the filing is being made in compliance with the Commission's directives in Docket No. No. RP03–560.

OkTex notes that the tariff sheets reflect the changes to OkTex's tariff that result from the North American Standards Board's (NAESB) consensus standards that were adopted by the Commission in its March 12, 2003 Order No. 587–R in Docket No. RM96–1–024 and the Recommendations in R02002 and R02002–2 of the NAESB Wholesale Gas Quadrant (WGQ). OkTex states that it will implement the NAESB consensus standards for July 1, 2003 business, and that the revised tariff sheets therefore reflect an effective date of July 1, 2003.

OkTex states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

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 § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 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. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Protest Date: September 23, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–24246 Filed 9–24–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–446–002]

Portland Natural Gas Transmission System; Notice of Compliance Filing

September 17, 2003.

Take notice that on September15, 2003, Portland Natural Gas Transmission System (PNGTS) tendered for filing as part of its FERC Gas Tariff, Original Volume No.1, the following revised tariff sheets to become effective on July 1, 2003:

Second Revised Sheet No. 357.
Second Substitute Fourth Revised Sheet No. 380.

PNGTS states that its filing is submitted in compliance with the Commission's September 4, 2003 order in this proceeding, which accepted, subject to minor revisions, tariff sheets filed by PNGTS on July 7, 2003 in accordance with the Commission's June 27, 2003 order in this docket, and with Order No. 587–R. Order No. 587–R required pipelines to revise their tariffs to incorporate by reference Version 1.6 of the consensus standards promulgated by the North American Standards Board Wholesale Gas Quadrant (WGQ) and the WGQ standards for partial day recalls of capacity release transactions. PNGTS states that in accordance with the September 4, 2003 Order, PNGTS is correcting certain designations of the WGQ standards and recommendations that are being incorporated into the tariff.

PNGTS states that copies of this filing are being served on all jurisdictional customers, interested state commissions, and parties listed on the Commission's service list 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 § 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. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' (FERRIS). Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: September 29, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–24245 Filed 9–24–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2494–028]

Puget Sound Energy, Inc.; Notice of Conference Call To Discuss Progress on the White River Collaborative Settlement Process

September 17, 2003.

a. *Date and Time of Meeting:* October 7, 2003; 1:30 p.m. Eastern Daylight Time.

b. *Conference call:* Toll free 1–800–857–1738; leader's name is Mike Henry; and Passcode is HENRY. Press * 6 to mute the phone, * 6 again to un-mute the phone, and * 0 for operator assistance.

c. *FERC Contact:* Mike Henry at mike.henry@ferc.gov or (503) 552–2762.

d. *Purpose of Meeting:* Puget Sound Energy, Inc. has requested a meeting with Commission staff to discuss the progress that has been made reaching a settlement agreement for the White River Project (P–2494–028). The project is located on the White River, east of Seattle, Washington.

e. *Proposed Agenda:* (1) Introduction of participants, (2) Puget presentation on purpose of meeting, (3) Discussion, and (4) Meeting wrap up.

f. All local, State, and Federal agencies, Indian tribes, and other interested parties are invited to participate.

Magalie R. Salas,

Secretary.

[FR Doc. 03–24231 Filed 9–24–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–352–000]

Southern Star Central Gas Pipeline, Inc; Notice of Application

September 17, 2003.

Take notice that on September 12, 2003, Southern Star Central Gas Pipeline, Inc. (Southern Star), filed an application pursuant to Section 7(c) of the Natural Gas Act (NGA) for a certificate of public convenience and necessity to convert its existing pipeline and compression facilities extending from Lone Jack, Missouri, to St. Peters, Missouri, from Natural Gas Policy Act (NGPA) Section 311 authority to NGA Section 7 authority, all as more fully set forth in the application which is on file

with the Commission and open to public inspection.

Southern Star states that the NGPA Section 311 facilities to be converted to NGA Section 7 authority currently serve Laclede Gas Company (Laclede) in its service areas west of St. Louis, Missouri, but also interconnect with other Southern Star NGA Section 7 facilities that provide additional firm transportation service to all customers north of Southern Star's Concordia station.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before the date as indicated below. 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. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' (FERRIS). Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: October 16, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–24228 Filed 9–24–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–417–002]

Steuben Gas Storage Company; Notice of Compliance Filing

September 17, 2003.

Take notice that on September 12, 2003, Steuben Gas Storage Company (Steuben), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Substitute Fifth Revised Sheet No. 13 and Second Sub Tenth Revised Sheet No. 154, with an effective date of July 1, 2003.

Steuben states that these tariff sheets are being filed in compliance with the Commission's Letter Order dated September 4, 2003, requiring Steuben, as part of its Order 587–R Compliance Filing, to specify the recall quantity in terms of either ''total released capacity entitlements'' or ''adjusted total released capacity entitlements based upon the elapsed Prorata Capacity'' pursuant to WGQ Standard 5.3.55. Steuben has removed this standard from the reference list, and opted for the latter terminology to be included verbatim in its tariff.

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 § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 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. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Protest Date: September 24, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–24243 Filed 9–24–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–605–000]

Tennessee Gas Pipeline Company; Notice of Tariff Revision Filing

September 17, 2003.

Take notice that on September 12, 2003, Tennessee Gas Pipeline Company (Tennessee) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No.1, Eighth Revised Sheet No. 357, with an effective date of October 13, 2003.

Tennessee's filing requests that the Commission approve a revision to Article VII of the General Terms and Conditions of Tennessee's FERC Gas Tariff. Tennessee states that the revision would clarify the point of custody transfer of gas at certain receipt and delivery points.

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 § 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. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' (FERRIS). Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: September 24, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–24247 Filed 9–24–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR03–17–000]

Unocal Keystone Gas Storage, LLC.; Notice of Petition for Rate Approval

September 17, 2003.

Take notice that on September 9, 2003 Unocal Keystone Gas Storage, LLC. (Keystone) filed pursuant to Section 284.123 of the Commission's regulations, a petition for rate approval requesting that the Commission approve

the proposed market-based rates for storage and park and loan services.

Keystone requests that the Commission reaffirm its prior authorization for it to continue to charge market-based rates for storage and park and loan services following the planned expansion. Keystone also requests to extend that authorization to interruptible wheeling service. Keystone states that it desires to begin to offer an interruptible wheeling service.

Any person desiring to participate in this rate proceeding must file a motion to intervene or 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 with the Secretary of the Commission on or before the date as indicated below. 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. This petition for rate approval is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits I the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: October 2, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–24240 Filed 9–24–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RM01–12–000 and ER02–653–002]

Remedying Undue Discrimination Through Open Access Transmission Service and Standard Electricity Market Design; PacifiCorp; Notice of FERC Staff Participation in Discussions With Oregon Commission and Others

September 17, 2003.

The Federal Energy Regulatory Commission hereby gives notice that members of its staff will participate in discussions with the Oregon Public Utility Commission and other stakeholders on matters concerning retail access in Oregon. The staff's participation is part of the Commission's ongoing outreach efforts.

The discussions may address matters at issue in two proceedings:

- Docket No. RM01–12–000, Remedying Undue Discrimination Through Open Access Transmission Service and Standard Electricity Market Design; and
- Docket No. ER02–653–002, PacifiCorp.

The discussions will be held on Friday, October 3, 2003, and are expected to begin at approximately 9:30 am. The discussions will take place at the Oregon Public Utility Commission, 550 Capitol Street NE., Salem, OR 97301. The discussions are open to the public.

For more information, contact Patricia Dalton, Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission at (202) 502–8044 or *patricia.dalton@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. 03–24238 Filed 9–24–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5018–004]

Wellesley Rosewood Maynard Mills, L.P., Massachusetts; Notice of Availability of Draft Environmental Assessment

September 17, 2003.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for surrender of the exemption from licensing for the Mill Pond Hydroelectric Project and has prepared a Draft Environmental Assessment (DEA) for the project. The project is located on the Assabet River, in Maynard, Massachusetts, within Middlesex County. No federal lands or facilities are occupied or used by the project.

The DEA contains the staff's analysis of the potential environmental impacts of the project and concludes that surrendering the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the DEA is on file with the Commission and is available for public inspection. The DEA may also be viewed on the web at *http://www.ferc.gov* , using the ''eLibrary'' link and by selecting the ''General Search'' link and following the instructions (call (866) 206–3676 for assistance).

Any comments should be filed within 45 days from the date of this notice and should be addressed to Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix Project No. 5018–004 to all comments. Comments 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 under the ''eFiling'' link.

For further information, contact Kenneth Hogan at (202) 502–8434.

Magalie R. Salas,

Secretary.

[FR Doc. 03–24234 Filed 9–24–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

September 17, 2003.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License to Delete Certain Transmission Facilities from the Project Boundary.

b. *Project No:* 2219–014.

c. *Date Filed:* July 24, 2003.

d. *Applicant:* Garkane Energy Cooperative, Inc.

e. *Name of Project:* Boulder Creek.

f. *Location:* The project is located on the East and West Forks of Boulder Creek, in Garfield County, Utah, and affecting lands of the United States within the Dixie National Forest and other lands of the United States.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Mike Avant, Garkane Energy Cooperative, Inc., 1802 South 175 East, Kanab, UT 84741, (435) 644–5026.

i. *FERC Contact:* Any questions on this notice should be addressed to Mrs. Anumzziatta Purchiaroni at (202) 502–6191, or e-mail address: *anumzziatta.purchiaroni@ferc.gov*. j. *Deadline for filing comments and or motions:* October 20, 2003.

k. *Description of Request:* Garkane Energy Cooperative, Inc., is proposing to delete from the license about 51-mile-long, 69-kV Line, which runs from the project substation to a substation in the town of Escalante (28 miles), and continues on to a substation east of the town of Henrieville, Utah (23 miles). Garkane states that the line has become part of its regional transmission system. The line crosses lands administered by the U.S. Bureau of Land Management and the U.S. Forest Service.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call 1–866–208–3676 with or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. 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.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 03–24230 Filed 9–24–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2630–004]

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

September 17, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2630–004.

c. *Date Filed:* June 27, 2003.

d. *Applicant:* PacifiCorp.

e. *Name of Project:* Prospect Nos. 1, 2, and 4 Hydroelectric Project.

f. *Location:* On the Rogue River, Middle Fork Rouge River, and Red Blanket Creek in Jackson County, near Prospect, Oregon. The project would not utilize federal lands.

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Toby Freeman, Hydro Licensing, 825 NE Multnomah Avenue, Suite 1500, Portland, OR 97232, (503) 813–6208.

i. *FERC Contact:* Nick Jayjack at (202) 502–6073 or nicholas.jayjack@ferc.gov.

j. *Deadline for filing motions to intervene and protests and requests for cooperating agency status:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Motions to intervene and protests and requests for cooperating agency status may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link. k. This application has been accepted, but is not ready for environmental analysis at this time.

l. The existing Prospect Nos. 1, 2, and 4 Hydroelectric Project consists of: (1) A 10-foot-high, 165-foot-long concrete gravity-type overflow diversion dam on the Middle Fork Rogue River; (2) a 10-foot-high, 1,160-foot-long concrete and earth-fill diversion dam on Red Blanket Creek; (3) a 50-foot-high, 384-foot-long concrete gravity diversion dam on the Rogue River; (4) a 260-acre-foot impoundment behind the North Fork diversion dam (the other two dams form minimal impoundments); (5) non-functional fishways at the Red Blanket Creek and Middle Fork Rogue River diversion dams; (6) a 9.25-mile-long water conveyance system composed of gunite-lined canals (24,967 feet), unlined earthen canals (4,426 feet), open-top woodstave flumes (6,609 feet),

woodstave flow lines (7,139 feet), and steel penstocks (1,796 feet); (7) three powerhouses with a combined installed capacity of 41,560-kilowatts; (8) three 69-kilovolt (kV) transmission lines (0.26, 0.28, and 0.31 miles in length) and one 2.3-kV transmission line (0.6 miles in length); (9) a developed recreation area known as North Fork Park; and (10) appurtenant facilities. The applicant is proposing certain non-power resource enhancements. The applicant estimates that the total average annual generation is 280,657 megawatt-hours. Power from the project serves the applicant's residential and commercial customers in the communities of northern Jackson County and southern Douglas County, Oregon.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/esubscribenow.htm* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Magalie R. Salas,

Secretary.

[FR Doc. 03–24232 Filed 9–24–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

September 17, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 4914–010.

c. *Date Filed:* November 20, 2002.

d. *Applicant:* International Paper Company.

e. *Name of Project:* Nicolet Mill Dam Project.

f. *Location:* At the U.S. Army Corps of Engineers' DePere Dam, on the Fox River, in the City of DePere, Brown County, Wisconsin.

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Thomas Piette, International Paper Company, 200 Main Avenue, De Pere, WI 54115, (920) 336–4211.

i. *FERC Contact:* Peter Leitzke, (202) 502–6059, *peter.leitzke@ferc.gov*.

j. Deadline for filing comments, recommendations, terms and conditions, and prescriptions is 60 days from the issuance date of this notice. Reply comments are due 105 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–4914–010) on any comments or documents filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments, recommendations, terms and conditions, and prescriptions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. This application has been accepted, and is ready for environmental analysis at this time.

l. The existing Nicolet Mill Dam Project consists of the following existing facilities: (1) A 13.6 foot-high, 400-foot-long diversion structure attached to the westerly end of the U.S. Army Corps of Engineers' De Pere Dam; (2) intake works consisting of 28 gates screened with steel racks; (3) a powerhouse containing eight 135-kilowatt (kW) generating units with a total installed capacity of 1,080 kW; and (4) other appurtenances.

m. A copy of the application is on file with the Commission and is available for public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits (P–4914) in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676 or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

You may also register online at *http://www.ferc.gov/esubscribenow.htm* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Procedural schedule and final amendments: The application will be processed according to the following revised Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Notice of the availability of the EA March 2004 Ready for Commission's decision on the application May 2004.

Unless substantial comments are received in response to the EA, staff intends to prepare a single EA in this case. If substantial comments are received in response to the EA, a final EA will be prepared with the following modifications to the schedule.

Notice of the availability of the final EA June 2004 Ready for Commission's decision on the application August 2004.

Final amendments to the application must be filed with the Commission no later that 30 days from the issuance date of this notice of application ready for environmental analysis.

Magalie R. Salas,

Secretary.

[FR Doc. 03–24233 Filed 9–24–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Surrender of Exemption and Soliciting Comments, Motions To Intervene, and Protests

September 17, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Surrender of Exemption.

b. *Project No:* 7190–004.

c. *Date Filed:* December 10, 2002.

d. *Applicant:* City of Santa Monica, California.

e. *Name and Location of Project:* The Santa Monica Municipal Hydroelectric Project is located at the Arcadia Water Treatment Plant in the City of Santa Monica, Los Angeles County, California.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contact:* Mr. Robert Harvey, Arcadia Water Treatment Plant, 1228 S. Bundy Drive, Los Angeles, CA 90025, (310) 826–6712.

h. *FERC Contact:* James Hunter, (202) 502–6086.

i. *Deadline for filing comments, protests, and motions to intervene:* October 20, 2003.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. 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 under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–7190–004) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the documents on that resource agency.

j. *Description of Application:* Santa Monica requests surrender of its exemption, stating that operational hydraulic conditions have changed, rendering the facility inoperable. The project consists of two generating units, rated at 75 kilowatts and 60 kilowatts, located on the 24-inch-diameter Sepulveda Feeder line at the water treatment plant, a bypass line, valves, and a control panel.

k. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item g. above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

o. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. 03–24235 Filed 9–24–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Draft License Application and Preliminary Draft Environmental Assessment (PDEA) and Request for Preliminary Terms and Conditions

September 17, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original License, Existing Dam, Major Project less than 5 MW.

b. *Project No.:* 11841–000.

c. *Date Filed:* September 8, 2003.

d. *Applicant:* Ketchikan Public Utilities.

e. *Name of Project:* Whitman Lake Hydroelectric Project.

f. *Location:* On Whitman Lake, in the Town of Ketchikan, Ketchikan Gateway Borough, Alaska. The proposed project would occupy 2.0 acres of federal lands: 1.2 acres on the Tongass National Forest and 0.8 acres under the jurisdiction of the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Karl Amylon, General Manager, Ketchikan Public Utilities, 2930 Tongass Avenue, Ketchikan, AK 99901, Phone: (907) 225–1000. Mr. Don Thompson, WESCORP, 3035 Island Crest Way, Suite 200, Mercer Island, WA 98040, Phone: (206) 275–1000.

i. *FERC Contact:* John M. Mudre, (202) 502–8902, john.mudre@ferc.gov.

j. *Status of Project:* With this notice the Commission is soliciting: (1) preliminary terms, conditions, and recommendations on the Preliminary Draft Environmental Assessment (PDEA); and (2) comments on the Draft License Application.

k. *Deadline for filing:* 90 days from the issuance of this notice.

All comments on the Preliminary DEA and Draft License Application should be sent to the addresses noted above in Item (h), with one copy filed with FERC at the following address: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All comments must include the project name and number and bear the heading Preliminary Comments, Preliminary Recommendations, Preliminary Terms and Conditions, or Preliminary Prescriptions.

Comments, preliminary recommendations, terms and conditions, and prescriptions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

1. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov* /esubscribenow.htm to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

WESCORP has mailed a copy of the Preliminary DEA and Draft License Application to interested entities and parties. Copies of these documents are available for review at WESCORP's address in h., above.

m. With this notice, we are initiating consultation with the ALASKA STATE HISTORIC PRESERVATION OFFICER (SHPO), as required by Section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

Magalie R. Salas,

Secretary.

[FR Doc. 03–24236 Filed 9–24–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

September 17, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Minor License.

b. *Project No.:* P–12449–000.

c. *Date filed:* February 28, 2003.

d. *Applicant:* Neshkoro Power Associates, LLC.

e. *Name of Project:* Big Falls Milldam Hydroelectric Project.

f. *Location:* On the Little Wolf River (north branch), near the Village of Big Falls, in Waupaca County, Wisconsin. The project does not affect any federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Charles Alsberg, North American Hydro, Inc., P.O. Box 167, Neshkoro, Wisconsin 54960, 920–293–4628 ext. 11.

i. *FERC Contact:* Timothy Konnert, Timothy.Konnert@ferc.gov (202) 502–6359.

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Motions to intervene and protests may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. This application has been accepted for filing, but is not ready for environmental analysis at this time.

l. *Project Description:* The existing Big Falls Milldam Hydroelectric Project consists of the following facilities: (1) A 256-foot-long by 18-foot-high dam, topped with a 76-foot-long fixed crest ogee with 6-inch flashboards and one 16-foot-wide Taintor gate; (2) a 23.27-acre reservoir (Big Falls Flowage) with a negligible gross storage capacity at a normal elevation of 901.65 feet Mean Sea Level; (3) a 7-foot-diameter by 175-foot-long penstock leading to; (4) a powerhouse containing one, vertical-shaft Francis turbine-generator with an installed generating capacity of 350 kilowatts (kW), producing a total of 1,513,514 kilowatt-hours (kWh) annually; (5) a 100 foot long, 12,470-volt transmission line; and (6) appurtenant facilities.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary ''link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

Register online at *http://www.ferc.gov* /esubscribenow.htm to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support. To view upcoming FERC events, go to*http://www.ferc.gov* and click on ''View Entire Calendar.''

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests

filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE,'' ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' or ''COMPETING APPLICATION;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Magalie R. Salas,

Secretary

[FR Doc. 03–24237 Filed 9–24–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–606–000]

Trunkline Gas Company, LLC.; Notice of Annual Report of Flow Through of Cash Out and Penalty Revenues

September 17, 2003.

Take notice that on September 15, 2003, Trunkline Gas Company, LLC (Trunkline) tendered for filing its Annual Report of Flow Through of Cash Out and Penalty Revenues.

Trunkline states that this filing is made in accordance with Section 23 of the General Terms and Conditions in Trunkline's FERC Gas Tariff, Third Revised Volume No. 1.

Trunkline further states copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before the date as indicated below. 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. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' (FERRIS). Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: September 24, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–24248 Filed 9–24–03; 8:45 am]

BILLING CODE 6717–01–P

EXPORT–IMPORT BANK OF THE UNITED STATES

Sunshine Act Meeting

ACTION: Revised Notice of an opening meeting of the Board of Directors of the Export-Import Bank of the United States.

Time and Place: Thursday, September 25, 2003 at 9:30 a.m. The meeting will be held at Ex-Im Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

Open Agenda Items: (1) PEFCO Secured Note Issues (Resolution); and (2) amendment to the Ex-Im Bank Bylaws.

Public Participation: The meeting will be open to public participation. Attendees that are not employees of the Executive Branch will be required to sign in prior to the meeting.

FOR FURTHER INFORMATION CONTACT: For further information, contact: Office of the Secretary, 811 Vermont Avenue, NW., Washington, DC 20571 (Telephone No. 202–565–3957).

Peter B. Saba,

General Counsel.

[FR Doc. 03–24448 Filed 9–23–03; 3:38 pm]

BILLING CODE 6690–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

AGENCY: Federal Election Commission.

DATE AND TIME: Tuesday, September 30, 2003 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. 437g. Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C. Matters concerning participation in civil actions or proceedings or arbitration. Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Wednesday, October 1, 2003, at 9:30 a.m.

PLACE: 999 E Street, NW., Washington, DC (ninth floor).

STATUS: This hearing will be open to the public.

MATTERS BEFORE THE COMMISSION: Notices of Proposed Rulemakings on Party Committee Telephone Banks; Political Committee Mailing Lists; Candidate Travel; and Multicandidate Political Committees and Biennial Contribution Limits.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 03–24336 Filed 9–23–03; 10:43 am]

BILLING CODE 6715–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–03–118]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the

Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer at (404) 498–1210.

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. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Select Agent Distribution Activity (OMB No. 0920–0591)—Extension—National Center for Infectious Diseases (NCID), Centers for Disease Control and Prevention (CDC).

The National Center for Infectious Diseases (NCID) is requesting a three year extension to continue data collection under the Select Agent Distribution Activity. The purpose of this project is to provide a systematic and consistent mechanism to review requests that come to CDC for Select Agents. In light of current Bioterrorism concerns and the significant NIH grant monies being directed toward Select Agent research, NCID anticipates the receipt of hundreds of requests for Select Agents. Applicants will be expected to complete an application form in which they will identify themselves and their institution, provide a CV or biographical sketch, a summary of their research proposal, and sign indemnification and material transfer agreement statements. A user fee will be collected to recover costs for materials, handling and shipping (except for public health laboratories.) The cost to the respondent will vary based on which agent is requested.

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Researcher	900	1	30/60	450

Dated: September 16, 2003.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–24272 Filed 9–24–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–03–117]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer at (404) 498–1210.

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. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Assessment of Educational Materials and Website—New—National Center for Infectious Diseases (NCID), Centers for Disease Control and Prevention (CDC).

The CDC's Division of Healthcare Quality Promotion (DHQP) develops and disseminates educational products and materials to assist healthcare personnel in preventing infections, antimicrobial resistance, and other adverse events to protect the public health. These educational materials/products include slides sets with discussion points, brochures, posters, video-conferences, and workbooks that may be distributed by mail, electronic mail, or the Internet.

Evaluation of public health activities is essential to fulfill CDC's operating principles for guiding public health practices. DHQP plans to assess (1) the usefulness and usability of its educational materials/products; (2) the usefulness and usability of its Web site; and (3) the impact of educational materials/products in the healthcare personnel knowledge, attitudes, and beliefs regarding preventing infections, antimicrobial resistance, and other adverse events. Results will be used to improve the quality and usability of DHQP educational materials and the accessibility of the DHQP web information.

Five to 25 questions pertinent to the evaluation of a specific educational material/product format or DHQP Web site will be selected from an OMB approved list of questions. Questions to assess the knowledge, attitudes and beliefs of healthcare personnel will be used before and after the training sessions with specific educational materials/products. Most responses will be obtained via the DHQP Web site without personal identifiers; however, some will be on printed forms. Questions can also be sent by electronic mail or mail. Responses will be voluntary and no personal identifiers will be collected.

These assessments will enable DHQP to develop educational materials/products to suit the needs of the constituents. Data will be collected using the Internet or printed forms. There will be no costs to the respondents.

Title	Number of respondents	Number of responses/respondent	Average burden/response (in hours)	Total burden (in hours)
Assessment of educational materials	3,125	1	10/60	521
Assessment of website	26,750	1	10/60	4,458
Assessment of knowledge, attitudes, and beliefs	1,000	1	15/60	250
Total				5,229

Dated: September 16, 2003

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–24273 Filed 9–24–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–03–119]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer at (404) 498–1210.

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. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Youth Media Campaign Awareness and Reaction Tracking, (OMB No. 0920–0582)—Extension—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

In FY 2001, Congress established the Youth Media Campaign at the Centers for Disease Control and Prevention (CDC). Specifically, the House Appropriations Language said: *The Committee believes that, if we are to have a positive impact on the future health of the American population, we must change the behaviors of our children and young adults by reaching them with important health messages.* CDC, working in collaboration with federal partners, is coordinating an effort to plan, implement, and evaluate a campaign designed to clearly communicate messages that will help kids develop habits that foster good health over a lifetime. The campaign is based on principles that have been shown to enhance success, including: designing messages based on research; testing messages with the intended audiences; involving young people in all aspects of campaign planning and implementation; enlisting the involvement and support of parents and other influencers; tracking the campaign's effectiveness and revising Campaign messages and strategies as needed.

In accordance with the original OMB approval (OMB NO.: 0920–0582; March 10, 2003), this extension will continue to expand and enhance the ongoing monitoring of the campaign's penetration with the target audience. For the campaign to be successful, campaign planners must have mechanisms to determine the targets' awareness of, and reaction to, the campaign brand and messages as the campaign evolves. Campaign planners also need to identify which messages are likely to have the greatest impact on attitudes and desired behaviors.

The awareness and reaction tracking study (YMC Tracking Survey) has facilitated campaign planners' ability to continually assess and improve the effectiveness of the targeted communication and other marketing variables throughout the evolution of the campaign. It enables staff to determine which media channels are most-effective to optimize communication variables such as weight levels, frequency and reach components, programming formats, etc. that will have the greatest effect upon communicating the desired message to the target audiences. Implementation of the survey has provided for efficient collection of campaign awareness and understanding levels on a continual basis.

The campaign uses a tracking methodology at specific time points using age-targeted samples. Tracking methods may include, but are not limited to telephone surveys, telephone or in-person focus groups, web-based surveys, or intercept interviews with tweens, parents, other teen influencers and adult influencers nationally and in specified cities.

As planned, the marketing efforts have been implemented in selected cities; the campaign planners also want to continue to evaluate which strategies are most effective in which locals.

Continuous tracking of awareness of the brand and the advertising messages are standard tools in advertising and marketing. The commitment of resources to the campaign's marketing efforts mandates that campaign planners be able to respond quickly to changes needed in message execution or delivery as is standard practice in the advertising industry. There is no cost to respondents.

Respondents	Number of respondents	Number of responses/ respondent	Average burden/ response	Total burden
Tweens (ages 9–13)	20,000	1	15/60	5,000
Parents	10,000	1	15/60	2,500
Total				7,500

Dated: September 19, 2003.

Thomas A. Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–24274 Filed 9–24–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–03–120]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer at (404) 498–1210.

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. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Survey of Primary Care Physicians Regarding Prostate Cancer Screening—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Prostate cancer is the most common cancer in men and is the second leading cause of cancer deaths, behind lung cancer. The American Cancer Society estimates that there will be about 220,900 new cases of prostate cancer and about 28,900 deaths in 2003. Although prostate cancer deaths have declined over the past several years, it ranks fifth among deaths from all causes. The digital rectal examination (DRE) and prostate specific antigen (PSA) test are used to screen for prostate cancer. Screening is controversial and many are not in agreement as to whether prostate specific antigen (PSA) based screening, early detection, and later treatment increases longevity. Although major medical organizations are divided on whether men should be routinely screened for this disease, it appears that all of the major organizations recommend discussion with patients about the benefits and risks of screening.

The purpose of this project is to develop and administer a national survey to a sample of American primary care physicians to examine whether or not they: screen for prostate cancer using (PSA and/or DRE), recommend testing and under what conditions, discuss the tests and the risks and benefits of screening with patients, and if their screening practices vary by factors such as age, ethnicity, and family history. This study will examine demographic, social, and behavioral characteristics of physicians as they relate to screening and related issues, including knowledge and awareness, beliefs regarding efficacy of screening and treatment, frequency of screening, awareness of the screening controversy, influence of guidelines from medical, practice and other organizations, and participation and/or willingness to participate in shared decision-making. There is no cost to respondents.

Respondents	Number of respondents	Number of responses/ respondents	Average burden/ response (in hours)	Total burden (in hours)
Primary Care Physician	1,500	1	40/60	1,000
Total				1,000

Dated: September 19, 2003.

Thomas A. Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–24275 Filed 9–24–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–03–121]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer at (404) 498–1210.

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. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Cross-sectional Outcome Survey for Evaluation of CDC Youth Media Campaign—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

In FY 2001, Congress established the Youth Media Campaign at the Centers for Disease Control and Prevention (CDC). Specifically, the House Appropriations Language said: *The Committee believes that, if we are to have a positive impact on the future health of the American population, we must change the behaviors of our children and young adults by reaching them with important health messages.* CDC, working in collaboration with Federal partners, coordinated an effort to plan, implement, and evaluate a campaign designed to clearly communicate messages that will help youth develop habits that foster good health over a lifetime. The Campaign is based on principles that have been shown to enhance success, including: Designing messages based on research; testing messages with the intended audiences; involving young people in all aspects of Campaign planning and implementation; enlisting the involvement and support of parents and other influencers; refining the messages based on research; and measuring the effect of the campaign on the target audiences.

To measure the effect of the campaign on the target audiences, CDC is using a longitudinal design with a telephone survey of tween and parent dyads (Children's Youth Media Survey and Parents' Youth Media Survey, OMB: 0920–0587) that assesses aspects of the knowledge, attitudes, beliefs, and levels of involvement in positive and physical activities. The baseline survey was conducted prior to the launch of the campaign from April through 2002. Three thousand parent/child dyads (from a nationally representative sample) and 3000 parent/child dyads from the six ''high dose'' communities were interviewed, for a total of 12,000 respondents. To measure the first year's effects of the campaign, a follow up survey was administered to the baseline respondents April to June 2003. The same respondents will be re-surveyed in April to June 2004.

In addition to the follow-up survey, a new national cross-sectional sample will be included in the outcome evaluation for spring 2004. The cross-sectional sample will serve as a bridge to future years of the outcome survey design, which transfers from a longitudinal to a cross-sectional design. Use of a concurrent cross-sectional survey will address important design problems related to re-contact respondent bias that can affect the results of a longitudinal survey. Thus, a telephone survey will be administered in spring 2004 to 2,400 parent/youth dyads in the new national cross-sectional sample using RDD methodology. This survey will occur concurrently with the Year 2 Follow-up Survey, and the survey instrument will be the same as the Year 2 Follow-up Survey. In years subsequent to 2004, YMC will continue to conduct cross-sectional surveys of approximately 2400 parent/child dyads. There is no cost to respondents.

Respondents	Number of respondents	Number of responses/ respondent	Average burden/ response	Total burden
Tweens (9 to 13 year olds)	2400	1 (2004)	15/60	600
	2400	1 (2005)		600
	2400	1 (2006)		600
Parents	2400	1 (2004)	15/60	600
	2400	1 (2005)		600
	2400	1 (2006)		600
Total				3600

Dated: September 19, 2003.

Thomas A. Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–24276 Filed 9–24–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–03–123]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

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. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: National Nosocomial Infections Surveillance (NNIS) System—Extension—National Center for Infectious Disease (NCID). The NNIS system, which was instituted in 1970, is an ongoing surveillance system currently involving 345 hospitals that voluntarily report their nosocomial infections data to the Centers for Disease Control and Prevention (CDC), who aggregate the data into a national database. The data are collected using surveillance protocols developed by CDC for high risk patient groups (ICU, high-risk nursery, and surgical patients). Instructional manuals, training of surveillance personnel, and a computer surveillance software are among the support that CDC provides without cost to participating hospitals to ensure the reporting of accurate and uniform data.

In the very near future this data collection will be merged with two other collections to form the National Healthcare Safety Network (NHSN). This network will be a computer-based system. Since this system will be phased in over time, CDC will need to continue using the forms within this clearance request until the transformation has been completed.

The purpose of the NNIS system is to provide national data on the incidence of nosocomial infections and their risk factors, and on emerging antibiotic resistance. The data are used to determine the magnitude of various nosocomial infection problems and trends in infection rates among patient with similar risks. They are used to detect changes in the epidemiology of nosocomial infections resulting from new medical therapies and changing patient risks. New to the NNIS system is the monitoring of antibiotic resistance and antimicrobial use in groups of patients to describe the epidemiology of antibiotic resistance and to understand the role of antimicrobial therapy to this growing problem. The NNIS system can also serve as a sentinel system for the detection of nosocomial infection outbreaks in the event of national distribution of a contaminated medical product or device.

The respondent burden is not the same in each hospital since the hospitals can select from a wide variety of surveillance options. A typical hospital will monitor patients for infections in two ICUs and surgical site infections following three surgical operations. The respondent burden includes the time and cost to collect data on nosocomial infections in patients in these groups and the denominator data to characterize risk factors in the patients who are being monitored; to enter the data as well as a surveillance plan into the surveillance software; to send the data to CDC by electronic transmission; and complete a short annual survey and administrative forms. The respondent burden is expected to increase since an estimated 10 hospitals are expected to enroll into the NNIS system each year. There is no cost to the respondent.

Year	Number of respondents	Number of responses/ respondent	Average burden/ response (in hours)	Total burden (in hours)
2003	345	1	925	319,000
2004	355	1	927	329,000
2005	365	1	929	339,000
Total				987,000

Dated: September 19, 2003.

Thomas A. Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–24277 Filed 9–24–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–03–122]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer at (404) 498–1210.

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. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Online Evaluation Of A GIS Map Server Project With The Migrant Clinicians Network—New—Agency for Toxic Substances and Disease Registry (ATSDR).

In 2001, ATSDR began working with the Migrant Clinicians Network (MCN) on a national project to use an internet-based mapping service to help decrease disparities by improving health care services for migrant workers through a resource, information, consultation and reporting Geographic Information Systems (GIS) mapping application for the health care providers within the MCN. The Web site will be available at *http://gis.cdc.gov/mcnarcims.*

As part of the implementation of the Web site, MCN and ATSDR are proposing to include an online evaluation survey to ensure that the mapping service is meeting the needs of the health care clinicians providing services to migrant populations. The survey will provide both MCN and ATSDR valuable immediate opportunities to configure the Web site to the practical needs of the physicians and other health care providers using the Web site for clinical care to prevent, intervene, and treat environmental exposures for migrant farm workers and their families.

The evaluation survey will be included on the main access page of the Web site *http://gis.cdc.gov/mcnarcims.* The feedback survey will be completely voluntary and will assess the following: (1) ease of navigating the Web site; (2) ease of locating information within the site; (3) content of the Web site; (4) technology issues (*e.g.*, loading, links, printing); and (5) utility of the Web site to health care practice and environmental health prevention, practice and intervention. An additional question will ascertain the respondent's job category to determine the type of person accessing the Web site which will help ATSDR and MCN update and modify the content of the Web site to better fit the actual site user.

It is anticipated that the feedback survey will provide critical information to enable ATSDR to provide ongoing continuing improvement of the site to meet the needs of the MCN clinician. This will also provide ATSDR and MCN with benchmarks to meet agency performance standards. The feedback survey will be at no financial cost to the participant and will be located on the ATSDR GIS map server Web site.

Respondents	Number of respondents	Responses per respondent	Average burden per response (in hours)	Total annual burden (in hours)
MCN Health Care Members	400	1	5/60	33
General public	100	1	5/60	8
Total				41

Dated: September 19, 2003.

Thomas A. Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–24278 Filed 9–24–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; The National Epidemiologic Survey on Alcohol and Related Conditions

SUMMARY: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute on Alcohol Abuse and Alcoholism (NIAAA), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: The National Epidemiologic Survey on Alcohol and Related Conditions.

Type of Information Collection Request: REINSTATEMENT, OMB No. 0925–0484, expiration date, 3/31/2004.

Need and Use of Information Collection: This study will determine the incidence of alcohol use disorders in a representative sample of the United States population with the primary purpose of estimating the extent and distribution of alcohol consumption,

alcohol use disorders and their associated psychological and medical disabilities across major sociodemographic subgroups. The primary objectives of this second wave of this longitudinal study is to understand the relationships between alcohol consumption, alcohol use disorders and their related disabilities with a view towards designing more effective treatment and intervention programs. The findings will provide valuable information concerning: (1) The relationship between alcohol use disorders and their related disabilities in subgroups of the population of special concern; (2) identification of subgroups at high risk for alcohol use disorders that may be complicated by associated psychological and medical disabilities; (3) incidence of alcohol use disorders and their associated disabilities with a view toward understanding their natural history; (4) treatment utilization of alcohol use disorders in order to determine unmet treatment need and linguistic, social, economic and cultural barriers to treatment; (5) the college-aged segment of the population at high risk for binge drinking and its adverse consequences; and (6) the identification of safe and hazardous levels of drinking as they relate to the development of alcohol use disorders and their associated disabilities.

Frequency of Response: On occasion.

Affected Public: Individuals.

Type of Respondents: Adults.

Estimated Number of Respondents: 43,093.

Estimated Number of Responses per Respondent: 1.

Average Burden Hours Per Response: 1.00.

Estimated Total Annual Burden Hours Requested: 43,093.

The annualized cost to respondents is estimated at: $776,000.00. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Bridget Grant, Chief, Laboratory of Biometry and Epidemiology, Division of Intramural Clinical and Biological Research, NIAAA, NIH, Willco Building, Suite 514, 6000 Executive Boulevard, Bethesda, Maryland 20892–7003, or call non-toll-free number (301) 443–7370 or E-mail your request, including your address to: *Bgrant@willco.niaaa.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60-days of the date of this publication.

Dated: September 15, 2003.

Stephen Long,

Executive Officer, NIAAA.

[FR Doc. 03–24194 Filed 9–24–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: (301) 496–7057; fax: (301) 402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Novel Anti-Tumor and Anti-Fungal Compounds Isolated from Plants of the Genus *Aniba*

R. Shoemaker, E. Sausville, G. Cragg, D. Newman, M. Currens, T. McCloud, P. Klausmeyer, K. Tucker, M. Baseler, G. Chnurny, and W. Bancroft (NCI)

HLtat Cell Line

Barbara K. Felber and George Pavlakis (NCI)

DHHS Reference No. E–273–2003/0 (NIH AIDS Research & Reference Reagent Program catalog number 1293)

Licensing Contact: Susan Ano; 301/435–5515; *anos@mail.nih.gov*

This cell line contains stably integrated copies of the HIV–1 LTR promoter linked to a synthetic one-exon tat gene. HLtat was generated by cotransfection of HeLa cells with pSV2neo and with pL3tat, which contains the HIV–1 LTR promoter, synthetic first tat exon, and the SV40 polyadenylation signal. Clone HLtat was selected in G418 on the basis of high-level production of the one-exon Tat. The cell line is stable and does not need to be routinely maintained under G418 selection. When transfected with HIV DNA or with any plasmid expressing the gene of interest driven by the HIV LTR promoter, high-level of gene expression is achieved. This cell line is further described in J. Virol 64:3734, 1990; AIDS Res. Ref. Reagent Program Courier 91–01:8, 1991; and J. Virol 64:2519, 1990. This cell line is available for licensing through a Biological Materials License Agreement.

U.S. Provisional Application No. 60/433,489 filed 28 Jan 2003 (DHHS Reference No. E–224–2002/0–US–01)

Licensing Contact: Brenda Hefti; 301/435–4632; *heftib@mail.nih.gov*

The invention describes separate and combined extracts from two plants of the genus *Aniba,* and a specific compound possessing and indolizinium core. Both the purified extracts and the pure substituted inolizinium compound were found to inhibit the growth of the azone-resistant fungi C. albicans, certain bacteria, as well as demonstrating a differential response across the NCI human tumor cell line panel with a special sensitivity observed in several leukemia cell lines.

Cloning and Characterization of VIAF in Several Organisms

Colin S. Duckett, Bettina M. Richter (NCI)

U.S. Provisional Application No. 60/163,748 filed 05 Nov 1999 (DHHS Reference No. E–016–2000/0–US–01), PCT/US00/20576 filed 28 Jul 2000

(DHHS Reference No. E–016–2000/0–PCT–02), U.S. Patent Application No. 10/129,424 filed 03 May 2002 (DHHS Reference No. E–016–2000/0–US–03)

Licensing Contact: Matthew Kiser; 301/435–5236; e-mail: *kiserm@mail.nih.gov*

The process of apoptosis, or programmed cell death, can be utilized to eliminate unwanted cells, and it can occur during embryogenesis, turnover of senescent cells or metamorphosis. It can also be part of a defense mechanism against pathogens, *e.g.*, viruses, by allowing the host organism to eliminate infected cells. In an attempt to circumvent this defense mechanism, pathogens can produce gene products that block these apoptotic pathways. For example, *O. pseudotsugata* expresses a family of inhibitors of apoptosis proteins (IAP), and experimental data suggests that these IAPs can play a role in the protection from cellular apoptosis. This application claims nucleic acid and amino acid sequences corresponding to a viral IAP-associated factor, or VIAF. The gene and its product may enhance the anti-apoptotic properties of IAPs although the exact mechanism of this interaction is not clear. This technology could be used to treat disease states where VIAF is under-expressed, *e.g.*, breast adenocarcinomas, where there is an over-expression of VIAF, *e.g.*, neurodegenerative diseases and where apoptosis is undesired, *e.g.*, AIDS and autoimmune diseases. Additional information may be found in Duckett, CS, ''Novel modulators of the apoptotic cell death pathway,'' Mol. Biol. Cell 12: 732 Suppl. S Nov 2001.

Dated: September 16, 2003.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 03–24192 Filed 9–24–03; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: (301) 496–7057; fax: (301) 402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

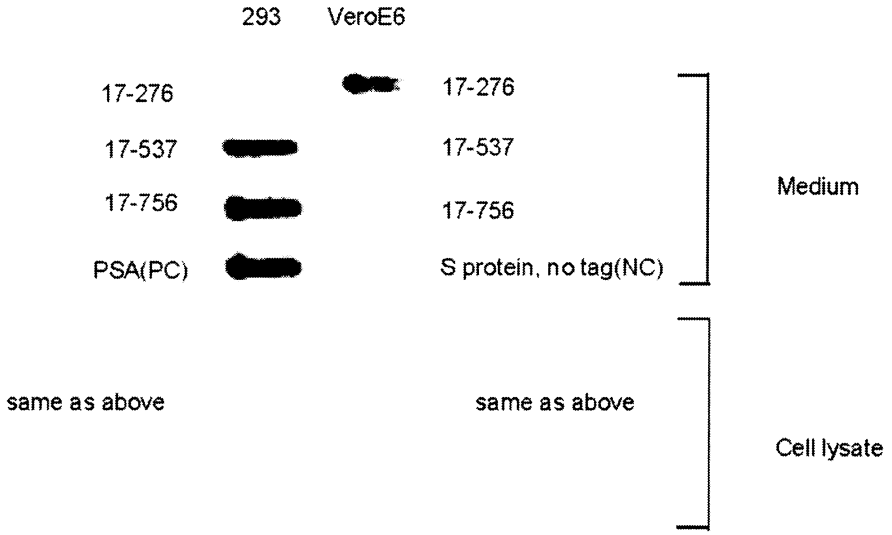
Soluble SARS Coronavirus Spike Protein (S Protein)

Dimiter Dimitrov, Xiadong Xiao (NCI)

DHHS Reference No. E–228–2003/0–US–01 filed 22 Jul 2003

Licensing Contact: Michael Shmilovich; 301/435–5019; *shimlovm@mail.nih.gov*

The SARS coronavirus is etiologically linked to severe acute respiratory syndrome. Soluble forms of the SARS coronavirus spike protein have been isolated and are available for licensing for use in generating vaccines, antibodies, and kits containing antibodies that bind to the spike protein for treating disease. The filed patent application additionally claims the associated spike protein polypeptides, peptide fragments, and conservative variants thereof; nucleic acid segments and constructs that encode the spike protein, polypeptides and peptide fragments of the spike protein, and conservative variants thereof and coupled proteins that include the spike protein or a portion thereof and peptidomimetics.



Internal Control Nucleic Acid Molecule for Real-Time Polymerase Chain Reaction

Michael Vickery, Angelo DePaola, George Blackstone (FDA)

U.S. Provisional Patent Application No. 60/471,121 filed 16 May 2003 (DHHS Reference No. E–213–2003/0–US–01)

Licensing Contact: Michael Shmilovich; 301/435–5019; *shmilovm@mail.nih.gov*

The invention provides a PCR internal control system for use in both real-time

PCR (also known as kinetic or Q–PCR) and conventional PCR. This flexible system has a number of novel design qualities which make it universally adaptable for use in virtually any real-time or conventional PCR assay, including RT–PCR and multiplex PCR applications, regardless of the organism/gene/nucleic acid being targeted. It provides the user/assay developer a choice of control product sizes, fluorogenic probe reporting systems, and thermal cycling options, allowing ease of incorporation into various assay formats and instrument platforms. This unique internal control also can be readily incorporated into virtually any existing quantitative multiplex real-time PCR assay. The invention also provides methods of using the internal control system and kits of the invention.

Additional information may be found in Vickery *et al.*, ''Detection and Quantification of Total and Potentially Virulent *Vibrio parahaemolyticus* Using a 4-Channel Multiplex Real-Time PCR Targeting the *tl, tdh,* and *trh* Genes and a Novel PCR Internal Control,'' published abstract, 103rd General Meeting of the American Society for Microbiology, May 18–23, 2003, Washington, DC.

Compositions and Methods for Diagnostics and Therapeutics For Hydrocephalus

Perry J. Blackshear *et al.* (NIEHS)

U.S. Provisional Patent Application No. 60/374,184 filed 19 Apr 2002 (DHHS Reference No. E–163–2002/0–US–01); U.S. Provisional Patent Application No. 60/388,266 filed 13 Jun 2002 (DHHS Reference No. E–163–2002/1–US–01); PCT Application No. PCT/US03/12348 filed 18 Apr 2003 (DHHS Reference No. E–163–2002/2–PCT–01)

Licensing Contact: Pradeep Ghosh; 301/435–5282; *ghoshpr@mail.nih.gov*

Congenital hydrocephalus is a public health problem, with approximately 1 in 1667 newborns suffering from this birth defect in the United States. Many cases of congenital hydrocephalus are caused by chromosome X-linked genetic mutations, but the genetic causes of the non-X-linked cases are unknown. This invention relates to RFX4_v3 proteins and nucleic acids encoding the RFX4_v3 proteins. Deficiencies in the RFX4_v3 protein are associated with congenital hydrocephalus in mice; specifically, the hydrocephalus is non-communicating and associated with aqueductal stenosis. The present invention provides assays for the detection of human RFX4_v3 polymorphisms or deficiencies that may lead to the determination of an individual's risk of developing hydrocephalus. Congenital hydrocephalus can have an adverse effect on developing brain and may predispose to neurological defects in children and adults. These defects can be manifested as mental retardation, cerebral palsy, epilepsy and visual disabilities. The cost of treatment for such disorders may exceed $100 million annually. Efficient diagnostics to determine the risks of development of this type of hydrocephalus are lacking in the market. The present invention would be most useful in developing diagnostic tests to determine whether parents are at risk to have a child with this type of hydrocephalus, and also to determine the causes of congenital hydrocephalus in affected children.

Sigma-2 Receptor Agonists Inhibit HIV Infection and Replication in Lymphocytes

Keith W. Crawford (NIDDK), Wayne D. Bowen (NIDDK), James E. Hildreth (EM)

U.S. Provisional Application No. 60/440,367 filed 16 Jan 2003 (DHHS Reference No. E–145–2002/0–US–01)

Licensing Contact: Sally Hu; 301/435–5606; e-mail: *hus@mail.nih.gov*

This invention describes that the compounds, which activate sigma-2 receptors, decrease a particular lipid called sphingomyelin. Sphingomyelin is a component of lipid rafts, microdomains in the membrane which sequester specific proteins. Lipid rafts have been shown to play a major role in both entry and exit of HIV virus particles in cells. Disruption of lipid rafts blocks HIV infection. Treating lymphocytes with the compounds results in decrease in membrane sphingomyelin, blocks HIV infection and halts the replication of virus in lymphocytes. Thus, this discovery may have direct clinical applications in the treatment of HIV disease. In addition, these compounds should be effective against HIV that is resistant to multiple antiretroviral drugs because viral proteins are not the targets. Then, this finding uncovers a totally new approach for treating HIV infections and may represent potential new therapeutics for treatment of retroviral infections, including AIDS.

This research is also described, in part, in: Crawford *et al., Cancer Research* 62:313–319, 2002; Crawford *et al., Eur. J. Pharmacol.* 443:207–209, 2002; Gebreselassie & Bowen, *Proc. of the American Assoc. for Cancer Research* 43:725, #3597, 2002; Liao *et al., AIDS Res. Hum. Retroviruses,* 17:1009–19, 2001; Nguyen & Hildreth, *J. Virol.,* 74: 3264–3272, 2000; Vilner & Bowen, *J. Pharmacol Exp Ther.,* 292:900–911, 2000.

Hepatitis A Virus Receptor and Methods of Use

Gerardo Kaplan, Stephen M. Feinstone (FDA)

U.S. Patent 5,622,861 issued 22 Apr 1997 (DHHS Reference No. E–150–1994/0–US–01)

Licensing Contact: Brenda Hefti; 301/435–4632; *heftib@mail.nih.gov*

This invention describes the discovery and isolation of HAVcr–1, a simian cellular receptor for the hepatitis A virus (HAV). Cells nonpermissive to HAV infection transfected with HAVcr–1 cDNA, a novel cell surface mucin-like glycoprotein, gain susceptibility to HAV infection. The invention claims nucleic acids encoding cellular receptors to HAV that hybridize with HAVcr–1 probes, including the human homologs of HAVcr–1 (hHAVcr–1). The invention also claims peptides encoded by the above-mentioned HAV receptor nucleic acid, antibodies against HAVcr–1 receptors, and ligands to HAVcr–1 receptors.

The human homolog of HAVcr–1 (hHAVcr–1) has been shown to be a marker of renal injury (given the alias of kidney injury molecule 1 or KIM–1) and kidney cancer as well as a putative asthma determinant gene and modulator of T cell helper responses (given the alias of T-cell immunoglobulin mucin 1 or TIM–1). Use of HAVcr–1 nucleic acids and derived peptides, antibodies, ligands, *etc.* for diagnosis and therapy are also covered in this patent.

Potential areas of application include use of HAVcr–1 receptors and homologs for diagnostics; use of HAVcr–1 receptors for treatment of patients; development of therapeutic compounds capable of interacting with HAVcr–1 receptors that could block or activate these receptors, development of transgenic animals carrying HAVcr–1 receptors or portions of the receptors that could be used for vaccine production and testing and other applications.

HAVcr–1 has been molecularly cloned and its cDNA is available for further development. This invention is available for licensing on an exclusive or nonexclusive basis.

Dated: September 16, 2003.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 03–24193 Filed 9–24–03; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Long-Term Cancer Survivors: Research Initiative.

Date: October 8–10, 2003.

Time: 7 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Gerald G. Lovinger, PHD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8101, Rockville, MD 20892–7405, 301/496–7987.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 16, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–24199 Filed 9–24–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the pubic in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institutes of Environmental Health Sciences Special Emphasis Panel, Review of Conference Applications (R13s).

Date: October 29, 2003.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, 122, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: RoseAnne M. McGee, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, PO Box 12233, MD E–C30, Research Triangle Park NC 27709, 919/541–0752.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Conference Applications (R13).

Date: October 30, 2003.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, 122, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: RoseAnne M. McGee, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, PO Box 12233, MD EC–30, Research Triangle Park NC 27709, 919/541–0752.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Conference Applications (R13).

Date: October 30, 2003.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, 122, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: RoseAnne M. McGee, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, PO Box 12233, MD EC–30, Research Triangle Park NC 27709, 919/541–0752.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: September 16, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–24195 Filed 9–24–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Career Transition Awards (K22s).

Date: October 10, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium,

111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Contact Person: Janice B. Allen, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Science, P.O. Box 12233, MD EC–30/Room 3170 B, Research Triangle Park, NC 27709, 919–541–7556.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: September 16, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–24196 Filed 9–24–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of RFP–NIH–ES–03–19.

Date: October 10, 2003.

Time: 10 a.m. to 1 p.m.

Agenda: To review and evaluate contract proposals.

Place: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, 122, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: RoseAnne M McGee, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, PO Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–0752.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of RFP–NIH–ES–03–02.

Date: October 28, 2003.

Time: 10 a.m. to 1 p.m.

Agenda: To review and evaluate contract proposals.

Place: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, 122, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: RoseAnne M McGee, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, PO Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–0752.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures, 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: September 16, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–24197 Filed 9–24–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Minority Pre-doctoral Fellowships.

Date: September 23, 2003.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Daniel R. Kenshalo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, 301–435–1255.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Genetic Sciences Integrated Review Group, Genetics Study Section.

Date: October 9–11, 2003.

Time: 9 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 Twenty-Fifth Street, NW., Columbia Suite, Washington, DC 20037.

Contact Person: David J. Remondini, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7890, Bethesda, MD 20892, 301–435–1038, *remondid@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, GMB: Small Business.

Date: October 9, 2003.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Shirley Hilden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7814, Bethesda, MD 20892, 301–435–1198.

Name of Committee: Hematology Integrated Review Group, Erythrocyte and Leukocyte Biology Study Section.

Date: October 16, 2003.

Time: 8:30 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20037.

Contact Person: Delia Tang, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892, 301–435–2506, *tangd@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Development 1 Study Section.
Date: October 16–17, 2003.
Time: 8:30 a.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: The Latham Hotel, 3000 M. Street, NW., Washington, DC 20007.
Contact Person: Sherry L. Dupere, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5136, MSC 7840, Bethesda, MD 20892, 301–435–1021, *duperes@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Experimental Virology.
Date: October 16–17, 2003.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Select, 480 King Street, Alexandria, VA 22314.
Contact Person: Robert Freund, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4198, MSC 7808, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov.*

Name of Committee: Cardiovascular Sciences Integrated Review Group, Cardiovascular and Renal Study Section.
Date: October 20–21, 2003.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Select, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Russell T. Dowell, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128, MSC 7814, Bethesda, MD 20892, 301–435–1850, *dowellr@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group, Oral, Dental and Craniofacial Sciences Study Section.
Date: October 21–22, 2003.
Time: 8:30 a.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The River Inn, 924 25th Street, NW., Washington, DC 20037.
Contact Person: J. Terrell Hoffeld, DDS, PhD, Dental Officer, USPHS, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7816, Bethesda, MD 20892, 301–435–1781, *th88q@nih.gov.*

Name of Committee: Musculoskeletal, Oral, and Skin Sciences Integrated Review Group, Musculoskeletal Rehabilitation Sciences Study Section.
Date: October 23–24, 2003.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Jurys Doyle Hotel Group, 1500 New Hampshire Ave, NW., Washington, DC 20036.
Contact Person: Jo Pelham, BA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7814, Bethesda, MD 20892, (301) 435–1786.

Name of Committee: Oncological Sciences Integrated Review Group, Radiation Therapy and Biology Study Section.
Date: October 27–28, 2003.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Swissotel Washington, The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.
Contact Person: Paul K. Strudler, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6186, MSC 7816, Bethesda, MD 20892, (301) 435–1716, *strudlep@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cancer Drug Development and Therapeutics.
Date: October 27–28, 2003.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.
Contact Person: Zhiqiang Zou, PhD, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7804, Bethesda, MD 20892, 301–496–8551, *zhiqianz@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS 8 10B:Small Business:Bioengineering and Psysiology.
Date: October 27–28, 2003.
Time: 8 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.
Contact Person: Paul Parakkal, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892, 301–435–1176, *parakkap@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS2 (10B) Proteomics, Protein Expression, and Protein Therapeutics.
Date: October 27–28, 2003.
Time: 8:30 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.
Contact Person: Prabha L. Atreya, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7842, Bethesda, MD 20892, (301) 435–8367, *atreyap@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS–A (30) Shared Instrumentation Review Panel.
Date: October 27–28, 2003.
Time: 9 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.
Contact Person: John L. Bowers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, (301) 435–1725.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Somatosensory Systems.
Date: October 27, 2003.
Time: 1 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: John Bishop, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Endocrinology, Metabolism,, Nutrition and Reproductive Sciences.
Date: October 27–28, 2003.
Time: 7 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Select Bethesda, Wisconsin Ave, Bethesda, MD 20814.
Contact Person: Krish Krishnan, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435–1041.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–SSS–X (40) Program Project: Image Guided Therapy Center.
Date: October 27–29, 2003.
Time: 7 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Best Western, 342 Longwood Avenue, Boston, MA 02115.
Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171, *rosenl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, IFCN Fellowship Applications.
Date: October 28, 2003.
Time: 8 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.
Contact Person: Maribeth Champoux, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 402–4454, *champoum@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS 8 50B: Bioengineering Nanotechnology Initiative.
Date: October 28, 2003.
Time: 3 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Paul Parakkal, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892, 301–435–1176, *parakkap@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SRB 41P:Research Resource:Complex Physlogic Signals.

Date: October 28–30, 2003.

Time: 7 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Inn at Longwood Medical, 342 Longwood Avenue, Boston, MA 02115.

Contact Person: Arthur A. Petrosian, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7854, Bethesda, MD 20892, 301–435–1259, *petrosia@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Gene Therapy and Inborn Errors.

Date: October 29–30, 2003.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Camilla E. Day, PhD, Scientific Review Administrator, Genetic Sciences IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2208, MSC 7890, Bethesda, MD 20892, 301–435–1037, *dayc@csr.nih.gov.*

Name of Committee: Oncological Sciences Integrated Review Group, Cancer Immunopathology and Immunotherapy Study Section.

Date: October 29–31, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: Marcia Litwack, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6206, MSC 7804, Bethesda, MD 20892, 301–435–1719.

Name of Committee: Cell Development and Function Integrated Review Group, Biology and Diseases of the Posterior Eye Study Section.

Date: October 29–30, 2003.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007.

Contact Person: Michael H. Chaitin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, 301–435–0910, *chaitinm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cell Development and Function R15 Applications.

Date: October 29, 2003.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Governor's House Hotel, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Alexandra M. Ainsztein, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5144, MSC 7840, Bethesda, MD 20892, 301–451–3848, *ainsztea@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Imaging Parameters.

Date: October 29, 2003.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Victor A. Fung, PhD, Scientific Review Administrator, Oncological Sciences Initial Review Group, Center for Scientific Review, National Institutes of Heath, 6701 Rockledge Drive, Room 6178, MSC 7804, Bethesda, MD 20814–9692, 301–435–3504, *vf6n@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG–1 F05 (20) L Fellowships: Cell and Development.

Date: October 30–31, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Governor's House Hotel, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Richard D. Rodewald, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5142, MSC 7840, Bethesda, MD 20892, (301) 435–1024, *rodewalr@csr.nih.gov.*

Name of Committee: Biochemical Sciences Integrated Review Group, Physiological Chemistry Study Section.

Date: October 30–31, 2003.

Time: 8 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.

Contact Person: Richard Panniers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, 7842, Bethesda, MD 20892, (301) 435–1741.

Name of Committee: Health of the Population Integrated Review Group, Social Sciences and Population Studies Study Section.

Date: October 30–31, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Bob Weller, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3160, MSC 7770, Bethesda, MD 20892, (301) 435–0694, *wellerr@csr.nih.gov.*

Name of Committee: Health of the Population Integrated Review Group, Behavioral Genetics and Epidemiology Study Section.

Date: October 30–31, 2003.

Time: 9 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Yvette M. Davis, VMD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3152, MSC 7770, Bethesda, MD 20892, (301) 435–0906.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 NMB (03) Neuroendocrinology of Stress.

Date: October 30, 2003.

Time: 2 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Gamil C Debbas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7844, Bethesda, MD 20892, (301) 435–1018, *debbasg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, BGES Member Applications.

Date: October 31, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Denise Wiesch, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7770, Bethesda, MD 20892, (301) 435–0684.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Immunology Fellowships and Immunology AREA.

Date: October 31, 2003.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Betty Hayden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892, (301) 435–1223, *haydenb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ALTX 1 Member Conflicts.

Date: October 31, 2003.

Time: 1:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Najma Begum, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2175,

MSC 7818, Bethesda, MD 20892, (301) 435–1243, *begumn@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 16, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–24198 Filed 9–24–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, October 16, 2003, 8 a.m. to October 17, 2003, 5 p.m., Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC, 20037 which was published in the **Federal Register** on September 9, 2003, 68 FR 53183–53186.

The starting time of the meeting has been changed to 9 a.m. on October 16, 2003. The meeting dates and location remain the same. The meeting is closed to the public.

Dated: September 16, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–24200 Filed 9–24–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Pathobiochemistry Study Section, October 16, 2003, 8:30 a.m. to October 17, 2003, 2 p.m., Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815, which was published in the **Federal Register** on September 9, 2003, 65 FR 53183–53186.

The meeting will be one day only October 16, 2003, from 8:30 to 4 p.m. The location remains the same. The meeting is closed to the public.

Dated: September 16, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–24201 Filed 9–24–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Bureau of Citizenship and Immigration Services

Agency Information Collection Activities: Comment Request

Action: 60-Day Notice of Information Collection Under Review; Health and Human Services Statistical Data for Refugee/Asylee Adjusting Status, Form I–643.

The Department of Homeland Security, Bureau of Citizenship and Immigration Services (BCIS), has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until November 24, 2003.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the 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.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Type of the Form/Collection:* Health and Human Services Statistical Data for Refugee/Asylee Adjusting Status.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–643. Bureau of Citizenship and Immigration Services, Department of Homeland Security.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The primary purpose of the information collected on this form is for use in the Office of Refugee Resettlement Report to Congress (8 U.S.C. 1523). The BCIS is required to report on the status of refugees at the time of adjustment to lawful permanent resident.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 195,000 responses at 10 minutes (.166 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 32,370 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Bureau of Citizenship and Immigration Services, Department of Homeland Security, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Ms. Theresa O'Malley, Chief Information Officer, Department of Homeland Security, 7th and D Streets, SW., Suite 4636–26, Regional Office Building 3, Suite 4636–26, Washington, DC 20202.

Dated: September 22, 2003.

Richard A. Sloan,

Department Clearance Officer, Department of Homeland Security, Bureau of Citizenship and Immigration Services.

[FR Doc. 03–24256 Filed 9–24–03; 8:45 am]

BILLING CODE 4410–24–M

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Modification of Free and Secure Trade Prototype

AGENCY: Bureau of Customs and Border Protection, DHS.

ACTION: General notice.

SUMMARY: This document modifies the Free and Secure Trade (FAST) prototype eligibility and application requirements from those previously set forth in the **Federal Register**, and provides updated FAST border site selections. The FAST prototype provides expedited processing of participants' qualifying merchandise in designated traffic lanes at select border sites. FAST processing utilizes two separate cargo release mechanisms-a fully electronic system and a semi-electronic system known as PAPS. The FAST prototype is modified to include Southern border sites and additional Northern border sites.

To be eligible for FAST processing along the Northern and Southern borders, merchandise must be entered by a C–TPAT-approved (Customs-Trade Partnership Against Terrorism) importer; transported by a C–TPAT-approved highway carrier participating under either the U.S./Canada Border Highway Carriers Agreement or the Southern Border Highway Carriers Agreement; and driven by a FAST-registered commercial driver. In addition, in order to be eligible for FAST processing along the Southern border, merchandise must be manufactured by a C–TPAT-approved foreign manufacturer and securely sealed by the manufacturer.

To be eligible for the fully electronic cargo release system under FAST, the importer, highway carrier, commercial driver, and foreign manufacturer, where applicable, must meet the guidelines described above, and the importer must submit a detailed application to CBP.

EFFECTIVE DATES: This modification of the FAST program is effective on September 25, 2003. This prototype will be tested until the Automated Commercial Environment (ACE) is completed. Applications to participate in this prototype, where appropriate, may be submitted at any time throughout the duration of this test. Evaluations of the prototype will occur periodically.

ADDRESSES: Written requests to participate in the FAST program, as necessary, should be sent to Customs and Border Protection, FAST Registration Office, 50 South Main Street, Suite 100R, St. Albans, Vermont 05478. Comments regarding any aspect of the test should be sent or faxed to Enrique S. Tamayo, Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Room 5.2A, Washington, DC 20229, telephone number: (202) 927–3112; fax number: (202) 927–1096.

FOR FURTHER INFORMATION CONTACT: For detailed information and application procedures on the C–TPAT and FAST initiatives, visit the CBP Web site at *http://www.cbp.gov.*

For inquiries regarding the eligibility of specific importers: Robert Thommen at (202) 927–0256;

For questions on reconciliation: John Leonard at (202) 927–0915;

For questions on statement processing: Debbie Scott at (202) 927–1962;

For questions on violation billing: Donald Yando at (202) 927–1082;

For questions on other aspects of the FAST Prototype: Daniel Buchanan at (617) 565–6236.

SUPPLEMENTARY INFORMATION:

Background

On March 27, 1997 the U.S. Customs Service (now Customs and Border Protection, or CBP) published a General notice in the **Federal Register** (62 FR 14731) that announced Customs plan to conduct a test, pursuant to § 101.9(b) of the Customs Regulations (19 CFR 101.9(b)), of a planned National Customs Automation Program component (*see* 19 U.S.C. 1411–1414) called an account-based declaration prototype, known by the acronym NCAP/P. This phase of the NCAP/P test, utilizing a fully electronic cargo release system, was initially limited to certain importers that imported certain merchandise by truck through three ports.

On August 21, 1998, Customs published a General notice in the **Federal Register** (63 FR 44949) revising the importer eligibility requirements for participation in the fully electronic cargo release system under NCAP/P, incorporating enhancements to reconciliation, clarifying the statement process, outlining the development and evaluation methodology that would be used in the test, and inviting public comment on any aspect of the planned test. The notice also included general requirements for the prototype, and information on remote location filing, maintenance of account, misconduct procedures, and suspension of regulatory provisions.

On December 16, 2002, a General notice was published in the **Federal Register** (67 FR 77128) announcing the redesignation of the National Customs Automation Program test of an Account-Based Declaration Prototype (NCAP/P) as the Free and Secure Trade (FAST) prototype. The program was expanded to include the semi-electronic Pre-Arrival Processing System (PAPS), a modified usage of the cargo selectivity for trucks arriving from Canada.

FAST Prototype—General Information

The FAST prototype is subject to the provisions set forth in the August 21, 1998 notice, except as modified in today's notice. For ease of reference, today's notice contains information on participating in FAST–PAPS and all other pertinent information published in the December 16, 2002 notice.

The FAST program provides expedited processing of participants' qualifying merchandise in designated traffic lanes at select border sites. The FAST program is designed to enhance security and safety along the Northern and Southern borders, while also enhancing the economic prosperity of the U.S., Canada, and Mexico by aligning, to the maximum extent possible, their customs commercial programs.

The NCAP/P (now FAST) originally utilized only a fully electronic cargo release system. Because only one release system existed, reference to the NCAP/P prototype and its release system was interchangeable. Subsequently, upon redesignation of the NCAP/P to FAST, a second cargo release system under the FAST prototype, known as PAPS, was created. Therefore, expedited processing under the FAST prototype became available via both PAPS and the original fully electronic cargo release method.

FAST–PAPS is an automated cargo release procedure available for merchandise imported by C–TPAT-approved (Customs-Trade Partnership Against Terrorism) importers participating in Automated Broker Interface (ABI) entry procedures (*see* 19 CFR part 143, subparts A and D). Unlike the fully electronic version of FAST, FAST–PAPS makes use of paper Inward Manifest forms and paper invoices, and no application is required for participation in expedited processing via FAST–PAPS. ABI importers can utilize FAST–PAPS with minimal changes to their operating systems and processes.

FAST–PAPS requires an importer to submit to CBP certain entry data prior to the arrival of the merchandise at the designated port of entry for cargo selectivity concerns. The carrier must work with the manufacturer and the importer to ensure that the data is

available to the importer in advance of arrival at the border. The carrier must utilize barcode technology to expedite the release of the shipment by attaching a unique barcode label, which consists of the carriers Standard Carrier Alpha Code (SCAC) and either a pro bill of lading (BOL) number or a unique transaction (UT) number to each invoice and truck manifest prior to the importation of merchandise. The invoice and the SCAC/BOL or SCAC/UT number is then transmitted to the customs broker, who prepares a Cargo Selectivity entry via an ABI transmission in the Automated Commercial System (ACS) before the merchandise arrives at a FAST designated border site. When the merchandise arrives at the site, the CBP inspector electronically records (scans) the barcode information, which automatically retrieves the entry information from the ACS system. If no examination is needed, the inspector may release the truck from the primary booth; thus, reducing the carrier's wait time and easing congestion at that border crossing.

Eligibility requirements for participation in FAST vary according to the cargo release system option selected. Participation in either FAST–PAPS or the fully electronic cargo release version of FAST is subject to the guidelines provided below. In addition, participation in FAST utilizing the fully electronic cargo release system requires an importer to submit an application to CBP containing detailed information on its trading partners and carriers, and other pertinent information, in advance of commencement of shipping of merchandise. Updated and complete application instructions for the fully electronic cargo release method are provided under the *Application for FAST* section below.

FAST Participation Guidelines

Subject to the provisions of the notice of August 21, 1998 (63 FR 44949), all importers, highway carriers, commercial drivers, and some foreign manufacturers participating in either of the two cargo release methods available under the FAST prototype must meet certain guidelines, as summarized below:

Northern and Southern Border Requirements

In order to qualify for expedited processing along the Northern and Southern borders, imported merchandise must be:

(1) Entered by an importer approved for C–TPAT membership;

(2) Transported by a carrier approved for C–TPAT membership and approved under either the U.S./Canada Border Highway Carriers Agreement or the Southern Border Highway Carriers Agreement; and

(3) Driven by a commercial driver registered and approved under either the U.S./Canada FAST Commercial Driver Program or the U.S. FAST Commercial Driver Program.

Southern Border Requirements

FAST processing along the Southern border requires compliance with the eligibility provisions (1)–(3), above, in addition to the following two provisions:

(4) Imported merchandise must have been manufactured by a manufacturer approved for C–TPAT membership;

(5) ISO/PAS 17712 high security seals must be affixed to the trucks, trailers and containers used to carry the goods to the port of arrival.

The C–TPAT is a joint government-business initiative to build cooperative relationships that strengthen overall supply chain and border security for the U.S. Under the FAST prototype, importers must be C–TPAT-approved, importers must utilize only C–TPAT-approved highway carriers participating under either one of the listed highway carriers agreements, and highway carriers must utilize only FAST-registered commercial drivers for FAST processing. Detailed information on C–TPAT approval, the highway carriers agreements, and FAST commercial drivers registration procedures are addressed on the CBP Web site.

For importations along the Southern border only, the foreign manufacturer of the merchandise being processed also must be C–TPAT-approved. The foreign manufacturer must affix ISO/PAS 17712 high security seals (manufactured to International Organization for Standardization (ISO) standards from an approved ISO manufacturer) to the trucks, trailers, and containers used to carry the merchandise to the Southern border site. Incoming manifests for expedited Southern border processing must document seal numbers.

CBP will determine the eligibility of the importer, highway carrier, commercial driver, and foreign manufacturer, when applicable, to participate under FAST processing of merchandise. Conveyances not meeting the basic guidelines for FAST participation may be redirected to other non-FAST vehicle lanes or be otherwise delayed in processing at the port of arrival.

For commercial drivers seeking participation in FAST processing along the Southern border, but whom CBP deems ineligible for participation, CBP plans to issue the applicant a CBP identification card instead, which will grant access to commercial truck facilities along the Southern border.

Application for FAST—Fully Electronic Cargo Release

For ease of reference, this notice provides complete and updated application instructions to importers wishing to participate in the fully electronic version of FAST.

To qualify for FAST processing utilizing the fully electronic cargo release system, importers must meet the FAST participation guidelines discussed above, and must submit an application to the St. Albans, Vermont, Service Port at the address indicated above, with the following information:

A. Importer's name, address, and IRS employer identification number or social security number;

B. Names and addresses of all manufacturers and all sellers/vendors for the electronic FAST prototype;

C. A listing of all the 6-digit HTS numbers under which the imported commodities will be classified;

D. The surety and surety code and the number of the continuous surety bond which will cover all cargo processed under FAST procedures. If the applicant plans to reconcile their FAST entry summaries, a commitment to file the bond rider prior to flagging underlying entry summaries for reconciliation, along with identification of the port in which the continuous bond and rider are filed must be included;

E. Names, addresses, and SCAC's of C–TPAT highway carriers who will be transporting FAST shipments across the international borders;

F. Names, addresses and filer codes of any customs brokers who will be filing data;

G. The approximate total number of entries per month expected to be processed at each of the following locations:

1. Port Huron (Blue Water Bridge), Michigan;
2. Detroit (Ambassador Bridge), Michigan;
3. Blaine, Washington;
4. Buffalo (including the Peace Bridge and Lewiston Bridge), New York;
5. Champlain, New York; and
6. Laredo, Texas.

H. Detailed description of anticipated issues and/or commodities for which the participant anticipates electing reconciliation.

CBP will make admissibility determinations on fully electronic FAST processing of merchandise based on cargo examinations and the information supplied with the application, which

will serve as a pre-filed entry for FAST purposes. Importers who submit applications to participate in the fully electronic version of the FAST prototype will be notified in writing of their acceptance or rejection. If an applicant is denied participation, the notification letter will include the reasons for that denial. An importer whose initial application was rejected may resubmit an application upon correction of the situation that led to the rejection.

FAST Processing Border Sites

This document provides an updated and complete list of participating FAST processing border sites along the Northern and Southern borders. CBP assessed several factors in selecting expedited border sites along the Northern and Southern borders, including road infrastructure, adequacy of port facilities, and commercial traffic volumes. CBP further assessed service needs and concerns to support major importers along the U.S./Canadian border, and assessed enhanced security requirements and expeditious commercial requirements along the U.S./Mexican border.

The fully electronic cargo release system is available only at five Northern border sites, and one Southern border site, and requires a participant to invest in a fully electronic communication system with CBP. In contrast, FAST–PAPS release is available to all qualifying ABI participants and at all FAST border sites.

The following is a complete list of FAST-participating Northern border sites. Unless otherwise indicated, both methods of cargo release under the FAST prototype are currently available at a site:

(1) Port Huron (Blue Water Bridge), Michigan;

(2) Detroit (Ambassador Bridge), Michigan;

(3) Blaine, Washington;

(4) Buffalo (including the Peace Bridge and Lewiston Bridge), New York;

(5) Champlain, New York;

(6) Pembina, North Dakota (FAST–PAPS only);

(7) Portal, North Dakota (FAST–PAPS only);

(8) Sweet Grass, Montana (FAST–PAPS only);

(9) Derby Line, Vermont (FAST–PAPS only);

(10) Highgate Springs, Vermont (FAST–PAPS only);

(11) Alexandria Bay, New York (FAST–PAPS only);

(12) Houlton, Maine (enrollment center only).

Expedited processing of merchandise was previously suspended at the Southern border port of Laredo, Texas. While both the fully electronic and PAPS versions of FAST expedited processing will now be available at the port of Laredo, only the PAPS version will be available at the remaining participating Southern border sites:

(1) Laredo, Texas;

(2) El Paso, Texas (FAST–PAPS only);

(3) Hidalgo, Texas (FAST–PAPS only);

(4) Brownsville, Texas (FAST–PAPS only);

(5) Otay Mesa, California (FAST–PAPS only);

(6) Calexico, California (FAST–PAPS only);

(7) Nogales, Arizona (FAST–PAPS only).

An importer wishing to participate in the fully electronic version of FAST at a port listed as only FAST–PAPS capable, should notify CBP of its interest by contacting the FAST Processing Center. CBP will evaluate the amount of volume expected to be cleared in a port, and determine if the investment in technology and training necessary for both parties justifies the expense.

Dated: September 22, 2003.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 03–24260 Filed 9–24–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Immigration and Customs Enforcement

Agency Information Collection Activities: Comment Request

ACTION: 60-Day Notice of Information Collection Under Review; Application-Checkpoint Pre-enrolled Access Lane, Form I–866.

The Department of Homeland Security, Bureau of Immigration and Customs Enforcement, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until November 24, 2003.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the 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.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Application—Checkpoint Pre-enrolled Access Lane.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–866. Bureau of Immigration and Customs Enforcement, Department of Homeland Security.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. The information collection will be used by the Department of Homeland Security to determine eligibility for participation in the Checkpoint Pre-enrolled Access Lane (PAL) program for person and vehicles at immigration checkpoints within the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 12,500 responses at 32 minutes (.53 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 6,625 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan (202) 514–3291, Director, Regulations and Forms Services Division, Department of Homeland Security, Room 4034, 425 I Street, NW., Washington DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially

regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Ms. Theresa O'Malley, Chief Information Officer, Department of Homeland Security, 7th and D Streets, SW., Regional Office Building 3, Suite 4636–26, Washington, DC 20202.

Dated: September 22, 2003.

Richard A. Sloan,

Department Clearance Officer, Department of Homeland Security, Bureau of Immigration and Customs Enforcement.

[FR Doc. 03–24257 Filed 9–24–03; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

Bureau of Immigration and Customs Enforcement

Agency Information Collection Activities: Comment Request

ACTION: 60-Day Notice of Information Collection Under Review; Arrival Record, Form I–94AOT.

The Department of Homeland Security, Bureau of Immigration and Customs Enforcement, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until November 24, 2003.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the 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.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Arrival Record.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–94A OT. Bureau of Immigration and Customs Enforcement, Department of Homeland Security.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information collected is captured electronically as part of a pilot program established by the legacy Immigration and Naturalization Service in cooperation with two participating carriers to streamline document handling and data processing. The information collection will be used by the Department of Homeland Security to document an alien's arrival and departure to and from the United States and may be evidence of registration under certain provisions of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 25,000 responses at 3 minutes (.05 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,250 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, 202–514–3291, Director, Regulations and Forms Services Division, Bureau of Citizenship and Immigration Services, Department of Homeland Security, Room 4307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Ms. Theresa O'Malley, Chief Information Officer, Department of Homeland Security, 7th and D Streets, SW., Regional Office Building 3, Suite 4636–26, Washington, DC 20202.

Dated: September 22, 2003.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Bureau of Immigration and Customs Enforcement.

[FR Doc. 03–24258 Filed 9–24–03; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

Bureau of Immigration and Customs Enforcement

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review; Inspection of Persons Applying for Admission; Transit Without Visa (TWOV) and International-to-International Agreements, (File No. OMB–19).

The Department of Homeland Security, Bureau of Immigration and Customs Enforcement has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until November 24, 2003.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the 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.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Inspection of Persons Applying for Admission; Transit Without Visa (TWOV) and International-to-International Agreements.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No Agency Form Number (File No. OMB–19), Bureau of Immigration Enforcement, Department of Homeland Security.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. This DHS will use the data collected by the carrier to query the Interagency Border Inspection System (IBIS) to electronically access manifest and query results in advance of each flight's arrival. This information collection facilitates rapid inspection at ports-of-entry.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 400 carrier agreements at 5 hours per response and 1,500,000 queries at 1 minute (0.016 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 26,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan (202) 514–3291, Director, Regulations and Forms Services Division, Department of Homeland Security, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the items(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Ms. Theresa O'Malley, Chief Information Officer, Department of Homeland Security, 7th and D Streets, SW., Regional Office Building 3, Suite 4636–26, Washington, DC 20202.

Dated: September 22, 2003.

Richard A. Sloan,

Director, Department Clearance Officer, Department of Homeland Security, Bureau of Immigration and Customs Enforcement.

[FR Doc. 03–24259 Filed 9–24–03; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4815–N–74]

Notice of Submission of Proposed Information Collection to OMB: Housing Counseling Program

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Information allows HUD to contract with organizations, which provide tenant and homeowner counseling. Counseling aids in improving their housing conditions and in meeting the responsibilities of tenancy and homeownership. HUD-approved agencies can compete for program funds.

DATES: *Comments Due Date:* October 27, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0261) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; e-mail *Lauren_Wittenberg@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Housing Counseling Program.

OMB Approval Number: 2502–0261.

Form Numbers: HUD–9900, HUD–9902, HUD–9908, and HUD–424 and Related Forms.

Description of the Need for the Information and Its Proposed Use: Information allows HUD to contract with organizations, which provide tenant and homeowner counseling. Counseling aids in improving their housing conditions and in meeting the responsibilities of tenancy and homeownership. HUD-approved agencies can compete for program funds.

Respondents: Individuals or households, Federal Government, State, Local or Tribal Government, Not-for-profit institutions.

Frequency of Submission: On occasion, Monthly, Annually.

Reporting Burden: Number of Respondents 7,285; Average response per respondent 1; Total annual responses 7,285; Average burden per response 0.42 hrs.

Total Estimated Burden Hours: 3,100.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 17, 2003.

Donna L. Eden,

Director, Office of the Chief Information Officer, Offices of Investment, Strategy, Policy, and Management.

[FR Doc. 03–24263 Filed 9–24–03; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4463–N–15]

Notice of FHA Debenture Call

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This Notice announces a debenture recall of certain Federal Housing Administration (FHA) debentures, in accordance with authority provided in the National Housing Act.

FOR FURTHER INFORMATION CONTACT: Richard Keyser, Room 3119P, L'Enfant Plaza, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–8000, telephone (202) 755–7510 x137. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Pursuant to Sections 204(c) and 207(j) of the National Housing Act, 12 U.S.C. 1710(c), 1713(j), and in accordance with HUD's regulation at 24 CFR 203.409 and 207.259(e)(3), the Assistant Secretary for Housing—Federal Housing Commissioner, with the approval of the Secretary of the Treasury, announces the call of all FHA debentures, with a coupon rate of 5.375 percent or above, except for those debentures subject to ''debenture lock agreements,'' that have been registered on the books of the Bureau of Public Debt, Department of the Treasury, and are, therefore, ''outstanding'' as of September 30, 2003. The date of the call is January 1, 2004.

The debentures will be redeemed at par plus accrued interest. Interest will cease to accrue on the debentures as of the call date. Final interest on any called debentures will be paid with the principal at redemption.

During the period from the date of this Notice to the call date, debentures that are subject to the call may not be used by the mortgagee for a special redemption purchase in payment of a mortgage insurance premium.

No transfer of debentures covered by the foregoing call will be made on the books maintained by the Treasury Department on or after December 1, 2003. This does not affect the right of the holder of a debenture to sell or assign the debenture on or after this date. Payment of final principal and interest due on January 1, 2004, will be made automatically to the registered holder.

Dated: September 9, 2003.

John C. Weicher,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 03–24264 Filed 9–24–03; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Recovery Plan for the Rough Popcornflower (*Plagiobothrys hirtus*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (''we'') announce the availability of the final Recovery Plan for the Rough Popcornflower (*Plagiobothrys hirtus*) for distribution and use. *Plagiobothrys hirtus* is found only in the Umpqua River drainage in Douglas County, Oregon, at sites ranging from 100 to 230 meters (328 to 755 feet) in elevation. Extant, naturally occurring populations of this species occur along the Sutherlin Creek drainage from Sutherlin to Wilbur, adjacent to Calapooya Creek west of Sutherlin, and in roadside ditches near Yoncalla Creek just north of Rice Hill. The northernmost reported site is near Yoncalla, and the southernmost at Wilbur. Until 1998, all known sites were east of Interstate Highway 5 (I–5), but at that time a site was discovered at the junction of Stearns Lane and Highway 138, 0.9 kilometers (0.5 miles) west of I–5. The easternmost currently known extant population is just east of Plat K Road outside Sutherlin. Historic collections have been made farther east near Nonpareil, but recent surveys (1998 to 1999) did not locate any populations in this area.

ADDRESSES: Copies of the final recovery plan are available by written request addressed to the Field Supervisor, U.S. Fish and Wildlife Service, Roseburg Field Office, 2900 NW. Stewart Parkway, Roseburg, Oregon 97470. This final recovery plan is available on the World Wide Web at *http://endangered.fws.gov/recovery/index.html#plans*.

FOR FURTHER INFORMATION CONTACT: Craig Tuss at the above Roseburg address (telephone: 541–957–3474).

SUPPLEMENTARY INFORMATION:

Background

Recovery of endangered or threatened animals and plants is a primary goal of our endangered species program and the Endangered Species Act (Act) (16 U.S.C. 1531 *et seq.*). Recovery means improvement of the status of listed species to the point at which listing is no longer appropriate under the criteria set out in section 4(a)(1) of the Act. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for downlisting or delisting listed species, and estimate time and cost for implementing the measures needed for recovery.

The Act requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The draft recovery plan was available for public review and comment during a 60-day period from January 28, 2003, through March 31, 2003 (68 FR 4228). Four peer reviewers and two State agencies provided comments. Information presented during the public comment period has been considered in the preparation of this final recovery plan, and is summarized in the appendix to the recovery plan. We will forward substantive comments regarding recovery plan implementation to appropriate Federal or other entities so they can take these comments into account in the course of implementing recovery actions.

Plagiobothrys hirtus is a perennial herbaceous plant, but can be annual depending on environmental conditions. The species occurs in seasonal wetlands. The majority of sites occur on the Conser-type soil series which is characterized as poorly drained flood plain soils. Most of the sites are moderately to highly disturbed due to agricultural and development activities. Urban and agriculture development, invasion of nonnative species, habitat fragmentation and degradation, and other human-caused disturbances have resulted in substantial losses of seasonal wetland habitat throughout the species' historic range. Conservation needs include establishing a network of protected populations in natural habitat distributed throughout its native range.

A primary objective of this recovery plan is to reduce the threats to *Plagiobothrys hirtus* to the point it can be downlisted (reclassified) from endangered to threatened status.

Recovery goals include: (1) At least 9 reserves, containing a minimum of 5,000 plants each are protected and managed to assure their long term survival; (2) a minimum of 1,000 square meters (10,764 square feet) are occupied within each reserve, with at least 50 square meters (538 square feet) having a density of 100 plants/square meter (100 plants/11 square feet) or greater; (3) the 9 reserves are distributed among the 3 natural recovery zones (Calapooya Creek, Sutherlin Creek, and Yoncalla Creek), with at least 3 reserves present

in each unit; (4) patches contained in each reserve are within 1 kilometer (0.6 mile) of each other to allow for pollinator movement and gene flow among them; (5) an average of 5 years of demographic data indicate that populations in at least 7 of the 9 reserves within the 3 recovery units have average population numbers that are stable or increasing, without decreasing trends lasting more than 2 years; and (6) 75 percent or more of the plants are reproductive each year, with 30 percent annual seed maturation and recruitment evident in all populations.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: August 1, 2003.

Carolyn A. Bohan,

Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 03–24280 Filed 9–24–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Approved Recovery Plan for the Lake Erie Water Snake (*Nerodia sipedon insularum*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability of the approved recovery plan for the Lake Erie water snake (*Nerodia sipedon insularum*). This species is federally listed as threatened under the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), on the offshore islands and in the waters of the western Lake Erie basin of Ohio. Actions needed for recovery of the Lake Erie water snake include monitoring the population, protecting and managing habitat on both public and private land, administering public outreach to address intentional and accidental human-induced mortality, and collecting important ecological data on the snake and its habitat.

ADDRESSES: This recovery plan is available from the following addresses:

1. Fish and Wildlife Reference Service, 5430 Grosvenor Lane, Suite 110, Bethesda, Maryland 20814 (the fee for the plan varies depending on the number of pages).
2. Field Supervisor, U.S. Fish and Wildlife Service, Reynoldsburg Ecological Services Field Office, 6950 Americana Parkway, Suite H, Reynoldsburg, Ohio 43068–4127.
3. The World Wide Web at: *http://endangered.fws.gov/recovery/index.html#plans*

FOR FURTHER INFORMATION CONTACT: Ms. Megan Seymour, Reynoldsburg Ecological Services Field Office, (see **ADDRESSES** section No. 2 above), telephone (614) 469–6923 ext.16. The Fish and Wildlife Reference Service may be reached at (301) 492–6403 or (800) 582–3421. TTY users may contact Ms. Seymour and the Fish and Wildlife Reference Service through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Background

Recovery of endangered or threatened animals or plants is a primary goal of the Service's endangered species program. A species is considered recovered when threats to the species are removed so that populations of the species are self-sustaining. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for delisting species, and provide estimates of the time and cost for implementing the measures needed for recovery.

The Act requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and the opportunity for public review and comment be provided during recovery plan development. Information presented during the comment period has been considered in the preparation of the approved recovery plan and is summarized in an appendix to the recovery plan. We will forward substantive comments regarding recovery plan implementation to appropriate Federal agencies and other entities so that they can take these comments into account during the course of implementing recovery actions.

Lake Erie water snakes on the offshore islands and surrounding waters of Lake Erie were listed as threatened on August 30, 1999, under the Act. Water snakes found on the near-shore Ohio islands and Ohio mainland are not protected by the threatened designation due to the likelihood that these snakes represent intergrades between the Lake Erie water snake and northern water snake. The Lake Erie water snake spends summers basking on the rocky shorelines of the limestone and dolomite islands in the western Lake Erie basin. Hibernation habitat for the snake is comprised of areas inland from the shore that typically have soil and rock substrates and consist of natural openings or fissures. Human-made structures such as crib docks and erosion control protection can provide suitable summer habitat, whereas old building foundations and drainage tiles may provide suitable hibernation habitat. The primary threats to the snake include both accidental and intentional human-induced mortality and loss of suitable summer and hibernation habitat through development. There are nine U.S. islands and seven Canadian islands that currently provide year-round habitat for the snake, whereas two U.S. islands only provide summer habitat. The Lake Erie water snake has been extirpated from one U.S. island and two Canadian islands.

Recovery will be achieved and the species removed from the list of Threatened and Endangered Wildlife (50 CFR part 17) when the following criteria are met: (1) A minimum of 5,555 adult snakes exist on 9 U. S. islands combined for 6 or more consecutive years, including at least 900 snakes on Kelleys Island, 850 snakes on South Bass Island, 620 snakes on Middle Bass Island, and 410 snakes on North Bass Island, with the remaining snakes occurring on any of the islands; (2) a total of 7.4 km of shoreline habitat and 51 hectares of hibernation habitat distributed proportionately among the 4 largest U. S. islands are protected in perpetuity by a written agreement approved by the Service; and (3) an objective analysis of public attitude indicates that human persecution is no longer a threat to the continued existence of the snake, and accidental human-induced mortality no longer poses a significant threat to the population.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: August 28, 2003.

Charles M. Wooley,

Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. 03–24281 Filed 9–24–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of extension to the Tribal-State Gaming Compact between

the State of Montana and the Assiniboine and Sioux Tribes of the Fort Peck Reservation.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Public Law 100–497, 25 U.S.C 2710, the Secretary of the Interior shall publish, in the **Federal Register,** notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Extension to the Tribal-State Compact for Class III gaming between the State of Montana and the Assiniboine and Sioux Tribes of the Fort Peck Reservation. The Extension renews and extends the term of the existing agreement to September 30, 2003.

EFFECTIVE DATE: September 25, 2003.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: August 29, 2003.

Aurene M. Martin,

Assistant Secretary—Indian Affairs.

[FR Doc. 03–24298 Filed 9–24–03; 8:45 am]

BILLING CODE 4310–4N–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–03–840–1610–241A]

Canyons of the Ancients National Monument Advisory Committee Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Canyons of the Ancients National Monument (Monument) Advisory Committee (Committee), will meet as directed below.

DATES: Meetings will be held October 21, 2003, and November 14, 2003, at the Anasazi Heritage Center in Dolores, Colorado at 9 a.m. The public comment period for each meeting will begin at approximately 2:30 p.m. and the meetings will adjourn at approximately 3:30 p.m.

FOR FURTHER INFORMATION CONTACT: LouAnn Jacobson, Monument Manager or Stephen Kandell, Monument Planner, Anasazi Heritage Center, 27501 Hwy 184, Dolores, Colorado 81323; Telephone (970) 882–5600.

SUPPLEMENTARY INFORMATION: The eleven member committee provides counsel and advice to the Secretary of the Interior, through the BLM, concerning development and implementation of a management plan developed in accordance with FLMPA, for public lands within the Monument. At this meeting, topics we plan to discuss include:

(1) Planning update and overview of BLM Land Use Planning Handbook, Appendix C;

(2) Comment and discussion on Draft Public Participation Plan and Advisory Committee Meeting Strategy;

(3) Lunch at the Anasazi Heritage Center;

(4) Review of current planning issues and management concerns;

(5) Overview of Monument land health determinations;

(6) Public comment period; and

(7) Agenda for next meeting.

At the November 14, 2003 meeting, topics will include planning issues and management concerns, partnerships, science and other issues as appropriate.

All meetings will be open to the public and will include a time set aside for public comment. Interested persons may make oral statements at the meetings or submit written statements at any meeting. Per-person time limits for oral statements may be set to allow all interested persons an opportunity to speak.

Summary minutes of all Committee meetings will be maintained at the Anasazi Heritage Center in Dolores, Colorado. They are available for public inspection and reproduction during regular business hours within thirty (30) days of the meeting. In addition, minutes and other information concerning the Committee can be obtained from the Monument planning Web site at: *http://www.blm.gov/rmp/canm* which will be updated following each Committee meeting.

Dated: September 16, 2003.

LouAnn Jacobson,

Manager, Canyons of the Ancients National Monument.

[FR Doc. 03–24279 Filed 9–24–03; 8:45 am]

BILLING CODE 4310–AG–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Pajaro Valley Water Management Agency Revised Basin Management Plan Project, Santa Cruz, Monterey, and San Benito Counties, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of the draft environmental impact statement and notice of public hearing [DES 03–53].

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA), the Bureau of Reclamation has prepared a draft environmental impact statement (DEIS) for the Pajaro Valley Water Management Agency (PVWMA) Revised Basin Management Plan Project.

The purpose of the project is to address groundwater overdraft and seawater intrusion problems in the Pajaro Valley Basin. The proposed action is the approval of the connection of a PVWMA pipeline to the Santa Clara Conduit; the funding for the design, planning, and construction of a recycled water facility; and the delivery to and use of Central Valley Project (CVP) water in the Pajaro Valley.

DATES: Submit written comments on the DEIS on or before November 24, 2003 to Lynne Silva, Reclamation, at the below address.

A public hearing will be held to receive comments from interested parties, organizations, and individuals on the environmental impacts of the proposal. The hearing will be held on October 29, 2003 at 7:00 pm at the address below.

ADDRESSES: The public hearing will be held at the Watsonville Senior Center, 114 East 5th Street, Watsonville, CA 95076.

Written comments on the DEIS should be addressed to Ms. Lynne Silva, Reclamation, at the below address.

Copies of the DEIS may be requested from Reclamation's South-Central California Area Office or from PVWMA's office at the following addresses:

- Bureau of Reclamation, South-Central California Area Office, 1243 N Street, Fresno, CA 93721–1813.
- Pajaro Valley Water Management Agency, 36 Brennan Street, Watsonville, CA 95076.

FOR FURTHER INFORMATION CONTACT: Ms. Lynne Silva, Bureau of Reclamation, South-Central California Area Office, telephone (559) 487–5807; or Mr. Charles McNiesh, Pajaro Valley Water Management Agency, (831) 722–9292.

SUPPLEMENTARY INFORMATION: PVWMA is responsible for managing groundwater resources in the Pajaro Valley, located along the central coast of California. In the coastal area and throughout much of the groundwater basin in the Pajaro Valley, overdraft conditions have caused groundwater levels to drop below sea level, creating a landward pressure gradient that causes seawater from the Pacific Ocean to move inland, where it mixes with fresh water. Seawater intrusion increasingly is degrading groundwater quality and limiting the utility of groundwater for irrigation and domestic purposes. PVWMA proposes to prevent further overdraft of the groundwater basin and to halt seawater intrusion by implementing the Revised Basin Management Plan Project. As part of the project, PVWMA would import water supplies from the San Joaquin Valley in California using Central Valley Project (CVP) facilities, and develop a recycled water supply. These actions require Reclamation approval of: (1) Connection of a water pipeline to the Santa Clara Conduit of the San Felipe System of the CVP, (2) the design, planning, and construction of the Watsonville Area Water Recycling Project under Public Law 102–575, Title XVI, Section 1619, as amended, and (3) the environmental analysis of the use of CVP water in the Pajaro Valley.

The DEIS describes and presents the environmental effects of three alternatives, including the alternative of taking no action.

At the hearing, PVWMA staff will make a brief presentation to describe the proposed project, its purpose and need, alternatives, and scenarios for construction and operation. The public may comment on environmental issues addressed in the DEIS. If necessary, due to large attendance, comments may be limited to five minutes per speaker. Written comments will also be accepted.

Reclamation's practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There may be other circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Dated: July 25, 2003.

Kirk C. Rodgers,

Regional Director, Mid-Pacific Region.

[FR Doc. 03–24261 Filed 9–24–03; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on September 11, 2003, a proposed Consent Decree in *United States* v. *Bayer CropScience, Inc.,* Civil Action No. 5:03CV00080 was lodged with the United States District Court for the Western District of Virginia.

In this action the United States sought to recover costs incurred in responding to the release or threatened release of hazardous substances into the environment from the Stauffer Chemical Company Superfund Site, located in Warren County, Virginia, near the town of Bentonville. The Consent Decree will recover five hundred fifty-seven thousand dollars ($557,000) in past response costs from bayer CropScience, Inc., successor-in-interest to Stauffer Chemical Company. In exchange for this payment, Bayer CropScience, Inc. will receive a release from liability, subject to certain conditions, for response costs incurred by the United States proper to the lodging of this Consent Decree. In addition, Bayer CropScience, Inc. will receive protection from contribution actions for recovery of past response costs incurred prior to the lodging of this Consent Decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Bayer CropScience, Inc.,* D.J. Ref. 90–11–2–07910.

The Consent Decree may be examined at the Office of the United States Attorney, 105 Franklin Street, Suite 1, Roanoke, Virginia, and at U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy, please enclose a check in the amount of $5.25 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–24302 Filed 9–24–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act and the Emergency Planning and Community Right-To-Know Act

Under 28 CFR 50.7, notice is hereby given that on September 16, 2003, a proposed Consent Decree in *United States* v. *Capital Cabinet Corp.,* Civil Action No. CV–S–03–1146–RLH–LRL, was lodged with the United States District Court for the District of Nevada.

In this action the United States sought injunctive relief and civil penalties under section 113(b) of the Clean Air Act, 42 U.S.C. 7413(b), and civil penalties under section 325(c)(1) of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11045(c), concerning the operation by Capital Cabinet Corp. (''Capital'') of a wood furniture manufacturing facility in North Las Vegas, Nevada (''Facility'').

Under the proposed Consent Decree, Capital would be required to limit its emissions of volatile organic compounds (''VOCs'') to twenty-five tons per year, and three tons per month, for a minimum of five years, unless it were to convert all of its production coatings to coatings containing minimal levels of VOCs, or to install appropriate add-on controls, in which case the Facility would no longer be subject to annual or monthly VOC emissions limits. In addition, under the proposed Consent Decree, Capital would be required to be in full compliance with the National Emission Standard for Hazardous Air Pollutants for Wood Furniture Manufacturing Operations, codified at 40 CFR Part 63, Subpart JJ, within six months of entry of the Consent Decree, and to pay a civil penalty of $142,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, with a copy to Matthew A. Fogelson, Trail Attorney, U.S. Department of Justice, Environment and Natural Resources Division, Environmental Enforcement Section, 301 Howard Street, Suite 1050, San Francisco, CA 94105, and should refer to *United States* v. *Capital Cabinet Corp.,* D.J. Ref. 90–5–2–1–07221.

The Consent Decree may be examined at the Office of the United States Attorney, 333 South Las Vegas Boulevard, Lloyd George Federal Building, Las Vegas, NV, and at U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $5.25 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Ellen M. Mahan,

Assistant Section Chief, Environmental Enforcement Section.

[FR Doc. 03–24301 Filed 9–24–03; 8:45 am]

BILLING CODE 4410–15–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–369–OLA, 50–370–OLA, 50–413–OLA, and 50–414–OLA; ASLBP No. 03–815–03–OLA]

Duke Energy Corporation, McGuire Nuclear Station, Units 1 and 2, Catawba Nuclear Station, Units 1 and 2; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28,710 (1972), and sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717, 2.721, and 2.772(j) of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to preside over the following proceeding: Duke Energy Corporation, McGuire Nuclear Station, Units 1 and 2, Catawba Nuclear Station, Units 1 and 2.

This Board is being established pursuant to a notice of consideration of issuance of an operating license amendment and opportunity for a hearing published in the **Federal Register** (68 FR 44,107 (July 25, 2003)). The proceeding involves petitions for intervention submitted on August 21, and August 25, 2003, respectively, by the Nuclear Information and Resource Service and the Blue Ridge Environmental Defense League challenging a request by Duke Energy Corporation to amend its operating licenses for the McGuire Nuclear Station, Units 1 and 2, and Catawba Nuclear Station, Units 1 and 2, near Charlotte, North Carolina. The amendment would change certain facility technical specifications to allow the use of four mixed oxide (MOX) lead assemblies at either the Catawba or McGuire plants.

The Board is comprised of the following administrative judges: Administrative Judge Ann Marshall Young, Chair, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; Administrative Judge Anthony J. Baratta, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; Administrative Judge Thomas S. Elleman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

All correspondence, documents, and other materials shall be filed with the administrative judges in accordance with 10 CFR 2.701.

Issued at Rockville, Maryland, this 17th day of September, 2003.

G. Paul Bollwerk, III,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 03–24209 Filed 9–24–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8968–ML–REN; ASLBP No. 03–809–01–ML–REN]

Hydro Resources, Inc., Crownpoint, New Mexico; Notice of Reconstitution

Pursuant to the authority contained in 10 CFR 2.722 and 2.1209, the Special Assistant in the above-captioned 10 CFR part 2, subpart L proceeding is hereby replaced by appointing Administrative Judge Richard F. Cole in place of Administrative Judge Thomas D. Murphy.

All correspondence, documents, and other material shall be filed with the Special Assistant in accordance with 10 CFR 2.1203. The address of the new Special Assistant is: Administrative Judge Richard F. Cole, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Issued at Rockville, Maryland, this 16th day of September, 2003.

G. Paul Bollwerk, III,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 03–24210 Filed 9–24–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8968–ML; ASLBP No. 95–706–01–ML]

Hydro Resources, Inc., Rio Rancho, New Mexico; Notice of Reconstitution

Pursuant to the authority contained in 10 CFR 2.722 and 2.1209, the Special Assistant in the above-captioned 10 CFR part 2, subpart L proceeding is hereby replaced by appointing Administrative Judge Richard F. Cole in place of Administrative Judge Thomas D. Murphy.

All correspondence, documents, and other material shall be filed with the Special Assistant in accordance with 10 CFR 2.1203. The address of the new Special Assistant is: Administrative Judge Richard F. Cole, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Issued at Rockville, Maryland, this 16th day of September, 2003.

G. Paul Bollwerk, III,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 03–24211 Filed 9–24–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8027–MLA–4; ASLBP No. 99–770–09–MLA]

Sequoyah Fuels Corporation, Gore, Oklahoma; Notice of Reconstitution

Pursuant to the authority contained in 10 CFR 2.722 and 2.1209, the Special

Assistant in the above-captioned 10 CFR part 2, subpart L proceeding is hereby replaced by appointing Administrative Judge Anthony J. Baratta in place of Administrative Judge Thomas D. Murphy.

All correspondence, documents, and other material shall be filed with the Special Assistant in accordance with 10 CFR 2.1203. The address of the new Special Assistant is: Administrative Judge Anthony J. Baratta, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Issued at Rockville, Maryland, this 16th day of September 2003.

G. Paul Bollwerk, III,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 03–24206 Filed 9–24–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8027–MLA–5 and ASLBP No. 03–807–01–MLA]

Sequoyah Fuels Corporation, Gore, Oklahoma; Notice of Reconstitution

Pursuant to the authority contained in 10 CFR 2.722 and 2.1209, the Special Assistant in the above-captioned 10 CFR part 2, subpart L proceeding is hereby replaced by appointing Administrative Judge Anthony J. Baratta in place of Administrative Judge Thomas D. Murphy.

All correspondence, documents, and other material shall be filed with the Special Assistant in accordance with 10 CFR 2.1203. The address of the new Special Assistant is: Administrative Judge Anthony J. Baratta, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Issued at Rockville, Maryland, this 16th day of September 2003.

G. Paul Bollwerk,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 03–24207 Filed 9–24–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8027–MLA–6 and ASLBP No. 03–807–01–MLA]

Sequoyah Fuels Corporation, Gore, Oklahoma; Notice of Reconstitution

Pursuant to the authority contained in 10 CFR 2.722 and 2.1209, the Special Assistant in the above-captioned 10 CFR part 2, subpart L proceeding is hereby replaced by appointing Administrative Judge Anthony J. Baratta in place of Administrative Judge Thomas D. Murphy.

All correspondence, documents, and other material shall be filed with the Special Assistant in accordance with 10 CFR 2.1203. The address of the new Special Assistant is: Administrative Judge Anthony J. Baratta, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Issued at Rockville, Maryland, this 16th day of September 2003.

G. Paul Bollwerk,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 03–24208 Filed 9–24–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Notice

AGENCY: Nuclear Regulatory Commission.

DATES: Weeks of September 22, 29, October 6, 13, 20, 27, 2003.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

MATTERS TO BE CONSIDERED:

Week of September 22, 2003

Wednesday, September 24, 2003

9 a.m.
Briefing on Emergency Preparedness Program Status (Public Meeting) (Contact: Eric Weiss, 301–415–3264)
This meeting will be webcast live at the Web address: *http://www.nrc.gov.*

Thursday, September 25, 2003

9 a.m.
Meeting with Nuclear Reactor Industry on Security Force Work Hour Limitations (Public Meeting) (Contact: Chris Nolan, 301–415–8171)
This meeting will be webcast live at the Web address: *http://www.nrc.gov.*
9:30 a.m.
Discussion of Security Issues (Closed—Ex. 1)

Week of September 29, 2003—Tentative

Thursday, October 2, 2003

9:30 a.m.
Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting) (Contact: John Larkins, 301–415–7360)
This meeting will be webcast live at the Web address: *http://www.nrc.gov.*

Week of October 6, 2003—Tentative

Tuesday, October 7, 2003

9:30 a.m.
Briefing on Decommissioning Activities and Status (Public Meeting) (Contact: Claudia Craig, 301–415–7276)
This meeting will be webcast live at the Web address: *http://www.nrc.gov.*
1:30 p.m.
Briefing on Strategic Workforce Planning and Human Capital Initiatives (Closed—Ex. 2)

Week of October 13, 2003—Tentative

Wednesday, October 15, 2003

1:30 p.m.
Briefing on License Renewal Program, Power Uprate Activities, and High Priority Activities (Public Meeting) (Contact: Jimi Yerokun, 301–415–2292)
This meeting will be webcast live at the Web address: *http://www.nrc.gov.*

Week of October 20, 2003—Tentative

Thursday, October 23, 2003

10 a.m.
Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting) (Contact: John Larkins, 301–415–7360)
This meeting will be webcast live at the Web address: *http://www.nrc.gov.*

Week of October 27, 2003—Tentative

There are no meetings scheduled for the Week of October 27, 2003.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like

to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: September 20, 2003.

D.L. Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 03–24348 Filed 9–23–03; 12:03 pm]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Draft Construction Inspection Program for Reactors Built Under 10 CFR Part 52; Reopening of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft document; reopening of the comment period.

SUMMARY: On May 30, 2003, the Nuclear Regulatory Commission (NRC) issued the ''Draft 10 CFR Construction Inspection Program Framework Document,'' which set forth the basis for the construction inspection program for reactors built under 10 CFR part 52. The framework document details the proposed audits and inspections to be conducted by the NRC during the Early Site Permit (ESP) and Combined License (COL) phases. The document also discusses how the NRC staff will verify satisfactory completion of the inspections, tests, analyses, and acceptance criteria (ITAAC) and review operational programs. The original request for comments was contained in an announcement of a public workshop on issues related to the construction inspection program for reactors built under 10 CFR part 52 (68 FR 34012). The comment period expired on September 15, 2003. Comment periods for several other documents related to construction of reactors under 10 CFR part 52 were also occurring during the same time period. In order to allow all stakeholders an opportunity to provide comments on the Construction Inspection Program Framework Document, the Commission has decided to reopen the comment period until October 30, 2003. The draft document is available for public inspection in the NRC Public Document Room located at One White Flint North, 11555 Rockville Pike, Public File Area O1 F21, Rockville, Maryland, or from the Publicly Available Records (PARS) component of NRC's Agencywide Documents Access and Management System (ADAMS) (#ADAMS ML031400849). ADAMS is accessible from the NRC Web site, *htp://www.nrc.gov*, in the Public Electronic Reading Room. For more information, contact the NRC Public Document Room (PDR) reference staff at 1–800–397–4209 or 202–634–3273 or by e-mail to *pdr@nrc.gov.*

DATES: Submit comments on the Draft Construction Inspection Program Framework Document by October 30, 2003. Comments received after the due date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Submit written comments on the draft guidance to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop T6–D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. Comments may be submitted electronically by the Internet to the NRC at *nrcrep@nrc.gov.* All comments received by the Commission, including those made by Federal, State, and local agencies, Indian tribes, and other interested persons, will be made available electronically at the Commission's Public Document Room in Rockville, Maryland, or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS).

FOR FURTHER INFORMATION, CONTACT: Ms. Mary Ann M. Ashley, Inspection Program Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Ms. Ashley may be reached at (301) 415–1073 or by e-mail at *mab@nrc.gov.*

Dated at Rockville, Maryland, this 15th day of September 2003.

For the Nuclear Regulatory Commission.

Stuart A. Richards,

Chief, Inspection Program Branch, Division of Inspection Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 03–24203 Filed 9–24–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Availability of Model Application Concerning Technical Specification Improvement To Eliminate Hydrogen Recombiner Requirement, and Relax the Hydrogen and Oxygen Monitor Requirements for Light Water Reactors Using the Consolidated Line Item Improvement Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given that the staff of the Nuclear Regulatory Commission (NRC) has prepared a model safety evaluation (SE), a model no significant hazards consideration (NSHC) determination, and a model application relating to the elimination of hydrogen recombiner requirements, and relaxation of the hydrogen and oxygen monitor requirements for Light Water Reactors (LWRs). The purpose of these models is to permit the NRC to efficiently process amendments that propose to remove requirements for hydrogen recombiners, and hydrogen and oxygen monitors from Technical Specifications (TS). Licensees of nuclear power reactors to which the models apply may request amendments using the model application.

DATES: The NRC staff issued a **Federal Register** Notice (67 FR 50374, August 2, 2002) soliciting comments on a model safety SE and a model NSHC determination for the elimination of requirements for hydrogen recombiners, and hydrogen and oxygen monitors from TS. The NRC staff hereby announces that the attached model SE and model NSHC determination (which differ only slightly from the versions previously published) may be referenced in plant-specific applications to eliminate requirements for hydrogen recombiners, and hydrogen and oxygen monitors from TS. The staff has posted a model application on the NRC web site to assist licensees in using the consolidated line item improvement process (CLIIP) to apply for the proposed TS change. The NRC staff can most efficiently consider applications based upon the model application if the application is submitted within a year of this **Federal Register** Notice.

FOR FURTHER INFORMATION CONTACT: William Reckley, Mail Stop: O–7D1, Division of Licensing Project Management, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–1323.

SUPPLEMENTARY INFORMATION:

Background

Regulatory Issue Summary 2000–06, ''Consolidated Line Item Improvement Process for Adopting Standard Technical Specification Changes for Power Reactors,'' was issued on March 20, 2000. The CLIIP is intended to improve the efficiency of NRC licensing processes. This is accomplished by processing proposed changes to the standard technical specifications (STS) in a manner that supports subsequent license amendment applications. The CLIIP includes an opportunity for the public to comment on proposed changes to the STS following a preliminary assessment by the NRC staff and finding that the change will likely be offered for adoption by licensees. The NRC staff evaluates any comments received for a proposed change to the STS and either reconsiders the change or proceeds with announcing the availability of the change for proposed adoption by licensees. Those licensees opting to apply for the subject change to TS are responsible for reviewing the staff's evaluation, referencing the applicable technical justifications, and providing any necessary plant-specific information. Each amendment application made in response to the notice of availability will be processed and noticed in accordance with applicable rules and NRC procedures.

This notice involves the elimination of requirements for hydrogen recombiners, and hydrogen and oxygen monitors in TS for LWRs. This proposed change was proposed for incorporation into the STS and is designated TSTF–447, Revision 1. TSTF–447, Revision 1 is supported by the implementation of a revision to 10 CFR 50.44, ''Standards for Combustible Gas Control System in Light-Water-Cooled Power Reactors.'' The amended standards eliminated the need for requirements for hydrogen recombiners and for hydrogen and oxygen monitors in TS. TSTF–447, Revision 1 can be viewed on the NRC Web site (*www.nrc.gov*).

Applicability

This proposed change to remove requirements for hydrogen recombiners, and hydrogen and oxygen monitors from TS is applicable to LWRs (i.e., all operating plants).

To efficiently process the incoming license amendment applications, the staff requests each licensee applying for the changes addressed by TSTF–447, Revision 1 using the CLIIP to address the following plant-specific verifications and regulatory commitments. The CLIIP does not prevent licensees from requesting an alternative approach or proposing the changes without the requested verifications and regulatory commitments. Variations from the approach recommended in this notice may, however, require additional review by the NRC staff and may increase the time and resources needed for the review. In making the requested regulatory commitments, each licensee should state: (1) That the subject capability exists (or will be developed) and will be maintained; (2) where the capability or procedure will be described (e.g., severe accident management guidelines, emergency operating procedures, emergency plan implementing procedures); and (3) a schedule for implementation. The amendment request need not provide details about designs or procedures.

Each licensee should verify that it has, and make a regulatory commitment to maintain (or make a regulatory commitment to develop and maintain):

a. A hydrogen monitoring system capable of diagnosing beyond design-basis accidents; and

b. An oxygen monitoring system capable of verifying the status of the inert containment for plant designs with an inerted containment. (for applicable boiling water reactors)

Public Notices

In a notice in the **Federal Register** dated August 2, 2002 (67 FR 50374), the staff requested comment on the use of the CLIIP to process requests to delete hydrogen recombiner, and hydrogen and oxygen monitor requirements from TS.

TSTF–447, Revision 1, and documents associated with the revision of 10 CFR 50.44 may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, Public File Area O1 F1, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records are accessible electronically from the ADAMS Public Library (the Electronic Reading Room) component on the NRC Web site (www.nrc.gov).

The staff received one comment (from an individual licensee) following the notice soliciting comments about modifying the TS requirements regarding hydrogen recombiners, and hydrogen and oxygen monitors for LWRs. The comment on the model SE was offered, and is summarized and discussed below:

1. *Comment:* A licensee recommended that the SE also include conclusions as to the acceptability of eliminating containment purging as the design basis method for post-loss-of-coolant accident (LOCA) hydrogen control. Some licensees use containment purging as the design basis method for compliance with the current 10 CFR 50.44, rather than hydrogen recombiners. Although the containment purge requirements were not incorporated into the TS, as was done for hydrogen recombiners, the requirement for purging exists in docketed commitments to the NRC and in the Final Safety Analysis Report (FSAR). The process of changing the FSAR and the docketed commitments would be simplified if the NRC SE included consideration of containment purging.

Response: The NRC model SE only addresses requirements in the STS or plant-specific TS. In this case, the NRC model SE is for the elimination of the requirements of hydrogen recombiners, and hydrogen and oxygen monitors from TS. Since containment purging requirements are not in the STS, the NRC model SE did not make conclusions about the acceptability of eliminating containment purging as the design basis method for post-LOCA hydrogen control. However, the following statement from the Statements of Considerations was added to the model SE to address the comment:

> * * * the Commission eliminated the hydrogen release associated with a design-basis LOCA from § 50.44 and the associated requirements that necessitated the need for the hydrogen recombiners and the backup hydrogen vent and purge systems.

In addition, the staff has made some minor changes to the model SE as a result of internal reviews. A specific change involves the reference to Criterion 2 (10 CFR 50.36(c)(2)(ii)(B)) as the basis for retention of primary containment oxygen concentration in the TS. In the model SE, the staff had proposed to change the basis to Criterion 4 (10 CFR 50.36(c)(2)(ii)(D)) since combustible gas generated from severe accidents was not risk significant for Mark I and II containments, provided that the required inerted atmosphere was maintained. Criterion 4 is intended to capture those constraints that probabilistic risk assessment or operating experience show to be significant to public health and safety, consistent with the Commission's Probabilistic Risk Assessment (PRA) Policies. Upon further review by the staff, it was determined that the basis for the primary containment oxygen concentration should remain Criterion 2 since the typical Updated FSAR Chapter 6 analyses assume that the primary containment is inerted when a design basis LOCA occurs. Therefore, primary containment oxygen concentration is a

process variable, design feature, or operating restriction that is an initial condition of a design basis accident or transient analysis that either assumes the failure of or presents a challenge to the integrity of a fission product barrier.

Licensees wishing to eliminate the requirements for hydrogen recombiners, and hydrogen and oxygen monitors from TS must submit an application in accordance with applicable regulatory requirements. As described in the model application prepared by the staff, licensees may reference the following model SE, NSHC determination, and environmental assessment in their plant-specific applications to eliminate the TS requirements for hydrogen recombiners, and hydrogen and oxygen monitors.

Model Safety Evaluation—U.S. Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Consolidated Line Item Improvement, Technical Specification Task Force (TSTF) Change TSTF–447, Revision 1, Elimination of Requirements for Hydrogen Recombiners and Change of Requirements for Hydrogen and Oxygen Monitors

1.0 Introduction

By application dated [], [Licensee] (the licensee) requested changes to the Technical Specifications (TSs) for [Plant]. The proposed changes would delete the TS requirements associated with hydrogen recombiners, and hydrogen [and oxygen] monitors.

The Nuclear Regulatory Commission (NRC) has revised 10 CFR 50.44, ''Standards for Combustible Gas Control System in Light-Water-Cooled Power Reactors.'' The amended standards eliminated the requirements for hydrogen recombiners and relaxed the requirements for hydrogen and oxygen monitoring. In letters dated December 17, 2002, and May 12, 2003, the Nuclear Energy Institute (NEI) Technical Specification Task Force (TSTF) proposed to remove requirements for hydrogen recombiners and hydrogen and oxygen monitors from the standard technical specifications (STS) (NUREGs 1430–1434) on behalf of the industry to incorporate the amended standards. This proposed change is designated TSTF–447.

The NRC staff prepared this model safety evaluation (SE) for the elimination of requirements regarding containment hydrogen recombiners and the removal of requirements from TS for containment hydrogen and oxygen monitors and solicited public comment (67 FR 50374, published August 2, 2002) in accordance with the Consolidated Line Item Improvement Process (CLIIP). The use of the CLIIP in this matter is intended to help the NRC to efficiently process amendments that propose to remove the hydrogen recombiner and hydrogen and oxygen monitor requirements from TS. Licensees of nuclear power reactors to which this model applies were informed [FR] that they could request amendments conforming to the model, and, in such requests, should confirm the applicability of the SE to their reactors and provide the requested plant-specific verifications and commitments.

2.0 Background

Regulatory Issue Summary 2000–06, ''Consolidated Line Item Improvement Process for Adopting Standard Technical Specification Changes for Power Reactors,'' was issued on March 20, 2000. The CLIIP is intended to improve the efficiency of NRC licensing processes. This is accomplished by processing proposed changes to the STS in a manner that supports subsequent license amendment applications. The CLIIP includes an opportunity for the public to comment on proposed changes to the STS following a preliminary assessment by the NRC staff and finding that the change will likely be offered for adoption by licensees. The NRC staff evaluates any comments received for a proposed change to the STS and either reconsiders the change or proceeds with announcing the availability of the change for proposed adoption by licensees. Those licensees opting to apply for the subject change to TS are responsible for reviewing the staff's evaluation, referencing the applicable technical justifications, and providing any necessary plant-specific information. Each amendment application made in response to the notice of availability would be processed and noticed in accordance with applicable rules and NRC procedures.

The Commission's regulatory requirements related to the content of TS are set forth in 10 CFR 50.36. This regulation requires that the TSs include items in five specific categories. These categories include (1) Safety limits, limiting safety system settings and limiting control settings, (2) limiting conditions for operation (LCO), (3) surveillance requirements, (4) design features, and (5) administrative controls. However, the regulation does not specify the particular TSs to be included in a plant's license.

Additionally, 10 CFR 50.36(c)(2)(ii) sets forth four criteria to be used in determining whether an LCO is required to be included in the TS. These criteria are as follows:

1. Installed instrumentation that is used to detect, and indicate in the control room, a significant abnormal degradation of the reactor coolant pressure boundary.

2. A process variable, design feature, or operating restriction that is an initial condition of a design-basis accident or transient analysis that assumes either the failure of or presents a challenge to the integrity of a fission product barrier.

3. A structure, system, or component that is part of the primary success path and which functions or actuates to mitigate a design-basis accident or transient that either assumes the failure of or presents a challenge to the integrity of a fission product barrier.

4. A structure, system or component which operating experience or probabilistic risk assessment has shown to be significant to public health and safety.

Existing LCOs and related surveillances included as TS requirements which satisfy any of the criteria stated above must be retained in the TSs. Those TS requirements which do not satisfy these criteria may be relocated to other licensee-controlled documents.

As part of the rulemaking that revised 10 CFR 50.44, the Commission retained requirements for ensuring a mixed atmosphere, inerting Mark I and II containments, and providing hydrogen control systems capable of accommodating an amount of hydrogen generated from a metal-water reaction involving 75 percent of the fuel cladding surrounding the active fuel region in Mark III and ice condenser containments. The Commission eliminated the design-basis loss-of-coolant accident (LOCA) hydrogen release from 10 CFR 50.44 and consolidated the requirements for hydrogen and oxygen monitoring to 10 CFR 50.44 while relaxing safety classifications and licensee commitments to certain design and qualification criteria. The Commission also relocated without change the hydrogen control requirements in 10 CFR 50.34(f) to 10 CFR 50.44 and the high point vent requirements from 10 CFR 50.44 to 10 CFR 50.46a.

3.0 Evaluation

The ways in which the requirements and recommendations for combustible gas control were incorporated into the licensing bases of commercial nuclear power plants varied as a function of when plants were licensed. Plants that were operating at the time of the Three Mile Island (TMI), Unit 2 accident are

likely to have been the subject of confirmatory orders that imposed the combustible gas control functions described in NUREG–0737, ''Clarification of TMI Action Plan Requirements,'' as obligations. The issuance of plant specific amendments to adopt these changes, which would remove hydrogen recombiner and hydrogen and oxygen monitoring controls from TS, supersede the combustible gas control specific requirements imposed by post-TMI confirmatory orders.

3.1 Hydrogen Recombiners

The revised 10 CFR 50.44 no longer defines a design-basis LOCA hydrogen release, and eliminates requirements for hydrogen control systems to mitigate such a release. The installation of hydrogen recombiners and/or vent and purge systems required by 10 CFR 50.44(b)(3) was intended to address the limited quantity and rate of hydrogen generation that was postulated from a design-basis LOCA. The Commission has found that this hydrogen release is not risk-significant because the design-basis LOCA hydrogen release does not contribute to the conditional probability of a large release up to approximately 24 hours after the onset of core damage. In addition, these systems were ineffective at mitigating hydrogen releases from risk-significant beyond design-basis accidents. Therefore, the Commission eliminated the hydrogen release associated with a design-basis LOCA from 10 CFR 50.44 and the associated requirements that necessitated the need for the hydrogen recombiners and the backup hydrogen vent and purge systems. As a result, the staff finds that requirements related to hydrogen recombiners no longer meet any of the four criteria in 10 CFR 50.36(c)(2)(ii) for retention in TS and may be relocated to other licensee-controlled documents for all plants.

3.2 Hydrogen Monitoring Equipment

Section 50.44(b)(1), the STS, and plant-specific TS currently contain requirements for monitoring hydrogen. Licensees have also made commitments to design and qualification criteria for hydrogen monitors in Item II.F.1, Attachment 6 of NUREG–0737 and Regulatory Guide (RG) 1.97, ''Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident.'' The hydrogen monitors are required to assess the degree of core damage during a beyond design-basis accident and confirm that random or deliberate ignition has taken place. If an explosive mixture that could threaten containment integrity exists during a beyond design-basis accident, then other severe accident management strategies, such as purging and/or venting, would need to be considered. The hydrogen monitors are needed to implement these severe accident management strategies.

With the elimination of the design-basis LOCA hydrogen release, hydrogen monitors are no longer required to mitigate design-basis accidents and, therefore, the hydrogen monitors do not meet the definition of a safety-related component as defined in 10 CFR 50.2. RG 1.97 recommends classifying the hydrogen monitors as Category 1. RG 1.97 Category 1, is intended for key variables that most directly indicate the accomplishment of a safety function for design-basis accident events and, therefore, are items usually addressed within TS. As part of the rulemaking to revise 10 CFR 50.44, the Commission found that the hydrogen monitors no longer meet the definition of Category 1 in RG 1.97. The Commission concluded that Category 3, as defined in RG 1.97, is an appropriate categorization for the hydrogen monitors because the monitors are required to diagnose the course of beyond design-basis accidents. Hydrogen monitoring is not the primary means of indicating a significant abnormal degradation of the reactor coolant pressure boundary. Section 4 of Attachment 2 to SECY–00–0198, ''Status Report on Study of Risk-Informed Changes to the Technical Requirements of 10 CFR Part 50 (Option 3) and Recommendations on Risk-Informed Changes to 10 CFR 50.44 (Combustible Gas Control),'' found that the hydrogen monitors were not risk-significant. Therefore, the staff finds that hydrogen monitoring equipment requirements no longer meet any of the four criteria in 10 CFR 50.36(c)(2)(ii) for retention in TS and, therefore, may be relocated to other licensee-controlled documents.

[**Note:** The elimination of Post-Accident Sampling System requirements from some plant-specific TS (and associated CLIIP notices) indicated that during the early phases of an accident, safety-grade hydrogen monitors provide an adequate capability for monitoring containment hydrogen concentration. The staff has subsequently concluded that Category 3 hydrogen monitors also provide an adequate capability for monitoring containment hydrogen concentration during the early phases of an accident.]

However, because the monitors are required to diagnose the course of beyond design-basis accidents, each licensee should verify that it has, and make a regulatory commitment to maintain, a hydrogen monitoring system capable of diagnosing beyond design-basis accidents.

3.3 Oxygen Monitoring Equipment (for applicable plants)

STS and plant-specific TS currently require oxygen monitoring to verify the status of the inert containment. Combustible gases produced by beyond design-basis accidents involving both fuel-cladding oxidation and core-concrete interaction would be risk-significant for plants with Mark I and II containments if not for the inerted containment atmospheres. If an inerted containment was to become de-inerted during a beyond design-basis accident, then other severe accident management strategies, such as purging and venting, would need to be considered. The oxygen monitors are needed to implement these severe accident management strategies. Oxygen concentration also appears extensively in the emergency procedure guidelines/severe accident guidelines of plants with inerted containment atmospheres.

With the elimination of the design-basis LOCA hydrogen release, the oxygen monitors are no longer required to mitigate design-basis accidents and, therefore, the oxygen monitors do not meet the definition of a safety-related component as defined in 10 CFR 50.2. RG 1.97 recommends that, for inerted containment plants, the oxygen monitors be Category 1 which is intended for key variables that most directly indicate the accomplishment of a safety function for design-basis accident events. As part of the rulemaking to revise 10 CFR 50.44, the Commission found that Category 2, as defined in RG 1.97, is an appropriate categorization for the oxygen monitors, because the monitors are required to verify the status of the inert containment. Oxygen monitoring is not the primary means of indicating a significant abnormal degradation of the reactor coolant pressure boundary. Oxygen monitors have not been shown by a probabilistic risk assessment to be risk-significant. Therefore, the staff finds that oxygen monitoring equipment requirements no longer meet any of the four criteria in 10 CFR 50.36(c)(2)(ii) for retention in TS and, therefore, may be relocated to other licensee-controlled documents.

However, for plant designs with an inerted containment, each licensee should verify that it has, and make a regulatory commitment to maintain, an oxygen monitoring system capable of verifying the status of the inert containment. In addition, separate requirements for primary containment oxygen concentration will be retained in

TS for plant designs with an inerted containment. The basis for retention of this requirement in TS is that it meets Criterion 2 of 10 CFR 50.36(c)(2)(ii) in that it is a process variable, design feature, or operating restriction that is an initial condition of a design basis accident or transient analysis that either assumes the failure of or presents a challenge to the integrity of a fission product barrier. This is based on the fact that calculations typically included in Chapter 6 of Updated Final Safety Analysis Reports assume that the primary containment is inerted, that is, oxygen concentration < 4.0 volume percent, when a design basis LOCA occurs.

[The deletion of the requirements for the hydrogen recombiner and hydrogen [and oxygen] monitors resulted in numbering and formatting changes to other TS, which were otherwise unaffected by this proposed amendment. The NRC staff has confirmed that the related changes are appropriate and do not affect the technical requirements.]

4.0 Verifications and Commitments

As requested by the staff in the notice of availability for this TS improvement, the licensee has addressed the following plant-specific verifications and commitments.

4.1 Each licensee should verify that it has, and make a regulatory commitment to maintain, a hydrogen monitoring system capable of diagnosing beyond design-basis accidents.

The licensee has verified that it has a hydrogen monitoring system capable of diagnosing beyond design-basis accidents. The licensee has committed to maintain the hydrogen monitors within its [specified document or program]. The licensee has [implemented this commitment or will implement this commitment by (specific date)].

4.2 For plant designs with an inerted containment, each licensee should verify that it has, and make a regulatory commitment to maintain, an oxygen monitoring system capable of verifying the status of the inert containment. (for applicable plants)

The licensee has verified that it has an oxygen monitoring system capable of verifying the status of the inert containment. The licensee has committed to maintain the oxygen monitors within its [specified document or program]. The licensee has [implemented this commitment or will implement this commitment by (specific date)].

The NRC staff finds that reasonable controls for the implementation and for subsequent evaluation of proposed changes pertaining to the above regulatory commitments are provided by the licensee's administrative processes, including its commitment management program. Should the licensee choose to incorporate a regulatory commitment into the emergency plan, final safety analysis report, or other document with established regulatory controls, the associated regulations would define the appropriate change-control and reporting requirements. The staff has determined that the commitments do not warrant the creation of regulatory requirements which would require prior NRC approval of subsequent changes. The NRC staff has agreed that NEI 99–04, Revision 0, ''Guidelines for Managing NRC Commitment Changes,'' provides reasonable guidance for the control of regulatory commitments made to the NRC staff. (See Regulatory Issue Summary 2000–17, ''Managing Regulatory Commitments Made by Power Reactor Licensees to the NRC Staff,'' dated September 21, 2000.) The commitments should be controlled in accordance with the industry guidance or comparable criteria employed by a specific licensee. The staff may choose to verify the implementation and maintenance of these commitments in a future inspection or audit.

5.0 State Consultation

In accordance with the Commission's regulations, the [State] State official was notified of the proposed issuance of the amendment. The State official had [(1) no comments or (2) the following comments—with subsequent disposition by the staff].

6.0 Environmental Consideration

The amendment changes a requirement with respect to the installation or use of a facility component located within the restricted area as defined in 10 CFR Part 20 and changes surveillance requirements. The NRC staff has determined that the amendment involves no significant increase in the amounts and no significant change in the types of any effluents that may be released offsite, and that there is no significant increase in individual or cumulative occupational radiation exposure. The Commission has previously issued a proposed finding that the amendment involves no significant hazards consideration, and there has been no public comment on such finding (FR [citation and date]). Accordingly, the amendment meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Pursuant to 10 CFR 51.22(b) no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the amendment.

7.0 Conclusion

The Commission has concluded, based on the considerations discussed above, that (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendments will not be inimical to the common defense and security or to the health and safety of the public.

Model No Significant Hazards Consideration Determination

Description of Amendment Request: The proposed amendment deletes requirements from the Technical Specifications to maintain hydrogen recombiners and hydrogen [and oxygen] monitors. Licensees were generally required to implement upgrades as described in NUREG–0737, ''Clarification of TMI [Three Mile Island] Action Plan Requirements,'' and Regulatory Guide (RG) 1.97, ''Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident.'' Implementation of these upgrades was an outcome of the lessons learned from the accident that occurred at TMI, Unit 2. Requirements related to combustible gas control were imposed by Order for many facilities and were added to or included in the technical specifications (TS) for nuclear power reactors currently licensed to operate. The revised 10 CFR 50.44, ''Standards for Combustible Gas Control System in Light-Water-Cooled Power Reactors,'' eliminated the requirements for hydrogen recombiners and relaxed safety classifications and licensee commitments to certain design and qualification criteria for hydrogen and oxygen monitors.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The revised 10 CFR 50.44 no longer defines a design-basis loss-of-coolant

accident (LOCA) hydrogen release, and eliminates requirements for hydrogen control systems to mitigate such a release. The installation of hydrogen recombiners and/or vent and purge systems required by 10 CFR 50.44(b)(3) was intended to address the limited quantity and rate of hydrogen generation that was postulated from a design-basis LOCA. The Commission has found that this hydrogen release is not risk-significant because the design-basis LOCA hydrogen release does not contribute to the conditional probability of a large release up to approximately 24 hours after the onset of core damage. In addition, these systems were ineffective at mitigating hydrogen releases from risk-significant accident sequences that could threaten containment integrity.

With the elimination of the design-basis LOCA hydrogen release, hydrogen [and oxygen] monitors are no longer required to mitigate design-basis accidents and, therefore, the hydrogen monitors do not meet the definition of a safety-related component as defined in 10 CFR 50.2. RG 1.97 Category 1, is intended for key variables that most directly indicate the accomplishment of a safety function for design-basis accident events. The hydrogen [and oxygen] monitors no longer meet the definition of Category 1 in RG 1.97. As part of the rulemaking to revise 10 CFR 50.44 the Commission found that Category 3, as defined in RG 1.97, is an appropriate categorization for the hydrogen monitors because the monitors are required to diagnose the course of beyond design-basis accidents. [Also, as part of the rulemaking to revise 10 CFR 50.44, the Commission found that Category 2, as defined in RG 1.97, is an appropriate categorization for the oxygen monitors, because the monitors are required to verify the status of the inert containment.]

The regulatory requirements for the hydrogen [and oxygen] monitors can be relaxed without degrading the plant emergency response. The emergency response, in this sense, refers to the methodologies used in ascertaining the condition of the reactor core, mitigating the consequences of an accident, assessing and projecting offsite releases of radioactivity, and establishing protective action recommendations to be communicated to offsite authorities. Classification of the hydrogen monitors as Category 3, [classification of the oxygen monitors as Category 2] and removal of the hydrogen [and oxygen] monitors from TS will not prevent an accident management strategy through the use of the SAMGs, the emergency plan (EP), the emergency operating procedures (EOP), and site survey monitoring that support modification of emergency plan protective action recommendations (PARs).

Therefore, the elimination of the hydrogen recombiner requirements and relaxation of the hydrogen [and oxygen] monitor requirements, including removal of these requirements from TS, does not involve a significant increase in the probability or the consequences of any accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The elimination of the hydrogen recombiner requirements and relaxation of the hydrogen [and oxygen] monitor requirements, including removal of these requirements from TS, will not result in any failure mode not previously analyzed. The hydrogen recombiner and hydrogen [and oxygen] monitor equipment was intended to mitigate a design-basis hydrogen release. The hydrogen recombiner and hydrogen [and oxygen] monitor equipment are not considered accident precursors, nor does their existence or elimination have any adverse impact on the pre-accident state of the reactor core or post accident confinement of radionuclides within the containment building.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The elimination of the hydrogen recombiner requirements and relaxation of the hydrogen [and oxygen] monitor requirements, including removal of these requirements from TS, in light of existing plant equipment, instrumentation, procedures, and programs that provide effective mitigation of and recovery from reactor accidents, results in a neutral impact to the margin of safety.

The installation of hydrogen recombiners and/or vent and purge systems required by 10 CFR 50.44(b)(3) was intended to address the limited quantity and rate of hydrogen generation that was postulated from a design-basis LOCA. The Commission has found that this hydrogen release is not risk-significant because the design-basis LOCA hydrogen release does not contribute to the conditional probability of a large release up to approximately 24 hours after the onset of core damage.

Category 3 hydrogen monitors are adequate to provide rapid assessment of current reactor core conditions and the direction of degradation while effectively responding to the event in order to mitigate the consequences of the accident. The intent of the requirements established as a result of the TMI, Unit 2 accident can be adequately met without reliance on safety-related hydrogen monitors.

[Category 2 oxygen monitors are adequate to verify the status of an inerted containment.]

Therefore, this change does not involve a significant reduction in the margin of safety. [The intent of the requirements established as a result of the TMI, Unit 2 accident can be adequately met without reliance on safety-related oxygen monitors.] Removal of hydrogen [and oxygen] monitoring from TS will not result in a significant reduction in their functionality, reliability, and availability.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

Dated at Rockville, Maryland, this 12th day of September 2003.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 03–24204 Filed 9–24–03; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Form T–1, OMB Control No. 3235–0110, SEC File No. 270–121.

Form T–2, OMB Control No. 3235–0111, SEC File No. 270–122.

Form T–3, OMB Control No. 3235–0105, SEC File No. 270–123.

Form T–4, OMB Control No. 3235–0107, SEC File No. 270–124.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget the requests for extension of the previously approved collections of information discussed below.

Form T–1 (OMB 3235–0110; SEC File No. 270–121) is a statement of eligibility

and qualification under the Trust Indenture Act of 1939 of a corporation designated to act as a trustee. The information is used to determine whether the trustee is qualified to serve under the indenture. Form T–1 is filed on occasion. The information required by Form T–1 is mandatory. All information is provided to the public upon request. Form T–1 takes approximately 15 hours to prepare and is filed by 13 respondents. It is estimated that 25% of the 195 total burden hours (49 hours) is prepared by the company. The remaining 75% of the burden hours is attributed to outside cost.

Form T–2 (OMB 3235–0111; SEC File No. 270–122) is a statement of eligibility of an individual trustee to serve under an indenture relating to debt securities offered publicly. The information is used to determine whether the trustee is qualified to serve under the indenture.

The information required by Form T–2 is mandatory. All information is provided to the public upon request. Form T–2 takes approximately 9 hours to prepare and is filed by 36 respondents. It is estimated that 25% of the 324 total burden hours (81 hours) is prepared by the filer. The remaining 75% of the burden hours is attributed to outside cost.

Form T–3 (OMB 3235–0105; SEC File No. 270–123) is an application for qualification of an indenture under the Trust Indenture Act of 1939. The information provided by Form T–3 is used by the staff to decide whether to qualify an indenture relating to securities offered to the public in an offering registered under the Securities Act of 1933. The information required by Form T–3 is mandatory. All information is provided to the public upon request. Form T–3 takes approximately 43 hours to prepare and is filed by 78 respondents. It is estimated that 25% of the 3,354 total burden hours (838.5 hours) is prepared by the filer. The remaining 75% of the burden hours is attributed to outside cost.

Form T–4 (OMB 3235–0107; SEC File No. 270–124) is used to apply for an exemption pursuant to Section 304(c) of the Trust Indenture Act of 1939 and is transmitted to shareholders. The information required by Form T–4 is mandatory. All information is provided to the public upon request. Form T–4 takes approximately 5 hours to prepare and is filed by 3 respondents. It is estimated that 25% of the 15 burden hours (4 hours) is prepared by the filer. The remaining 75% of the burden hours is attributed to outside cost.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: September 15, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–24223 Filed 9–24–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application of the Indonesia Fund, Inc. To Withdraw Its Common Stock, $.001 Par Value, From Listing and Registration on the Boston Stock Exchange, Inc., File No. 1–10453

September 17, 2003.

The Indonesia Fund, Inc., a Maryland corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its common stock, $.001 par value (''Security''), from listing and registration on the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'').

On August 5, 2003, the Board of Directors of the Issuer approved a resolution to withdraw the Security from listing and registration on the BSE. The Issuer states that the following reasons factored into the Board's decision to withdraw the Security: the Issuer intends to list the Security on the American Stock Exchange (''Amex''); if listed on the Amex, greater liquidity may foster higher average trading volumes and greater accessibility, and shareholders will benefit from the additional liquidity. In addition, the Issuer believes that its reputation may be enhanced by listing its Security on the Amex.

The Issuer states in its application that it has complied with BSE procedures for delisting by complying with all applicable laws in effect in the State of Maryland, the state in which it is incorporated. The Issuer's application relates solely to withdrawal of the Security from listing on the BSE and from registration under section 12(b) of the Act[3] and shall not affect its obligation to be registered under section 12(g) of the Act.[4]

Any interested person may, on or before October 10, 2003, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the BSE and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 03–24224 Filed 9–24–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48495; File No. SR–Amex–2002–09]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendments No. 1 Through 11 Thereto by the American Stock Exchange LLC Relating to Automated Quotation and Execution Systems

September 16, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 12, 2002, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange.

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

The Exchange submitted Amendments No. 1, 2, 3, 4, 5, 6, 7, 8,[3] 9,[4] 10,[5] and 11[6] on February 25, 2002, May 6, 2002, May 29, 2002, June 18, 2002, July 17, 2002, September 16, 2002, January 21, 2003, July 15, 2003, July 25, 2003, August 26, 2003, and September 12, 2003, respectively. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Amex Rule 933 to adopt provisions concerning the Exchange's automated quotation and execution systems. In addition, the Exchange proposes to amend Amex Rule 590(g) to provide that a violation of Rule 933, Commentary .04(d) will be a part of the Exchange's Minor Floor Violation Disciplinary System. The text of the proposed rule change is set forth below. Additions are in italics.

American Stock Exchange LLC

Rule 590 Minor Rule Violation Fine System

Part 1

General Rule Violations

(a) through (f) No change.

(g) The Enforcement Department may impose fines according to the following schedule for the rule violations listed below:

* * * * *

• *Failure to use best efforts to attempt to ensure that the next Auto-Ex execution is appropriately allocated to the price improving registered options trader. In addition to the applicable fine imposed for violations of this provision, the specialist shall also be required to pay restitution in amount calculated by multiplying the number of contracts that should have been allocated to the price-improving registered options trader by the number of underlying shares represented by each contract and that amount is then multiplied by half of the spread between the option's bid and offer at the time the order was executed. (Rule 933, Commentary .04(d).''*

* * * * *

Rule 933 Automatic Execution of Options Orders

(a) through (g) No change.

* * * Commentary

.01 through .03 No change.

.04 (a) With respect to all option classes and series traded on the Exchange, market and marketable limit orders otherwise eligible for an Auto-Ex execution will by-pass Auto-Ex if the best bid or offer is represented by a registered options trader in the trading crowd. The price improving registered options trader shall have priority for and be the contra-party to the next Auto-Ex execution at the disseminated bid or offer up to the price improving registered options trader's disseminated size provided:

(i) *the price improving registered options trader has (a) inputted directly his improved quote into the Electronic Entry Device (''EE Device''); (b) instructed an Exchange Systems clerk to input the improved quote; or (c) requested the specialist to disseminate his improved quote. In each instance the inputted quote is disseminated through the Exchange's Market Data System to the Options Price Reporting Authority;*

(ii) *the price improving registered options trader is physically located in the trading crowd at the time the improved quote is inputted. To reduce the possibility of remote market making, registered options traders will only be allowed to place one order or quote per series on the same side of the market. If the registered options trader leaves the trading crowd, he must remove his quotes in all series. If the registered options trader fails to remove his quotes and an incoming order executes against one or more of those quotes, the registered options trader will not be able to participate in the trade. Unless, however, the specialist is unable to otherwise allocate the trade to other market participants at the same price, the registered options trader responsible for causing the quote to be disseminated shall be assigned as contra-party to the incoming trade;*

(iii) *the price improving registered options trader has announced loudly and audibly in the crowd that he has improved the disseminated bid or offer;*

(iv) *the specialist was alerted by the price improving registered options trader or the Systems clerk to provide for the by-pass of Auto-Ex;*

(v) *the price improving registered options trader has improved the best bid or offer by an amount equal to at least the minimum price variation set forth in Rule 952; and*

(vi) *the price improving registered options trader has disseminated the minimum quote size. The minimum quote size of the improved bid or offer shall be 20 contracts unless the Auto-Ex eligible size parameter for that option class is less than 20 contracts, in which case the minimum quote size would be the same as the lesser Auto-Ex eligible size parameter for that option class.*

(b) A registered options trader who has disseminated or caused to be disseminated a price improving quote shall be the responsible broker or dealer as that term is defined in Rule 958A and shall have all obligations of a responsible broker or dealer as set forth in that Rule. A price improving registered options trader may cancel his quote in the same method in which it was entered: (i) Through the use of the EE Device (regardless of whether inputted by the registered options trader or the systems clerk), if that was the method in which the quote was entered or through the specialist, if that was the method chosen; (ii) by announcing loudly and audibly that he is canceling the quote; and (iii) by alerting the specialist so that the Auto-Ex by-pass feature can be removed.

(c) The specialist in a given option class may also disseminate or cause to be disseminated his own individual, price improving quote separate from the auto-quote, provided he complies with the provisions of paragraph (a), subparagraphs (ii), (iii), (v) and (vi) above. The specialist will not be able to use the EE Device to disseminate his individual price improving quote.

(d) The specialist shall use best efforts to attempt to ensure that the registered options trader responsible for disseminating the best bid or offer (i) is allocated the next Auto-Ex execution in its entirety if that execution is less than or equal to the price improving registered options trader's disseminated size; or (ii) is allocated that portion of the next Auto-Ex execution equal to the price improving registered options

[3] For Amendments No. 1 through 8, the Exchange filed a new Form 19b–4 each time, which replaced and superseded the original proposal and all previous amendments in their entirety.

[4] Letter from Claire P. McGrath, Senior Vice President and Deputy General Counsel, Amex, to Elizabeth King, Associate Director, Division of Market Regulation (''Division''), Commission, dated July 24, 2003 (''Amendment No. 9''). Amendment No. 9 transfers to the list of rules enforced by the Amex Enforcement Department under paragraph (g) of Amex Rule 590 the requirement set forth in proposed Amex Rule 933, Commentary .04(d) that the specialist use his best efforts to attempt to ensure that the registered options trader responsible for disseminating the best bid or offer receives an allocation of the next automatic execution.

[5] The Exchange filed a new Form 19b–4, which replaced and superseded the original proposal and all previous amendments in their entirety.

[6] Letter from Claire P. McGrath, Senior Vice President and Deputy General Counsel, Amex, to Elizabeth King, Associate Director, Division, Commission, dated September 11, 2003 (''Amendment No. 11''). Amendment No. 11 revises proposed changes to Amex Rule 590(g) to clarify that a specialist who fails to properly allocate executed contracts to the price-improving registered options trader must pay restitution in amount calculated by multiplying the number of contracts that should have been allocated to the price-improving registered options trader by the number of underlying shares represented by each contract, which would then be multiplied by half of the spread between the option's bid and offer at the time the order was executed.

trader's disseminated size if that size is less than the size of the next Auto-Ex execution. With respect to subparagraph (i), if the size of the next Auto-Ex execution is less than the minimum quote size established pursuant to paragraph (a)(vi) above, the price improving registered options trader shall receive priority on subsequent Auto-Ex executions until he has received the minimum quote size.

(e) If more than one registered options trader and/or the specialist has disseminated or caused to be disseminated the same price improving quote, priority will be established for the registered options traders and specialist in the order in which the quotes were loudly and audibly announced to the crowd. If, however, the sequence in which the disseminated quotes were made cannot be reasonably determined, priority will be afforded to the price improving registered options traders and/or the specialist as a group. In accordance with paragraphs (a)(vi) and (d)(i) above, the minimum quote size for the price improving registered options traders and/or the specialist participating as a group shall be 20 contracts unless the Auto-Ex eligible size parameter for that option class is less than 20 contracts, in which case the minimum quote size would be the same as the lesser Auto-Ex eligible size parameter for that option class. Exchange rules shall cover allocations of contracts when more than one registered options trader and/or the specialist has disseminated the same price improving quote and time priority can not be established.

(f) The price improving registered options trader's quote will retain priority until one of the following occurs: (i) Auto-Ex executions deplete the disseminated size; (ii) an amount equal to the minimum quote size has been allocated; (iii) the registered options trader withdraws the quote; (iv) the quote is matched or improved by the specialist's automated quotation system quote, provided specialists using an Exchange-approved proprietary automated quotation updating system have not programmed the system to immediately match or improve the price improving registered options trader's quote; (v) the quote is improved by another registered options trader; or (vi) the market is improved by an order placed on the limit order display book.

(g) Notwithstanding the foregoing, (i) pursuant to Rule 111, Commentary .07 and Rule 950(c) a registered options trader, when establishing or increasing a position, may not retain priority over or have parity with an off-Floor order and, thus, only registered options traders closing or decreasing a position may be on parity with a customer order; (ii) paragraph (d) above, supersedes Rule 126(e) and (f), which provide that a trade removes all bids and offers from the floor, to the extent that a price improving registered options trader's priority is not satisfied with the next Auto-Ex execution(s); and (iii) Rule 950(d), Commentary .05 regarding purchase priority and sale priority, will apply to any remaining contracts in the improving trader's disseminated size. Finally, Rule 958A shall apply to quotes disseminated pursuant to this Commentary.

* * * * *

.04 Temporary Commentary—As of the date of the adoption of this Commentary, the Exchange is in the process of developing a new integrated trading system that will replace many of its existing floor trading systems. Current systems, which include order routing, automated quotation calculation and dissemination, specialist ''book'' functions including limit order display, automatic order execution and allocation of trades are to be replaced by a fully integrated and automated system. The system will continue to have an ''auto-quote'' function similar to XTOPS, which will be made available to both the specialist and registered options traders for the inputting of competitive quotes. The auto-quote function will be available to registered options traders through their hand-held devices. Unlike XTOPS, the specialist's auto-quote in a given option series will represent only the specialist's trading interest. In order to enter quotes for dissemination through the Exchange's Market Data System to the Options Price Reporting Authority, the registered options trader must (i) be physically present in the trading crowd; and (ii) disseminate a quote for at least the minimum quote size. The required minimum size of the improved bid or offer shall not be less than 10 contracts. The improved quotes will have an identifier so that orders executed against such quotes can be allocated automatically to the appropriate registered options trader. To reduce the possibility of remote market making, registered options traders will only be allowed to place one order or quote per series on the same side of the market. If the registered options trader leaves the trading crowd, he must remove his quotes in all series. If the registered options trader fails to remove his quotes and an incoming order executes against one or more of those quotes, the registered options trader will not be able to participate in the trade. Unless, however, the system is unable to otherwise allocate the trade to other market participants at the same price, the registered options trader responsible for causing the quote to be disseminated shall be assigned as contra-party to the incoming trade.

The system, which will include algorithms established according to Exchange rules of priority and parity for customers, and the participation rights of registered options traders and specialists then in effect, will automatically allocate executed trades to each market participant. It is anticipated that these algorithms together with Exchange rules will provide that: (i) When the specialist or registered options trader (price improver) is quoting alone at the best bid or offer, he will be automatically allocated 100% of incoming orders for as long as he is alone at the best bid or offer and up to his disseminated size; and (ii) if any other trading crowd participants subsequently join or match the initial price improver's best bid or offer, contracts executed at that price will be allocated in accordance with priority and parity rules then in effect.

This Temporary Commentary will be replaced upon the adoption of rules and procedures governing the new integrated trading system. It is anticipated that this new system will begin to be implemented on the trading floor in November 2003. When fully implemented, which is expected to occur over an eighteen-month period, the system and the provisions discussed above will apply to all option classes and series traded on the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In order to substantially increase incentives to quote competitively and reduce disincentives for market

participants to act competitively,[7] the Exchange is proposing a two-step program: (1) Providing a method for registered options traders to input and have disseminated quotes that better the current best bid or offer, together with a means for ensuring that the next execution occurring at that bid or offer is specifically allocated to the registered options traders that caused the improved bid or offer to be disseminated; and (2) the development and implementation of an integrated system that will allow registered options traders through the use of a hand-held auto-quote device to input quotes that better the current market and provide for the automated allocation of trades to that registered options trader. The first step could be implemented upon approval of the proposed rule filing and the second step at a future date to be discussed below.

Registered Options Traders Use of the Electronic Entry Device

Given the number of series traded for each option class and the necessity for the re-calculating and re-quoting of each series in response to changes in the price of the underlying security, the Exchange developed an automated quotation updating system known as XTOPS. The specialist and registered options traders rely upon XTOPS to calculate and disseminate a single immediately updated quotation for each option series. XTOPS uses option valuation formulas (such as the Black-Scholes Model) to generate options quotations based on a number of variables.[8] It is the specialist's responsibility to determine for each option class the variables used in the XTOPS formula. However, the quotations generated and displayed by XTOPS may result in firm quote obligations of both the specialist and registered options traders to buy or sell options at quoted prices and sizes.[9] The dissemination of an XTOPS quote can be overridden when a customer limit order represents the best bid or offer or when a registered options trader chooses on a series-by-series basis to better the disseminated bid or offer.

In order to more effectively and efficiently enable registered options traders to cause their own quotes to be disseminated, the Exchange proposes to expand the use of the Electronic Entry Device (''EE Device''). The EE Device is currently used by Exchange-employed systems clerks in busy option classes to input individual quotes from the specialist on a series by series basis that better the quote being calculated and disseminated by XTOPS. A quote entered using the EE Device is sent directly to the Exchange's Market Data System for immediate dissemination to the Options Price Reporting Authority. This quote, when it betters the market being disseminated by XTOPS, will override or displace the XTOPS quote. Today, the Exchange-employed systems clerks generally receive their instructions to input quotes from the specialist. The EE Device is also used by the systems clerks to input trades that have been executed outside the Amex Options Display Book.

The Exchange is now proposing to allow registered options traders' direct access to the EE Device to input their own quotes for dissemination as the best bid or offer. The EE Device would be available for registered options traders use in all option classes traded on the Exchange. In active option classes where there is currently an Exchange-employed systems clerk, registered options traders would either input their own quotes or instruct a systems clerk to do so on their behalf. Only registered options traders physically located in the trading crowd would be permitted to directly input quotes into the EE Device or give such instructions to a systems clerk.

Once the registered options trader or systems clerk inputs the quote into the EE Device, the proposed rule would require that: (i) The price improving registered options trader announce loudly and audibly in the crowd that he has improved the displayed market to ensure that other crowd participants are aware that the market has been improved, enabling other crowd participants to also quote competitively, adding liquidity to the market; and (ii) the specialist be specifically alerted so that a ''book bid or offer'' indicator is activated and the next otherwise Auto-Ex eligible trade is routed directly to the AODB for allocation to the registered options trader that caused the improved quote to be disseminated. In addition to blocking an otherwise eligible Auto-Ex order from being executed and allocated by the Auto-Ex system, activation of the ''book bid or offer'' indicator would block an XTOPS calculated quote that is worse than the registered options trader's disseminated quote from being disseminated. Activation would not, however, block a quote that is better than the registered options trader's disseminated quote from being disseminated.

Once an execution occurs and/or the price improving registered options trader is no longer entitled to priority, the specialist would be required to remove the ''best bid or offer'' indicator so that Auto-Ex eligible orders would again be sent to Auto-Ex and the dissemination of XTOPS calculated quotes is resumed. The EE Device would not automatically decrement the size of the disseminated quote when an execution occurs. The quote would be required to be manually adjusted to reflect any revision to the disseminated size.

The price improving registered options trader would be permitted to cancel his quote at any time prior to the execution of a trade using the same method in which it was entered—through the use of the EE Device (regardless of whether inputted by the registered options trader or the systems clerk), if that was the method in which the quote was entered or through the specialist, if that was the method chosen. The registered options trader would be required also to alert the specialist that he is removing his quote, so the specialist can in turn remove the ''book bid or offer'' indicator in XTOPS, and announce loudly and audibly that he is canceling his quote.

Pursuant to the requirements of the Quote Rule and Exchange Rule 958A, the registered options trader as the responsible broker or dealer is obligated to execute any customer order at his bid or offer up to the disseminated size. To be relieved of that obligation with respect to a specific quote, one of the exceptions to the Quote Rule must apply, which generally provide that the responsible broker or dealer must communicate a revised quotation to the Exchange prior to the presentation of an order. Thus, a registered options trader using the EE Device to disseminate quotes would continue to be obligated pursuant to the Quote Rule until he has communicated a revised quote to the Exchange through the removal or cancellation of the quote on the EE Device.

Registered options traders would be required to improve the best bid or offer by an amount equal to at least the

[7] Subparagraph IV.B.h(i)(aa) of the Commission's September 11, 2000 Order (''Order'') requires the Exchange to ''adopt new, or amend existing, rules concerning its automated quotation and execution systems which substantially enhance incentives to quote competitively and substantially reduce disincentives for market participants to act competitively.'' Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions. Securities Exchange Act Release No. 43268 (September 11, 2000).

[8] These variables include the price of the underlying stock, time remaining to expiration, interest rates (or ''cost to carry'', the amount of interest on the money used to pay for the options position during the period prior to expiration of the option series), dividends (both declared and anticipated) and volatility.

[9] *See* Rule 11Ac1–1 under the Act (''Quote Rule''), 17 CFR 240.11Ac1–1, and Amex Rule 958A.

minimum price variation as set forth in Exchange Rule 952 for the quote to be inputted into the EE Device. The minimum size quote that could be inputted into the EE Device by or on behalf of a registered options trader would be 20 contracts, unless the Auto-Ex eligible size parameter for that option class is less than 20 contracts, in which case the minimum quote size would be the same as the lesser Auto-Ex eligible size parameter for that option class. Currently, the EE Device disseminates a default size for each new quote. The disseminated size may be set at a higher or lower amount or increased by the specialist to reflect additional liquidity at that quote. The default size would be set at the minimum quote size as discussed above.

There is at least one EE Device unit at every trading post and multiple units at posts where active option classes trade. The Exchange believes the number of devices currently in place on the trading floor would be sufficient to provide registered options traders with ready and easy access to a means for disseminating their quotes. However, since this is a new use for the EE Device, the Exchange will monitor the uses of the EE Device by registered options traders and activity in the option classes at each trading post and will add additional devices when necessary. The Exchange is able to install additional EE Devices at the trading posts with, preferably, a one-day notice so that they can be installed either before or after trading hours.

The specialist in a given option class may also disseminate or cause to be disseminated his own individual, price improving quote separate from the XTOPS calculated quote, provided he is physically located at the trading post at the time he inputs his quote, has only disseminated one quote per series on the same side of the market, has announced loudly and audibly to the crowd that he has improved the disseminated bid or offer, has improved the best bid or offer by an amount equal to at least the minimum price variation set forth in Rule 952, and has disseminated the minimum quote size. The specialist would not be able to use the EE Device to disseminate his individual price improving quote since he already has the means to input a quote into the Market Data System through XTOPS in the same manner used today to disseminate a customer limit order. Once the specialist has caused his individual quote to be disseminated, he will activate the ''book bid or offer'' indicator and the next otherwise Auto-Ex eligible trade is routed directly to the AODB for allocation to the specialist.

The specialist would be required to use best efforts to attempt to ensure that the registered option trader responsible for disseminating the best bid or offer receives an allocation of the next incoming order for the amount he is entitled to pursuant to Exchange rules. The Exchange believes that there are a number of safeguards that would help ensure that the manual allocation of orders to the appropriate registered options trader occurs. First, both the registered options trader, the other members in the crowd and the Exchange employed systems clerk, if present, would be able to hear the registered options trader's alert to the specialist and be able to advise the specialist whose quote was entered into EE Device and disseminated. Second, the registered options trader inputting the quote would have a strong incentive to step forward and claim the contracts for which he has just bid or offered. Third, the quote entered into the EE Device may not be representative of the specialist's market in that series and as such, the specialist would have a strong incentive to determine which registered options trader's quote against which the incoming order was executed or else the specialist and other traders may be obligated.

A specialist who failed to use best efforts to attempt to ensure that the next Auto-Ex execution is appropriately allocated to the price improving registered options trader would be fined pursuant Amex Rule 590(g) of the Exchange's Minor Rule Violation Fine System. In addition to the fine assessed pursuant to the Minor Floor Violation Fine System, violations of this provision would require the payment of restitution. Restitution would be calculated by multiplying the number of contracts that should have been allocated to the price-improving registered options trader by the number of underlying shares represented by each contract, which would then be multiplied by half of the spread between the option's bid and offer at the time the order was executed. For example, the quote in XYZ options was 1.90 bid and 2.00 offered, and a registered options trader entered the 1.90 bid for 20 contracts using the EE Device. If the specialist failed to allocate the next incoming order to sell executed at the registered options trader's bid, the specialist would be obligated under the Minor Floor Violation Fine System to pay restitution in the amount of $100 ($.05 × (20 × 100)=$100).

If more than one registered options trader and/or the specialist has disseminated or caused to be disseminated the same price improving quote, priority would be established for the registered options traders in the order in which the quotes were announced loudly and audibly to the trading crowd. If, however, the sequence in which the disseminated quotes were made cannot be reasonably determined, priority would be afforded to the price improving registered options traders and/or specialist as a group. Exchange Rule 950(d), Commentary .06 and Exchange Rule 950(n), Commentary .03 govern allocations of contracts when more than one registered options trader and/or the specialist has disseminated the same price improving quote and time priority cannot be established.

However, pursuant to the proposed rule change, the price improving registered options traders' quote would retain priority until one of the following occurs: (i) Auto-Ex execution depleted the disseminated size; (ii) an amount equal to the minimum quote size has been allocated; (iii) the registered options trader withdraws the quote; (iv) the quote is matched or improved by the specialist's automated quotation system quote, provided specialists using an Exchange-approved proprietary automated quotation updating system have not programmed the system to immediately match or improve the price improving registered options trader's quote; (v) the quote is improved by another registered options trader; or (vi) the market is improved by an order placed on the limit order display book. With respect to subparagraph (iv) above, the Exchange will monitor the use of proprietary automated quotation updating systems through the review of complaints from members in the trading crowd as well as observations of Floor Officials and Exchange personnel to determine if the system has been programmed to immediately match or improve the price improving registered options trader's quote.

The Exchange notes that Exchange rules regarding customer priority and parity would continue to apply to the allocation of trades pursuant to the proposed rule change. Exchange Rule 111, Commentary .07 provides that a registered options trader, when establishing or increasing a position, may not retain priority over or have parity with an off-Floor order. Thus, only registered options traders closing or decreasing a position may be on parity with a customer order. As a result, the specialist when allocating executed trades pursuant to the proposed rule would continue to take into consideration the rights of customers and the obligations of a

registered options trader to ''engage * * * in dealings for his own account when there exists a lack of price continuity, a temporary disparity between the supply of and demand for option contracts of a particular series, or a temporary distortion of the price relationships between option contracts of the same class.''[10] In addition, the Exchange has a proposal pending with the Commission to provide that specialists and registered options traders may not have priority over or be on parity with a public customer order.[11]

The Exchange believes the expansion of the EE Device for direct use by registered options traders and the adoption of rules requiring the allocation of trades to quote-improving registered options traders will substantially enhance incentives for registered options traders to quote competitively by providing for a means to by-pass the Auto-Ex system and the Auto-Ex allocation algorithm that may not reward the improving registered options trader and allow the allocation of trades to such registered options traders against quotes they caused to be disseminated.

Integration of Automated Quote Dissemination and Trade Allocation

The Exchange is in the process of developing a new integrated trading system that will replace many of its existing floor trading systems. Current systems, which include order routing, automated quotation calculation and dissemination, specialist ''book'' functions including limit order display, automatic order execution and allocation of trades are to be replaced by a fully integrated and automated system. The system will continue to have an ''auto-quote'' function similar to XTOPS, which would be made available to both the specialist and registered options traders for the inputting of competitive quotes. The auto-quote function would be available to registered options traders through their hand-held devices. Unlike XTOPS, the specialist's auto-quote in a given option series would represent only the specialist's trading interest. In order to enter quotes for dissemination through the Exchange's Market Data System to the Options Price Reporting Authority, the registered options trader would be required to: (i) Be physically present in the trading crowd;[12] and (ii) disseminate a quote for at least the minimum quote size. The required minimum size of the improved bid or offer would not be less than 10 contracts. The improved quotes would have an identifier so that orders executed against such quotes could be allocated automatically to the appropriate registered options trader.

The system, which would include algorithms established according to Exchange rules of priority and parity for customers, and the participation rights of registered options traders and specialists then in effect as set forth in Rule 950(d), Commentary .06, would automatically allocate executed trades to each market participant. It is anticipated that these algorithms together with Exchange rules would provide that: (i) When the specialist or registered options trader (price improver) is quoting alone at the best bid or offer, he would be automatically allocated 100% of incoming orders for as long as he is alone at the best bid or offer and up to his disseminated size; and (ii) if any other trading crowd participants subsequently join or match the initial price improver's best bid or offer, contracts executed at that price would be allocated in accordance with rules of priority and parity then in effect.

It is currently anticipated that the Exchange will be able to begin its rollout of the new trading system during November 2003. In addition, it is anticipated that the rollout period could be a lengthy one. Since the system would not only be replacing systems in use today, different elements of the system would be used by every trading floor participant—specialists, registered options traders and floor brokers. The Exchange anticipates that the rollout will be completed by the first quarter of 2005. Once rolled out, the new system would be used for all option classes traded on the Exchange.

The Exchange believes that its initial step of expanding the use of the EE Device and its method for ensuring that trades executed at a registered options trader disseminated quote are properly allocated together with the development and implementation of a new integrated trading system that would automate and integrate all of these processes, would substantially enhance incentives to quote competitively and substantially reduce disincentives for market participants to act competitively. The Exchange believes that its customers would continue to benefit from instantaneous, automatic executions at the best available prices for option classes traded on the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act[13] in general and furthers the objectives of section 6(b)(5) of the Act[14] in particular in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Amex consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–

[10] Amex Rule 958(c).

[11] *See* SR–Amex–2003–07.

[12] To reduce the possibility of remote market making, registered options traders would only be allowed to place one order or quote per series on the same side of the market. If the registered options trader leaves the trading crowd, he would be required to remove his quotes in all series. If the registered options fails to remove his quotes and an incoming order executes against one or more of those quotes, the registered options trader would not be able to participate in the trade. Unless, however, the system is unable to otherwise allocate the trade to other market participants at the same price, the registered options trader responsible for causing the quote to be disseminated would be assigned as contra-party to the incoming trade.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of Amex. All submissions should refer to File No. SR–Amex–2002–09 and should be submitted by October 16, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–24225 Filed 9–24–03; 8:45 am]

BILLING CODE 8010–01–P

SOCIAL SECURITY ADMINISTRATION

Ticket to Work and Work Incentives Advisory Panel Conference Call

AGENCY: Social Security Administration (SSA).

ACTION: Notice of Teleconference.

DATES: Thursday, October 9, 2003.

Teleconference:

Thursday, October 9, 2003, 4 p.m. to 6 p.m. Eastern time.

Call-in number: 888–390–5183.

Pass code: PANEL.

Leader/Host: Sarah Wiggins Mitchell.

SUPPLEMENTARY INFORMATION:

Type of meeting: This teleconference meeting is open to the public. The interested public is invited to participate by calling into the teleconference at the number listed above. Public testimony will not be taken.

Purpose: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, SSA announces this teleconference meeting of the Ticket to Work and Work Incentives Advisory Panel (the Panel). Section 101(f) of Public Law 106–170 establishes the Panel to advise the President, the Congress and the Commissioner of SSA on issues related to work incentives programs, planning and assistance for individuals with disabilities as provided under section 101(f)(2)(A) of the Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA). The Panel is also to advise the Commissioner on matters specified in section 101(f)(2)(B) of that Act, including certain issues related to the Ticket to Work and Self-Sufficiency Program established under section 101(a) of that Act.

Agenda: The Panel will deliberate on the implementation of TWWIIA and conduct Panel business. The Panel will be discussing follow-up items and recommendations from the Employment Network Summit, an advice letter regarding Vocational Rehabilitation, and grant programs authorized in TWWIIA.

The agenda for this meeting will be posted on the Internet at *http://www.ssa.gov/work/panel/* prior to the teleconference or can be received in advance electronically or by fax upon request.

Contact Information: Records are being kept of all Panel proceedings and will be available for public inspection by appointment at the Panel office. Anyone requiring information regarding the Panel should contact the TWWIIA Panel staff by:

- Mail addressed to Ticket to Work and Work Incentives Advisory Panel Staff, Social Security Administration, 400 Virginia Avenue, SW., Suite 700, Washington, DC 20024;
- Telephone contact with Kristen Breland at (202) 358–6430;
- Fax at (202) 358–6440; or
- E-mail to *TWWIIAPanel@ssa.gov.*

Dated: September 22, 2003.

Carol Brenner,

Designated Federal Official.

[FR Doc. 03–24335 Filed 9–24–03; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 4499]

Culturally Significant Objects Imported for Exhibition Determinations: ''Hunt for Paradise: Court Arts of Iran, 1501–76''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459),Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Hunt for Paradise: Court Arts of Iran, 1501–76,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at the Asia Society, New York, NY, from on or about October 14, 2003, to on or about January 18, 2004, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619–6529). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: September 22, 2003.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03–24401 Filed 9–24–03; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34408]

Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant overhead trackage rights to Union Pacific Railroad Company (UP) over a line of railroad on BNSF's Spanish Peaks Subdivision between BNSF milepost 119.45 near or at Pueblo Junction, CO, and BNSF milepost 124.74 near or at Southern Junction, CO, a total distance of approximately 5.29 miles.[1]

Although UP states that the transaction was scheduled to be consummated on September 11, 2003, the earliest the transaction could be consummated was September 12, 2003 (7 days after filing under 49 CFR 1180.4(g)).

[15] 17 CFR 200.30–3(a)(12).

[1] UP has included a draft of the trackage rights agreement and states that a copy of the agreement will be provided to the Board after it is finalized and executed.

The purpose of the trackage rights is to permit UP and BNSF to implement directional running over lines between Pueblo, CO, and Amarillo, TX.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34408, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Robert T. Opal, 1416 Dodge St., Room 830, Omaha, NE 68179.

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: September 22, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–24383 Filed 9–24–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34406]

Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant overhead trackage rights to Union Pacific Railroad Company (UP) over a line of railroad on BNSF's Pikes Peak Subdivision between BNSF milepost 107.9 in or near Bragdon, CO, and BNSF milepost 120.3 (617.51) in or near Pueblo, CO, a total distance of approximately 12.4 miles.[1]

Although UP states that the transaction was scheduled to be consummated on September 11, 2003, the earliest the transaction could be consummated was September 12, 2003 (7 days after filing under 49 CFR 1180.4(g)).

The purpose of the trackage rights is to permit UP and BNSF to implement directional running over lines between Pueblo, CO, and Amarillo, TX.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34406, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Robert T. Opal, 1416 Dodge St., Room 830, Omaha, NE 68179.

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: September 22, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–24384 Filed 9–24–03; 8:45 am]

BILLING CODE 4915–00–P

[1] UP has included a draft of the trackage rights agreement and states that a copy of the agreement will be provided to the Board after it is finalized and executed.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34407]

Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant overhead trackage rights [1] to Union Pacific Railroad Company (UP) over a line of railroad on BNSF's: (1) Dalhart Subdivision between BNSF milepost 417.5 in or near Dalhart, TX, and BNSF milepost 452.9 in or near Texline, TX; and (2) Twin Peaks Subdivision between BNSF milepost 452.9 in or near Texline, TX, and BNSF milepost 210 in or near Trinidad, CO, a total distance of approximately 170.9 miles.[2]

The transaction was scheduled to be consummated on September 11, 2003.

The purpose of the trackage rights is to permit UP and BNSF to implement directional running over lines between Pueblo, CO, and Amarillo, TX.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34407, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Robert T. Opal, 1416 Dodge St., Room 830, Omaha, NE 68179.

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: September 17, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–24385 Filed 9–24–03; 8:45 am]

BILLING CODE 4915–00–P

[1] UP has included a draft of the trackage rights agreement and states that a copy of the agreement will be provided to the Board after it is finalized and executed.

[2] The trackage rights involve BNSF subdivisions with non-contiguous mileposts. Therefore, total mileage does not correspond to the milepost designations of the endpoints.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub–No. 640)]

CSX Transportation, Inc.—Abandonment—in Atkinson and Ware Counties, GA

On September 5, 2003, CSX Transportation, Inc. (CSXT), filed with the Surface Transportation Board (Board) an application for permission to abandon a portion of its Southern Region, Jacksonville Division, extending from milepost AP 594.69, near

Waresboro, to milepost AP 617.94, near Pearson, a distance of 23.25 miles, in Atkinson and Ware Counties, GA (the line). The line includes the Pearson Station and traverses United States Postal Service ZIP Codes 31552, 31564, and 31642.

The line does not contain federally granted rights-of-way. Any documentation in CSXT's possession will be made available promptly to those requesting it. The applicant's entire case for abandonment (case-in-chief) was filed with the application.

This line of railroad has appeared on CSXT's system diagram map in category 1 since March 28, 2003.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

Any interested person may file with the Board written comments concerning the proposed abandonment, or protests (including the protestant's entire opposition case), by October 20, 2003. All interested persons should be aware that following any abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 U.S.C. 10905 (49 CFR 1152.28) and any request for a trail use condition under 16 U.S.C. 1247(d) (49 CFR 1152.29) must be filed by October 20, 2003. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27). Applicant's reply to any opposition statements and its response to trail use requests must be filed by November 4, 2003. *See* 49 CFR 1152.26(a).

Persons opposing the abandonment who wish to participate actively and fully in the process should file a protest. Persons who oppose the abandonment but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Persons seeking information concerning the filing of protests should refer to 49 CFR 1152.25. Persons interested only in seeking public use or trail use conditions should also file comments.

In addition, a commenting party or protestant may provide: (i) An offer of financial assistance (OFA) for continued rail service under 49 U.S.C. 10904 (due 120 days after the application is filed or 10 days after the application is granted by the Board, whichever occurs sooner); (ii) recommended provisions for protection of the interests of employees; (iii) a request for a public use condition under 49 U.S.C. 10905; and (iv) a statement pertaining to prospective use of the right-of-way for interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29.

All filings in response to this notice must refer to STB Docket No. AB–55 (Sub-No. 640) and must be sent to: (1) Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001; and (2) Natalie S. Rosenberg, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in part 1152, every document filed with the Board must be served on all parties to the abandonment proceeding. 49 CFR 1104.12(a).

The line sought to be abandoned will be available for subsidy or sale for continued rail use, if the Board decides to permit the abandonment, in accordance with applicable laws and regulations (49 U.S.C. 10904 and 49 CFR 1152.27). Each OFA must be accompanied by a $1,100 filing fee. *See* 49 CFR 1002.2(f)(25). No subsidy arrangement approved under 49 U.S.C. 10904 shall remain in effect for more than 1 year unless otherwise mutually agreed by the parties (49 U.S.C. 10904(f)(4)(B)). Applicant will promptly provide upon request to each interested party an estimate of the subsidy and minimum purchase price required to keep the line in operation. The carrier's representative to whom inquiries may be made concerning sale or subsidy terms is set forth above.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: September 17, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–24399 Filed 9–24–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF VETERANS AFFAIRS

Capital Asset Realignment for Enhanced Services (CARES) Commission; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Capital Asset Realignment for Enhanced Services (CARES) Commission will hold a meeting on Tuesday, October 7, 2003, in Room 418 of the Russell Senate Office Building, Washington, DC 20510. The meeting will begin at 8:30 a.m. and end at 5 p.m. The meeting is open to the public.

The purpose of the Commission is to conduct an external assessment of VA's capital asset needs and to assure that stakeholder and beneficiary concerns are fully addressed. The Commission is reviewing recommendations in VA Under Secretary for Health's Draft National CARES Plan. The Commission will also consider recommendations submitted by veterans service organizations, individual veterans, Congress, medical school affiliates, VA employees, local government entities, community groups and others. Following its assessment, the Commission will make specific recommendations to the Secretary of Veterans Affairs regarding the realignment and allocation of capital assets necessary to meet the demands for and enhance veterans health care services over the next 20 years.

The October 7, 2003, meeting will be the first national meeting of the Commission since the Draft National CARES Plan was issued where parties from outside VA will address the Commission. As a final step in the Commission's information gathering process, national leaders are being asked to provide a national perspective on the CARES process and the Draft National CARES Plan to the entire Commission. Leadership from both the Senate and House of Representatives Veterans Affairs Committees and the

Appropriations Subcommittees on VA, HUD and Independent Agencies may appear. Leadership from veterans service organizations, the Department of Defense, national VA employee organizations and national medical and nursing affiliate organizations will also be invited to make presentations to the Commission.

No time will be allocated at this meeting for receiving oral presentations from the public. However, interested persons may either attend or file statements with the Commission., Written statements may be filed either before the meeting or within 10 days after the meeting and addressed to: CARES Commission (OOCARES), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Additionally, comments may be submitted on the Web site at *http://www.carescommission@va.gov,* or via facsimile at (202) 501–2196. Any member of the public wishing additional information should contact Mr. Richard E. Larson, Executive Director, CARES Commission, at (202) 501–2000.

Dated: September 15, 2003.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 03–24213 Filed 9–24–03; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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LIST OF PUBLIC LAWS

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H.R. 1668/P.L. 108–80

To designate the United States courthouse located at 101 North Fifth Street in Muskogee, Oklahoma, as the ''Ed Edmondson United States Courthouse''. (Sept. 17, 2003; 117 Stat. 990)

Last List September 8, 2003

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